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Chapter 161
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Any additions are underlined and any deletions are struck-through.

Sections 161.011, .031, .0415, .05301, .071, .091, .111, .121, .144, .163, .181, .25, .26, .27, .28, .29, .31, .32, .33, .34, .35, .37, .38, .39, .40, .45, .52, .53, .57, .70, .72, .73, .74, and .76, F.S., are not considered enforceable policies for federal consistency purposes

Chapter 161--Beach and Shore Preservation

161.143 Inlet management; planning, prioritizing, funding, approving, and implementing projects.—
(1) Studies, projects, and activities for the purpose of mitigating the erosive effects of inlets and balancing the sediment budget of the inlet and adjacent beaches must be supported by separately approved inlet management plans or inlet components of the statewide comprehensive beach management plan. Such plans in support of individual inlet projects or activities must, pursuant to s. 161.161(1)(b), evaluate each inlet to determine the extent of the inlet's erosive effect on adjacent beaches and, if significant, make recommendations to mitigate such ongoing erosive effects and provide estimated costs for such mitigation.
(2) The department shall establish annual funding priorities for studies, activities, or other projects concerning inlet management. Such inlet management projects include, but are not limited to, inlet sand bypassing, modifications to channel dredging, jetty redesign, jetty repair, disposal of spoil material, and the development, revision, adoption, or implementation of an inlet management plan. The funding priorities established by the department must be consistent with the requirements and legislative declaration in ss. 161.101(14), 161.142, and 161.161(1)(b). In establishing funding priorities under this subsection and before transmitting the annual inlet project list to the Legislature under subsection (5), the department shall seek formal input from local coastal governments, beach and general government associations and other coastal interest groups, and university experts concerning annual funding priorities for inlet management projects. In order to maximize the benefits of efforts to address the inlet-caused beach erosion problems of this state, the ranking criteria used by the department to establish funding priorities for studies, activities, or other projects concerning inlet management must include consideration of:
(a) An estimate of the annual quantity of beach-quality sand reaching the updrift boundary of the improved jetty or inlet channel.
(b) The severity of the erosion to the adjacent beaches caused by the inlet and the extent to which the proposed project mitigates the erosive effects of the inlet.
(c) The overall significance and anticipated success of the proposed project in balancing the sediment budget of the inlet and adjacent beaches and addressing the sand deficit along the inlet-affected shorelines.
(d) The extent to which existing bypassing activities at an inlet would benefit from modest, cost-effective improvements when considering the volumetric increases from the proposed project, the availability of beach-quality sand currently not being bypassed to adjacent eroding beaches, and the ease with which such beach-quality sand may be obtained.
(e) The interest and commitment of local governments as demonstrated by their willingness to coordinate the planning, design, construction, and maintenance of an inlet management project and their financial plan for funding the local cost share for initial construction, ongoing sand bypassing, channel dredging, and maintenance.
(f) The previous completion or approval of a state-sponsored inlet management plan or local-government-sponsored inlet study concerning the inlet addressed by the proposed project, the ease of updating and revising any such plan or study, and the adequacy

and specificity of the plan's or study's recommendations concerning the mitigation of an inlet's erosive effects on adjacent beaches.
(g) The degree to which the proposed project will enhance the performance and longevity of proximate beach nourishment projects, thereby reducing the frequency of such periodic nourishment projects.
(h) The project-ranking criteria in s. 161.101(14) to the extent such criteria are applicable to inlet management studies, projects, and activities.
(3) The department may, pursuant to s. 161.101 and notwithstanding s. 161.101(15), pay from legislative appropriations provided for these purposes 75 percent of the total costs, or, if applicable, the nonfederal costs, of a study, activity, or other project concerning the management of an inlet. The balance must be paid by the local governments or special districts having jurisdiction over the property where the inlet is located.
(4) Using the legislative appropriation to the statewide beach-management-support category of the department's fixed capital outlay funding request, the department may employ university-based or other contractual sources and pay 100 percent of the costs of studies that are consistent with the legislative declaration in s. 161.142 and that:
(a) Determine, calculate, refine, and achieve general consensus regarding net annual sediment transport volumes to be used for the purpose of planning and prioritizing inlet management projects; and
(b) Appropriate, assign, and apportion responsibilities between inlet beneficiaries for the erosion caused by a particular inlet on adjacent beaches.
(5) The department shall annually provide an inlet management project list, in priority order, to the Legislature as part of the department's budget request. The list must include studies, projects, or other activities that address the management of at least 10 separate inlets and that are ranked according to the criteria established under subsection (2).
(a) The department shall make available at least 10 percent of the total amount that the Legislature appropriates in each fiscal year for statewide beach management for the three highest-ranked projects on the current year's inlet management project list.
(b) The department shall make available at least 50 percent of the funds appropriated for the feasibility and design category in the department's fixed capital outlay funding request for projects on the current year's inlet management project list which involve the study for, or design or development of, an inlet management project.
(c) The department shall make available all statewide beach management funds that remain unencumbered or are allocated to non-project-specific activities for projects on legislatively approved inlet management project lists. Funding for local-government-specific projects on annual project lists approved by the Legislature must remain available for such purposes for a period of 18 months pursuant to s. 216.301(2)(a). Based on an assessment and the department's determination that a project will not be ready to proceed during this 18-month period, such funds shall be used for inlet management projects on legislatively approved lists.
(d) The Legislature shall designate one of the three highest projects on the inlet management project list in any year as the Inlet of the Year. The department shall annually report to the Legislature concerning the extent to which each inlet project designated by the Legislature as Inlet of the Year has succeeded in balancing the

sediment budget of the inlet and adjacent beaches, mitigating the inlet's erosive effects on adjacent beaches, and transferring or otherwise placing beach-quality sand on adjacent eroding beaches.

[1](e) Notwithstanding paragraphs (a) and (b), and for the 2016-2017 ~~2015-2016~~ fiscal year only, the amount allocated for inlet management funding is provided in the 2016-2017 ~~2015-2016~~ General Appropriations Act. This paragraph expires July 1, 2017 ~~2016~~.

(6) The department shall adopt rules under ss. 120.536(1) and 120.54 to administer this section.

History.—s. 2, ch. 2008-242; s. 19, ch. 2013-41; s. 31, ch. 2014-53; s. 46, ch. 2015-222; s. 81, ch. 2016-62.

[1]Note.—Section 81, ch. 2016-62, amended paragraph (5)(e) "[i]n order to implement Specific Appropriation 1602 of the 2016-2017 General Appropriations Act."

Chapter 163, Part II
Growth Policy; County and Municipal Planning; Land Development Regulation
Enforceable Policies

Any additions are underlined and any deletions are struck-through. Enforceable policies include only the subsections identified below.

163.3161	Short title; intent and purpose
163.3164	Definitions.
163.3177	Required and optional elements of comprehensive plan; studies and surveys.
163.3178	Coastal management.
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	(2)
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	(2)
	(3)

Chapter 163--Intergovernmental Programs: Growth Policy, County and Municipal Planning: Land Development Regulations

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

(1) The comprehensive plan shall provide the principles, guidelines, standards, and strategies for the orderly and balanced future economic, social, physical, environmental, and fiscal development of the area that reflects community commitments to implement the plan and its elements. These principles and strategies shall guide future decisions in a consistent manner and shall contain programs and activities to ensure comprehensive plans are implemented. The sections of the comprehensive plan containing the principles and strategies, generally provided as goals, objectives, and policies, shall describe how the local government's programs, activities, and land development regulations will be initiated, modified, or continued to implement the comprehensive plan in a consistent manner. It is not the intent of this part to require the inclusion of implementing regulations in the comprehensive plan but rather to require identification of those programs, activities, and land development regulations that will be part of the strategy for implementing the comprehensive plan and the principles that describe how the programs, activities, and land development regulations will be carried out. The plan shall establish meaningful and predictable standards for the use and development of land and provide meaningful guidelines for the content of more detailed land development and use regulations.

(a) The comprehensive plan shall consist of elements as described in this section, and may include optional elements.

(b) A local government may include, as part of its adopted plan, documents adopted by reference but not incorporated verbatim into the plan. The adoption by reference must identify the title and author of the document and indicate clearly what provisions and edition of the document is being adopted.

(c) The format of these principles and guidelines is at the discretion of the local government, but typically is expressed in goals, objectives, policies, and strategies.

(d) The comprehensive plan shall identify procedures for monitoring, evaluating, and appraising implementation of the plan.

(e) When a federal, state, or regional agency has implemented a regulatory program, a local government is not required to duplicate or exceed that regulatory program in its local comprehensive plan.

(f) All mandatory and optional elements of the comprehensive plan and plan amendments shall be based upon relevant and appropriate data and an analysis by the local government that may include, but not be limited to, surveys, studies, community goals and vision, and other data available at the time of adoption of the comprehensive plan or plan amendment. To be based on data means to react to it in an appropriate way and to the extent necessary indicated by the data available on that particular subject at the time of adoption of the plan or plan amendment at issue.

1. Surveys, studies, and data utilized in the preparation of the comprehensive plan may not be deemed a part of the comprehensive plan unless adopted as a part of it. Copies of such studies, surveys, data, and supporting documents for proposed plans and plan amendments shall be made available for public inspection, and copies of such plans

shall be made available to the public upon payment of reasonable charges for reproduction. Support data or summaries are not subject to the compliance review process, but the comprehensive plan must be clearly based on appropriate data. Support data or summaries may be used to aid in the determination of compliance and consistency.
2. Data must be taken from professionally accepted sources. The application of a methodology utilized in data collection or whether a particular methodology is professionally accepted may be evaluated. However, the evaluation may not include whether one accepted methodology is better than another. Original data collection by local governments is not required. However, local governments may use original data so long as methodologies are professionally accepted.
3. The comprehensive plan shall be based upon permanent and seasonal population estimates and projections, which shall either be those published by the Office of Economic and Demographic Research or generated by the local government based upon a professionally acceptable methodology. The plan must be based on at least the minimum amount of land required to accommodate the medium projections as published by the Office of Economic and Demographic Research for at least a 10-year planning period unless otherwise limited under s. 380.05, including related rules of the Administration Commission. Absent physical limitations on population growth, population projections for each municipality, and the unincorporated area within a county must, at a minimum, be reflective of each area's proportional share of the total county population and the total county population growth.
(2) Coordination of the several elements of the local comprehensive plan shall be a major objective of the planning process. The several elements of the comprehensive plan shall be consistent. Where data is relevant to several elements, consistent data shall be used, including population estimates and projections unless alternative data can be justified for a plan amendment through new supporting data and analysis. Each map depicting future conditions must reflect the principles, guidelines, and standards within all elements, and each such map must be contained within the comprehensive plan.
(3)(a) The comprehensive plan shall contain a capital improvements element designed to consider the need for and the location of public facilities in order to encourage the efficient use of such facilities and set forth:
1. A component that outlines principles for construction, extension, or increase in capacity of public facilities, as well as a component that outlines principles for correcting existing public facility deficiencies, which are necessary to implement the comprehensive plan. The components shall cover at least a 5-year period.
2. Estimated public facility costs, including a delineation of when facilities will be needed, the general location of the facilities, and projected revenue sources to fund the facilities.
3. Standards to ensure the availability of public facilities and the adequacy of those facilities to meet established acceptable levels of service.
4. A schedule of capital improvements which includes any publicly funded projects of federal, state, or local government, and which may include privately funded projects for which the local government has no fiscal responsibility. Projects necessary to ensure that any adopted level-of-service standards are achieved and maintained for the 5-year

period must be identified as either funded or unfunded and given a level of priority for funding.
5. The schedule must include transportation improvements included in the applicable metropolitan planning organization's transportation improvement program adopted pursuant to s. 339.175(8) to the extent that such improvements are relied upon to ensure concurrency and financial feasibility. The schedule must be coordinated with the applicable metropolitan planning organization's long-range transportation plan adopted pursuant to s. 339.175(7).
(b) The capital improvements element must be reviewed by the local government on an annual basis. Modifications to update the 5-year capital improvement schedule may be accomplished by ordinance and may not be deemed to be amendments to the local comprehensive plan.
(4)(a) Coordination of the local comprehensive plan with the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region; with the appropriate water management district's regional water supply plans approved pursuant to s. 373.709; and with adopted rules pertaining to designated areas of critical state concern shall be a major objective of the local comprehensive planning process. To that end, in the preparation of a comprehensive plan or element thereof, and in the comprehensive plan or element as adopted, the governing body shall include a specific policy statement indicating the relationship of the proposed development of the area to the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region, as the case may require and as such adopted plans or plans in preparation may exist.
(b) When all or a portion of the land in a local government jurisdiction is or becomes part of a designated area of critical state concern, the local government shall clearly identify those portions of the local comprehensive plan that shall be applicable to the critical area and shall indicate the relationship of the proposed development of the area to the rules for the area of critical state concern.
(5)(a) Each local government comprehensive plan must include at least two planning periods, one covering at least the first 5-year period occurring after the plan's adoption and one covering at least a 10-year period. Additional planning periods for specific components, elements, land use amendments, or projects shall be permissible and accepted as part of the planning process.
(b) The comprehensive plan and its elements shall contain guidelines or policies for the implementation of the plan and its elements.
(6) In addition to the requirements of subsections (1)-(5), the comprehensive plan shall include the following elements:
(a) A future land use plan element designating proposed future general distribution, location, and extent of the uses of land for residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public facilities, and other categories of the public and private uses of land. The approximate acreage and the general range of density or intensity of use shall be provided for the gross land area included in each existing land use category. The element shall establish the long-term end toward which land use programs and activities are ultimately directed.
1. Each future land use category must be defined in terms of uses included, and must include standards to be followed in the control and distribution of population densities

and building and structure intensities. The proposed distribution, location, and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies, and measurable objectives.
2. The future land use plan and plan amendments shall be based upon surveys, studies, and data regarding the area, as applicable, including:
a. The amount of land required to accommodate anticipated growth.
b. The projected permanent and seasonal population of the area.
c. The character of undeveloped land.
d. The availability of water supplies, public facilities, and services.
e. The need for redevelopment, including the renewal of blighted areas and the elimination of nonconforming uses which are inconsistent with the character of the community.
f. The compatibility of uses on lands adjacent to or closely proximate to military installations.
g. The compatibility of uses on lands adjacent to an airport as defined in s. 330.35 and consistent with s. 333.02.
h. The discouragement of urban sprawl.
i. The need for job creation, capital investment, and economic development that will strengthen and diversify the community's economy.
j. The need to modify land uses and development patterns within antiquated subdivisions.
3. The future land use plan element shall include criteria to be used to:
a. Achieve the compatibility of lands adjacent or closely proximate to military installations, considering factors identified in s. 163.3175(5).
b. Achieve the compatibility of lands adjacent to an airport as defined in s. 330.35 and consistent with s. 333.02.
c. Encourage preservation of recreational and commercial working waterfronts for water-dependent uses in coastal communities.
d. Encourage the location of schools proximate to urban residential areas to the extent possible.
e. Coordinate future land uses with the topography and soil conditions, and the availability of facilities and services.
f. Ensure the protection of natural and historic resources.
g. Provide for the compatibility of adjacent land uses.
h. Provide guidelines for the implementation of mixed-use development including the types of uses allowed, the percentage distribution among the mix of uses, or other standards, and the density and intensity of each use.
4. The amount of land designated for future planned uses shall provide a balance of uses that foster vibrant, viable communities and economic development opportunities and address outdated development patterns, such as antiquated subdivisions. The amount of land designated for future land uses should allow the operation of real estate markets to provide adequate choices for permanent and seasonal residents and business and may not be limited solely by the projected population. The element shall accommodate at least the minimum amount of land required to accommodate the medium projections as published by the Office of Economic and Demographic Research

for at least a 10-year planning period unless otherwise limited under s. 380.05, including related rules of the Administration Commission.
5. The future land use plan of a county may designate areas for possible future municipal incorporation.
6. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection.
7. The future land use element must clearly identify the land use categories in which public schools are an allowable use. When delineating the land use categories in which public schools are an allowable use, a local government shall include in the categories sufficient land proximate to residential development to meet the projected needs for schools in coordination with public school boards and may establish differing criteria for schools of different type or size. Each local government shall include lands contiguous to existing school sites, to the maximum extent possible, within the land use categories in which public schools are an allowable use.
8. Future land use map amendments shall be based upon the following analyses:
a. An analysis of the availability of facilities and services.
b. An analysis of the suitability of the plan amendment for its proposed use considering the character of the undeveloped land, soils, topography, natural resources, and historic resources on site.
c. An analysis of the minimum amount of land needed to achieve the goals and requirements of this section.
9. The future land use element and any amendment to the future land use element shall discourage the proliferation of urban sprawl.
a. The primary indicators that a plan or plan amendment does not discourage the proliferation of urban sprawl are listed below. The evaluation of the presence of these indicators shall consist of an analysis of the plan or plan amendment within the context of features and characteristics unique to each locality in order to determine whether the plan or plan amendment:
(I) Promotes, allows, or designates for development substantial areas of the jurisdiction to develop as low-intensity, low-density, or single-use development or uses.
(II) Promotes, allows, or designates significant amounts of urban development to occur in rural areas at substantial distances from existing urban areas while not using undeveloped lands that are available and suitable for development.
(III) Promotes, allows, or designates urban development in radial, strip, isolated, or ribbon patterns generally emanating from existing urban developments.
(IV) Fails to adequately protect and conserve natural resources, such as wetlands, floodplains, native vegetation, environmentally sensitive areas, natural groundwater aquifer recharge areas, lakes, rivers, shorelines, beaches, bays, estuarine systems, and other significant natural systems.
(V) Fails to adequately protect adjacent agricultural areas and activities, including silviculture, active agricultural and silvicultural activities, passive agricultural activities, and dormant, unique, and prime farmlands and soils.
(VI) Fails to maximize use of existing public facilities and services.
(VII) Fails to maximize use of future public facilities and services.
(VIII) Allows for land use patterns or timing which disproportionately increase the cost in time, money, and energy of providing and maintaining facilities and services, including

roads, potable water, sanitary sewer, stormwater management, law enforcement, education, health care, fire and emergency response, and general government.
(IX) Fails to provide a clear separation between rural and urban uses.
(X) Discourages or inhibits infill development or the redevelopment of existing neighborhoods and communities.
(XI) Fails to encourage a functional mix of uses.
(XII) Results in poor accessibility among linked or related land uses.
(XIII) Results in the loss of significant amounts of functional open space.
b. The future land use element or plan amendment shall be determined to discourage the proliferation of urban sprawl if it incorporates a development pattern or urban form that achieves four or more of the following:
(I) Directs or locates economic growth and associated land development to geographic areas of the community in a manner that does not have an adverse impact on and protects natural resources and ecosystems.
(II) Promotes the efficient and cost-effective provision or extension of public infrastructure and services.
(III) Promotes walkable and connected communities and provides for compact development and a mix of uses at densities and intensities that will support a range of housing choices and a multimodal transportation system, including pedestrian, bicycle, and transit, if available.
(IV) Promotes conservation of water and energy.
(V) Preserves agricultural areas and activities, including silviculture, and dormant, unique, and prime farmlands and soils.
(VI) Preserves open space and natural lands and provides for public open space and recreation needs.
(VII) Creates a balance of land uses based upon demands of the residential population for the nonresidential needs of an area.
(VIII) Provides uses, densities, and intensities of use and urban form that would remediate an existing or planned development pattern in the vicinity that constitutes sprawl or if it provides for an innovative development pattern such as transit-oriented developments or new towns as defined in s. 163.3164.
10. The future land use element shall include a future land use map or map series.
a. The proposed distribution, extent, and location of the following uses shall be shown on the future land use map or map series:
(I) Residential.
(II) Commercial.
(III) Industrial.
(IV) Agricultural.
(V) Recreational.
(VI) Conservation.
(VII) Educational.
(VIII) Public.
b. The following areas shall also be shown on the future land use map or map series, if applicable:
(I) Historic district boundaries and designated historically significant properties.

(II) Transportation concurrency management area boundaries or transportation concurrency exception area boundaries.
(III) Multimodal transportation district boundaries.
(IV) Mixed-use categories.
c. The following natural resources or conditions shall be shown on the future land use map or map series, if applicable:
(I) Existing and planned public potable waterwells, cones of influence, and wellhead protection areas.
(II) Beaches and shores, including estuarine systems.
(III) Rivers, bays, lakes, floodplains, and harbors.
(IV) Wetlands.
(V) Minerals and soils.
(VI) Coastal high hazard areas.
~~11. Local governments required to update or amend their comprehensive plan to include criteria and address compatibility of lands adjacent or closely proximate to existing military installations, or lands adjacent to an airport as defined in s.330.35 and consistent with s.333.02, in their future land use plan element shall transmit the update or amendment to the state land planning agency by June 30, 2012.~~
(b) A transportation element addressing mobility issues in relationship to the size and character of the local government. The purpose of the transportation element shall be to plan for a multimodal transportation system that places emphasis on public transportation systems, where feasible. The element shall provide for a safe, convenient multimodal transportation system, coordinated with the future land use map or map series and designed to support all elements of the comprehensive plan. A local government that has all or part of its jurisdiction included within the metropolitan planning area of a metropolitan planning organization (M.P.O.) pursuant to s. 339.175 shall prepare and adopt a transportation element consistent with this subsection. Local governments that are not located within the metropolitan planning area of an M.P.O. shall address traffic circulation, mass transit, and ports, and aviation and related facilities consistent with this subsection, except that local governments with a population of 50,000 or less shall only be required to address transportation circulation. The element shall be coordinated with the plans and programs of any applicable metropolitan planning organization, transportation authority, Florida Transportation Plan, and Department of Transportation adopted work program.
1. Each local government’s transportation element shall address traffic circulation, including the types, locations, and extent of existing and proposed major thoroughfares and transportation routes, including bicycle and pedestrian ways. Transportation corridors, as defined in s. 334.03, may be designated in the transportation element pursuant to s. 337.273. If the transportation corridors are designated, the local government may adopt a transportation corridor management ordinance. The element shall include a map or map series showing the general location of the existing and proposed transportation system features and shall be coordinated with the future land use map or map series. The element shall reflect the data, analysis, and associated principles and strategies relating to:
a. The existing transportation system levels of service and system needs and the availability of transportation facilities and services.

b. The growth trends and travel patterns and interactions between land use and transportation.
c. Existing and projected intermodal deficiencies and needs.
d. The projected transportation system levels of service and system needs based upon the future land use map and the projected integrated transportation system.
e. How the local government will correct existing facility deficiencies, meet the identified needs of the projected transportation system, and advance the purpose of this paragraph and the other elements of the comprehensive plan.
2. Local governments within a metropolitan planning area designated as an M.P.O. pursuant to s. 339.175 shall also address:
a. All alternative modes of travel, such as public transportation, pedestrian, and bicycle travel.
b. Aviation, rail, seaport facilities, access to those facilities, and intermodal terminals.
c. The capability to evacuate the coastal population before an impending natural disaster.
d. Airports, projected airport and aviation development, and land use compatibility around airports, which includes areas defined in ss. 333.01 and 333.02.
e. An identification of land use densities, building intensities, and transportation management programs to promote public transportation systems in designated public transportation corridors so as to encourage population densities sufficient to support such systems.
3. Municipalities having populations greater than 50,000, and counties having populations greater than 75,000, shall include mass-transit provisions showing proposed methods for the moving of people, rights-of-way, terminals, and related facilities and shall address:
a. The provision of efficient public transit services based upon existing and proposed major trip generators and attractors, safe and convenient public transit terminals, land uses, and accommodation of the special needs of the transportation disadvantaged.
b. Plans for port, aviation, and related facilities coordinated with the general circulation and transportation element.
c. Plans for the circulation of recreational traffic, including bicycle facilities, exercise trails, riding facilities, and such other matters as may be related to the improvement and safety of movement of all types of recreational traffic.
4. At the option of a local government, an airport master plan, and any subsequent amendments to the airport master plan, prepared by a licensed publicly owned and operated airport under s. 333.06 may be incorporated into the local government comprehensive plan by the local government having jurisdiction under this act for the area in which the airport or projected airport development is located by the adoption of a comprehensive plan amendment. In the amendment to the local comprehensive plan that integrates the airport master plan, the comprehensive plan amendment shall address land use compatibility consistent with chapter 333 regarding airport zoning; the provision of regional transportation facilities for the efficient use and operation of the transportation system and airport; consistency with the local government transportation circulation element and applicable M.P.O. long-range transportation plans; the execution of any necessary interlocal agreements for the purposes of the provision of public facilities and services to maintain the adopted level-of-service standards for

facilities subject to concurrency; and may address airport-related or aviation-related development. Development or expansion of an airport consistent with the adopted airport master plan that has been incorporated into the local comprehensive plan in compliance with this part, and airport-related or aviation-related development that has been addressed in the comprehensive plan amendment that incorporates the airport master plan, do not constitute a development of regional impact. Notwithstanding any other general law, an airport that has received a development-of-regional-impact development order pursuant to s. 380.06, but which is no longer required to undergo development-of-regional-impact review pursuant to this subsection, may rescind its development-of-regional-impact order upon written notification to the applicable local government. Upon receipt by the local government, the development-of-regional-impact development order shall be deemed rescinded.

(c) A general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge element correlated to principles and guidelines for future land use, indicating ways to provide for future potable water, drainage, sanitary sewer, solid waste, and aquifer recharge protection requirements for the area. The element may be a detailed engineering plan including a topographic map depicting areas of prime groundwater recharge.

1. Each local government shall address in the data and analyses required by this section those facilities that provide service within the local government's jurisdiction. Local governments that provide facilities to serve areas within other local government jurisdictions shall also address those facilities in the data and analyses required by this section, using data from the comprehensive plan for those areas for the purpose of projecting facility needs as required in this subsection. For shared facilities, each local government shall indicate the proportional capacity of the systems allocated to serve its jurisdiction.

2. The element shall describe the problems and needs and the general facilities that will be required for solution of the problems and needs, including correcting existing facility deficiencies. The element shall address coordinating the extension of, or increase in the capacity of, facilities to meet future needs while maximizing the use of existing facilities and discouraging urban sprawl; conserving potable water resources; and protecting the functions of natural groundwater recharge areas and natural drainage features.

3. Within 18 months after the governing board approves an updated regional water supply plan, the element must incorporate the alternative water supply project or projects selected by the local government from those identified in the regional water supply plan pursuant to s. 373.709(2)(a) or proposed by the local government under s. 373.709(8)(b). If a local government is located within two water management districts, the local government shall adopt its comprehensive plan amendment within 18 months after the later updated regional water supply plan. The element must identify such alternative water supply projects and traditional water supply projects and conservation and reuse necessary to meet the water needs identified in s. 373.709(2)(a) within the local government's jurisdiction and include a work plan, covering at least a 10-year planning period, for building public, private, and regional water supply facilities, including development of alternative water supplies, which are identified in the element as necessary to serve existing and new development. The work plan shall be updated, at a minimum, every 5 years within 18 months after the governing board of a water

management district approves an updated regional water supply plan. Local governments, public and private utilities, regional water supply authorities, special districts, and water management districts are encouraged to cooperatively plan for the development of multijurisdictional water supply facilities that are sufficient to meet projected demands for established planning periods, including the development of alternative water sources to supplement traditional sources of groundwater and surface water supplies.

4. A local government that does not own, operate, or maintain its own water supply facilities, including, but not limited to, wells, treatment facilities, and distribution infrastructure, and is served by a public water utility with a permitted allocation of greater than 300 million gallons per day is not required to amend its comprehensive plan in response to an updated regional water supply plan or to maintain a work plan if any such local government's usage of water constitutes less than 1 percent of the public water utility's total permitted allocation. However, any such local government is required to cooperate with, and provide relevant data to, any local government or utility provider that provides service within its jurisdiction, and to keep its general sanitary sewer, solid waste, potable water, and natural groundwater aquifer recharge element updated in accordance with s. 163.3191.

(d) A conservation element for the conservation, use, and protection of natural resources in the area, including air, water, water recharge areas, wetlands, waterwells, estuarine marshes, soils, beaches, shores, flood plains, rivers, bays, lakes, harbors, forests, fisheries and wildlife, marine habitat, minerals, and other natural and environmental resources, including factors that affect energy conservation.

1. The following natural resources, where present within the local government's boundaries, shall be identified and analyzed and existing recreational or conservation uses, known pollution problems, including hazardous wastes, and the potential for conservation, recreation, use, or protection shall also be identified:

a. Rivers, bays, lakes, wetlands including estuarine marshes, groundwaters, and springs, including information on quality of the resource available.

b. Floodplains.

c. Known sources of commercially valuable minerals.

d. Areas known to have experienced soil erosion problems.

e. Areas that are the location of recreationally and commercially important fish or shellfish, wildlife, marine habitats, and vegetative communities, including forests, indicating known dominant species present and species listed by federal, state, or local government agencies as endangered, threatened, or species of special concern.

2. The element must contain principles, guidelines, and standards for conservation that provide long-term goals and which:

a. Protects air quality.

b. Conserves, appropriately uses, and protects the quality and quantity of current and projected water sources and waters that flow into estuarine waters or oceanic waters and protect from activities and land uses known to affect adversely the quality and quantity of identified water sources, including natural groundwater recharge areas, wellhead protection areas, and surface waters used as a source of public water supply.

c. Provides for the emergency conservation of water sources in accordance with the plans of the regional water management district.

d. Conserves, appropriately uses, and protects minerals, soils, and native vegetative communities, including forests, from destruction by development activities.
e. Conserves, appropriately uses, and protects fisheries, wildlife, wildlife habitat, and marine habitat and restricts activities known to adversely affect the survival of endangered and threatened wildlife.
f. Protects existing natural reservations identified in the recreation and open space element.
g. Maintains cooperation with adjacent local governments to conserve, appropriately use, or protect unique vegetative communities located within more than one local jurisdiction.
h. Designates environmentally sensitive lands for protection based on locally determined criteria which further the goals and objectives of the conservation element.
i. Manages hazardous waste to protect natural resources.
j. Protects and conserves wetlands and the natural functions of wetlands.
k. Directs future land uses that are incompatible with the protection and conservation of wetlands and wetland functions away from wetlands. The type, intensity or density, extent, distribution, and location of allowable land uses and the types, values, functions, sizes, conditions, and locations of wetlands are land use factors that shall be considered when directing incompatible land uses away from wetlands. Land uses shall be distributed in a manner that minimizes the effect and impact on wetlands. The protection and conservation of wetlands by the direction of incompatible land uses away from wetlands shall occur in combination with other principles, guidelines, standards, and strategies in the comprehensive plan. Where incompatible land uses are allowed to occur, mitigation shall be considered as one means to compensate for loss of wetlands functions.
3. Current and projected needs and sources for at least a 10-year period based on the demands for industrial, agricultural, and potable water use and the quality and quantity of water available to meet these demands shall be analyzed. The analysis shall consider the existing levels of water conservation, use, and protection and applicable policies of the regional water management district and further must consider the appropriate regional water supply plan approved pursuant to s. 373.709, or, in the absence of an approved regional water supply plan, the district water management plan approved pursuant to s. 373.036(2). This information shall be submitted to the appropriate agencies.
(e) A recreation and open space element indicating a comprehensive system of public and private sites for recreation, including, but not limited to, natural reservations, parks and playgrounds, parkways, beaches and public access to beaches, open spaces, waterways, and other recreational facilities.
(f)1. A housing element consisting of principles, guidelines, standards, and strategies to be followed in:
a. The provision of housing for all current and anticipated future residents of the jurisdiction.
b. The elimination of substandard dwelling conditions.
c. The structural and aesthetic improvement of existing housing.
d. The provision of adequate sites for future housing, including affordable workforce housing as defined in s. 380.0651(3)(h), housing for low-income, very low-income, and

moderate-income families, mobile homes, and group home facilities and foster care facilities, with supporting infrastructure and public facilities. The element may include provisions that specifically address affordable housing for persons 60 years of age or older. Real property that is conveyed to a local government for affordable housing under this sub-subparagraph shall be disposed of by the local government pursuant to s. 125.379 or s. 166.0451.
e. Provision for relocation housing and identification of historically significant and other housing for purposes of conservation, rehabilitation, or replacement.
f. The formulation of housing implementation programs.
g. The creation or preservation of affordable housing to minimize the need for additional local services and avoid the concentration of affordable housing units only in specific areas of the jurisdiction.
2. The principles, guidelines, standards, and strategies of the housing element must be based on data and analysis prepared on housing needs, which shall include the number and distribution of dwelling units by type, tenure, age, rent, value, monthly cost of owner-occupied units, and rent or cost to income ratio, and shall show the number of dwelling units that are substandard. The data and analysis shall also include the methodology used to estimate the condition of housing, a projection of the anticipated number of households by size, income range, and age of residents derived from the population projections, and the minimum housing need of the current and anticipated future residents of the jurisdiction.
3. The housing element must express principles, guidelines, standards, and strategies that reflect, as needed, the creation and preservation of affordable housing for all current and anticipated future residents of the jurisdiction, elimination of substandard housing conditions, adequate sites, and distribution of housing for a range of incomes and types, including mobile and manufactured homes. The element must provide for specific programs and actions to partner with private and nonprofit sectors to address housing needs in the jurisdiction, streamline the permitting process, and minimize costs and delays for affordable housing, establish standards to address the quality of housing, stabilization of neighborhoods, and identification and improvement of historically significant housing.
4. State and federal housing plans prepared on behalf of the local government must be consistent with the goals, objectives, and policies of the housing element. Local governments are encouraged to use job training, job creation, and economic solutions to address a portion of their affordable housing concerns.
(g) For those units of local government identified in s. 380.24, a coastal management element, appropriately related to the particular requirements of paragraphs (d) and (e) and meeting the requirements of s. 163.3178(2) and (3). The coastal management element shall set forth the principles, guidelines, standards, and strategies that shall guide the local government’s decisions and program implementation with respect to the following objectives:
1. Maintain, restore, and enhance the overall quality of the coastal zone environment, including, but not limited to, its amenities and aesthetic values.
2. Preserve the continued existence of viable populations of all species of wildlife and marine life.

3. Protect the orderly and balanced utilization and preservation, consistent with sound conservation principles, of all living and nonliving coastal zone resources.
4. Avoid irreversible and irretrievable loss of coastal zone resources.
5. Use ecological planning principles and assumptions in the determination of the suitability of permitted development.
6. Limit public expenditures that subsidize development in coastal high-hazard areas.
7. Protect human life against the effects of natural disasters.
8. Direct the orderly development, maintenance, and use of ports identified in s. 403.021(9) to facilitate deepwater commercial navigation and other related activities.
9. Preserve historic and archaeological resources, which include the sensitive adaptive use of these resources.
10. At the option of the local government, develop an adaptation action area designation for those low-lying coastal zones that are experiencing coastal flooding due to extreme high tides and storm surge and are vulnerable to the impacts of rising sea level. Local governments that adopt an adaptation action area may consider policies within the coastal management element to improve resilience to coastal flooding resulting from high-tide events, storm surge, flash floods, stormwater runoff, and related impacts of sea-level rise. Criteria for the adaptation action area may include, but need not be limited to, areas for which the land elevations are below, at, or near mean higher high water, which have a hydrologic connection to coastal waters, or which are designated as evacuation zones for storm surge.
(h)1. An intergovernmental coordination element showing relationships and stating principles and guidelines to be used in coordinating the adopted comprehensive plan with the plans of school boards, regional water supply authorities, and other units of local government providing services but not having regulatory authority over the use of land, with the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region, with the state comprehensive plan and with the applicable regional water supply plan approved pursuant to s. 373.709, as the case may require and as such adopted plans or plans in preparation may exist. This element of the local comprehensive plan must demonstrate consideration of the particular effects of the local plan, when adopted, upon the development of adjacent municipalities, the county, adjacent counties, or the region, or upon the state comprehensive plan, as the case may require.
a. The intergovernmental coordination element must provide procedures for identifying and implementing joint planning areas, especially for the purpose of annexation, municipal incorporation, and joint infrastructure service areas.
b. The intergovernmental coordination element shall provide for a dispute resolution process, as established pursuant to s. 186.509, for bringing intergovernmental disputes to closure in a timely manner.
c. The intergovernmental coordination element shall provide for interlocal agreements as established pursuant to s. 333.03(1)(b).
2. The intergovernmental coordination element shall also state principles and guidelines to be used in coordinating the adopted comprehensive plan with the plans of school boards and other units of local government providing facilities and services but not having regulatory authority over the use of land. In addition, the intergovernmental coordination element must describe joint processes for collaborative planning and

decisionmaking on population projections and public school siting, the location and extension of public facilities subject to concurrency, and siting facilities with countywide significance, including locally unwanted land uses whose nature and identity are established in an agreement.
3. Within 1 year after adopting their intergovernmental coordination elements, each county, all the municipalities within that county, the district school board, and any unit of local government service providers in that county shall establish by interlocal or other formal agreement executed by all affected entities, the joint processes described in this subparagraph consistent with their adopted intergovernmental coordination elements. The agreement must:
a. Ensure that the local government addresses through coordination mechanisms the impacts of development proposed in the local comprehensive plan upon development in adjacent municipalities, the county, adjacent counties, the region, and the state. The area of concern for municipalities shall include adjacent municipalities, the county, and counties adjacent to the municipality. The area of concern for counties shall include all municipalities within the county, adjacent counties, and adjacent municipalities.
b. Ensure coordination in establishing level of service standards for public facilities with any state, regional, or local entity having operational and maintenance responsibility for such facilities.
(7)(a) The Legislature finds that:
1. There are a number of rural agricultural industrial centers in the state that process, produce, or aid in the production or distribution of a variety of agriculturally based products, including, but not limited to, fruits, vegetables, timber, and other crops, and juices, paper, and building materials. Rural agricultural industrial centers have a significant amount of existing associated infrastructure that is used for processing, producing, or distributing agricultural products.
2. Such rural agricultural industrial centers are often located within or near communities in which the economy is largely dependent upon agriculture and agriculturally based products. The centers significantly enhance the economy of such communities. However, these agriculturally based communities are often socioeconomically challenged and designated as rural areas of opportunity. If such rural agricultural industrial centers are lost and not replaced with other job-creating enterprises, the agriculturally based communities will lose a substantial amount of their economies.
3. The state has a compelling interest in preserving the viability of agriculture and protecting rural agricultural communities and the state from the economic upheaval that would result from short-term or long-term adverse changes in the agricultural economy. To protect these communities and promote viable agriculture for the long term, it is essential to encourage and permit diversification of existing rural agricultural industrial centers by providing for jobs that are not solely dependent upon, but are compatible with and complement, existing agricultural industrial operations and to encourage the creation and expansion of industries that use agricultural products in innovative ways. However, the expansion and diversification of these existing centers must be accomplished in a manner that does not promote urban sprawl into surrounding agricultural and rural areas.
(b) As used in this subsection, the term “rural agricultural industrial center” means a developed parcel of land in an unincorporated area on which there exists an operating

agricultural industrial facility or facilities that employ at least 200 full-time employees in the aggregate and process and prepare for transport a farm product, as defined in s. 163.3162, or any biomass material that could be used, directly or indirectly, for the production of fuel, renewable energy, bioenergy, or alternative fuel as defined by law. The center may also include land contiguous to the facility site which is not used for the cultivation of crops, but on which other existing activities essential to the operation of such facility or facilities are located or conducted. The parcel of land must be located within, or within 10 miles of, a rural area of opportunity.

(c)1. A landowner whose land is located within a rural agricultural industrial center may apply for an amendment to the local government comprehensive plan for the purpose of designating and expanding the existing agricultural industrial uses of facilities located within the center or expanding the existing center to include industrial uses or facilities that are not dependent upon but are compatible with agriculture and the existing uses and facilities. A local government comprehensive plan amendment under this paragraph must:

a. Not increase the physical area of the existing rural agricultural industrial center by more than 50 percent or 320 acres, whichever is greater.

b. Propose a project that would, upon completion, create at least 50 new full-time jobs.

c. Demonstrate that sufficient infrastructure capacity exists or will be provided to support the expanded center at the level-of-service standards adopted in the local government comprehensive plan.

d. Contain goals, objectives, and policies that will ensure that any adverse environmental impacts of the expanded center will be adequately addressed and mitigation implemented or demonstrate that the local government comprehensive plan contains such provisions.

2. Within 6 months after receiving an application as provided in this paragraph, the local government shall transmit the application to the state land planning agency for review pursuant to this chapter together with any needed amendments to the applicable sections of its comprehensive plan to include goals, objectives, and policies that provide for the expansion of rural agricultural industrial centers and discourage urban sprawl in the surrounding areas. Such goals, objectives, and policies must promote and be consistent with the findings in this subsection. An amendment that meets the requirements of this subsection is presumed not to be urban sprawl as defined in s. 163.3164 and shall be considered within 90 days after any review required by the state land planning agency if required by s. 163.3184. This presumption may be rebutted by a preponderance of the evidence.

(d) This subsection does not apply to an optional sector plan adopted pursuant to s. 163.3245, a rural land stewardship area designated pursuant to s. 163.3248, or any comprehensive plan amendment that includes an inland port terminal or affiliated port development.

(e) This subsection does not confer the status of rural area of opportunity, or any of the rights or benefits derived from such status, on any land area not otherwise designated as such pursuant to s. 288.0656(7).

History.—s. 7, ch. 75-257; s. 1, ch. 77-174; s. 1, ch. 80-154; s. 6, ch. 83-308; s. 1, ch. 85-42; s. 6, ch. 85-55; s. 1, ch. 85-309; s. 7, ch. 86-191; s. 5, ch. 92-129; s. 6, ch. 93-206; s. 898, ch. 95-147; s. 3, ch. 95-257; s. 4, ch. 95-322; s. 10, ch. 95-341; s. 10, ch. 96-320; s. 24, ch. 96-410; s. 2, ch. 96-416; s. 2, ch. 98-146; s. 4, ch. 98-176; s. 4, ch. 98-258; s. 90, ch. 99-251; s. 3, ch. 99-

378; s. 40, ch. 2001-201; s. 64, ch. 2001-279; s. 24, ch. 2002-1; s. 58, ch. 2002-20; s. 70, ch. 2002-295; s. 2, ch. 2002-296; s. 904, ch. 2002-387; s. 61, ch. 2003-286; s. 2, ch. 2004-230; s. 4, ch. 2004-372; s. 2, ch. 2004-381; s. 2, ch. 2005-36; s. 1, ch. 2005-157; s. 2, ch. 2005-290; s. 10, ch. 2005-291; s. 2, ch. 2006-220; s. 57, ch. 2007-196; s. 1, ch. 2007-198; s. 2, ch. 2007-204; s. 2, ch. 2008-191; s. 10, ch. 2009-21; s. 3, ch. 2009-85; s. 3, ch. 2009-96; s. 1, ch. 2009-154; s. 43, ch. 2010-102; s. 2, ch. 2010-182; s. 4, ch. 2010-205; s. 3, ch. 2011-14; s. 12, ch. 2011-139; s. 3, ch. 2011-189; s. 4, ch. 2012-99; s. 24, ch. 2014-218; s. 2, ch. 2015-30; s. 13, ch. 2016-10.

163.3184 Process for adoption of comprehensive plan or plan amendment.—

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

(a) "Affected person" includes the affected local government; persons owning property, residing, or owning or operating a business within the boundaries of the local government whose plan is the subject of the review; owners of real property abutting real property that is the subject of a proposed change to a future land use map; and adjoining local governments that can demonstrate that the plan or plan amendment will produce substantial impacts on the increased need for publicly funded infrastructure or substantial impacts on areas designated for protection or special treatment within their jurisdiction. Each person, other than an adjoining local government, in order to qualify under this definition, shall also have submitted oral or written comments, recommendations, or objections to the local government during the period of time beginning with the transmittal hearing for the plan or plan amendment and ending with the adoption of the plan or plan amendment.

(b) "In compliance" means consistent with the requirements of ss. 163.3177, 163.3178, 163.3180, 163.3191, 163.3245, and 163.3248, with the appropriate strategic regional policy plan, and with the principles for guiding development in designated areas of critical state concern and with part III of chapter 369, where applicable.

(c) "Reviewing agencies" means:

1. The state land planning agency;
2. The appropriate regional planning council;
3. The appropriate water management district;
4. The Department of Environmental Protection;
5. The Department of State;
6. The Department of Transportation;
7. In the case of plan amendments relating to public schools, the Department of Education;
8. In the case of plans or plan amendments that affect a military installation listed in s. 163.3175, the commanding officer of the affected military installation;
9. In the case of county plans and plan amendments, the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services; and
10. In the case of municipal plans and plan amendments, the county in which the municipality is located.

(2) COMPREHENSIVE PLANS AND PLAN AMENDMENTS.—

(a) Plan amendments adopted by local governments shall follow the expedited state review process in subsection (3), except as set forth in paragraphs (b) and (c).

(b) Plan amendments that qualify as small-scale development amendments may follow the small-scale review process in s. 163.3187.

(c) Plan amendments that are in an area of critical state concern designated pursuant to s. 380.05; propose a rural land stewardship area pursuant to s. 163.3248; propose a sector plan pursuant to s. 163.3245 or an amendment to an adopted sector plan; update a comprehensive plan based on an evaluation and appraisal pursuant to s. 163.3191; propose a development that is subject to the state coordinated review process ~~qualifies as a development of regional impact~~ pursuant to s. 380.06; or are new plans for newly incorporated municipalities adopted pursuant to s. 163.3167, must ~~shall~~ follow the state coordinated review process in subsection (4).
(3) EXPEDITED STATE REVIEW PROCESS FOR ADOPTION OF COMPREHENSIVE PLAN AMENDMENTS.—
(a) The process for amending a comprehensive plan described in this subsection shall apply to all amendments except as provided in paragraphs (2)(b) and (c) and shall be applicable statewide.
(b)1. The local government, after the initial public hearing held pursuant to subsection (11), shall transmit within 10 working days the amendment or amendments and appropriate supporting data and analyses to the reviewing agencies. The local governing body shall also transmit a copy of the amendments and supporting data and analyses to any other local government or governmental agency that has filed a written request with the governing body.
2. The reviewing agencies and any other local government or governmental agency specified in subparagraph 1. may provide comments regarding the amendment or amendments to the local government. State agencies shall only comment on important state resources and facilities that will be adversely impacted by the amendment if adopted. Comments provided by state agencies shall state with specificity how the plan amendment will adversely impact an important state resource or facility and shall identify measures the local government may take to eliminate, reduce, or mitigate the adverse impacts. Such comments, if not resolved, may result in a challenge by the state land planning agency to the plan amendment. Agencies and local governments must transmit their comments to the affected local government such that they are received by the local government not later than 30 days after the date on which the agency or government received the amendment or amendments. Reviewing agencies shall also send a copy of their comments to the state land planning agency.
3. Comments to the local government from a regional planning council, county, or municipality shall be limited as follows:
a. The regional planning council review and comments shall be limited to adverse effects on regional resources or facilities identified in the strategic regional policy plan and extrajurisdictional impacts that would be inconsistent with the comprehensive plan of any affected local government within the region. A regional planning council may not review and comment on a proposed comprehensive plan amendment prepared by such council unless the plan amendment has been changed by the local government subsequent to the preparation of the plan amendment by the regional planning council.
b. County comments shall be in the context of the relationship and effect of the proposed plan amendments on the county plan.
c. Municipal comments shall be in the context of the relationship and effect of the proposed plan amendments on the municipal plan.
d. Military installation comments shall be provided in accordance with s. 163.3175.

4. Comments to the local government from state agencies shall be limited to the following subjects as they relate to important state resources and facilities that will be adversely impacted by the amendment if adopted:
a. The Department of Environmental Protection shall limit its comments to the subjects of air and water pollution; wetlands and other surface waters of the state; federal and state-owned lands and interest in lands, including state parks, greenways and trails, and conservation easements; solid waste; water and wastewater treatment; and the Everglades ecosystem restoration.
b. The Department of State shall limit its comments to the subjects of historic and archaeological resources.
c. The Department of Transportation shall limit its comments to issues within the agency's jurisdiction as it relates to transportation resources and facilities of state importance.
d. The Fish and Wildlife Conservation Commission shall limit its comments to subjects relating to fish and wildlife habitat and listed species and their habitat.
e. The Department of Agriculture and Consumer Services shall limit its comments to the subjects of agriculture, forestry, and aquaculture issues.
f. The Department of Education shall limit its comments to the subject of public school facilities.
g. The appropriate water management district shall limit its comments to flood protection and floodplain management, wetlands and other surface waters, and regional water supply.
h. The state land planning agency shall limit its comments to important state resources and facilities outside the jurisdiction of other commenting state agencies and may include comments on countervailing planning policies and objectives served by the plan amendment that should be balanced against potential adverse impacts to important state resources and facilities.
(c)1. The local government shall hold its second public hearing, which shall be a hearing on whether to adopt one or more comprehensive plan amendments pursuant to subsection (11). If the local government fails, within 180 days after receipt of agency comments, to hold the second public hearing, the amendments shall be deemed withdrawn unless extended by agreement with notice to the state land planning agency and any affected person that provided comments on the amendment. The 180-day limitation does not apply to amendments processed pursuant to s. 380.06.
2. All comprehensive plan amendments adopted by the governing body, along with the supporting data and analysis, shall be transmitted within 10 working days after the second public hearing to the state land planning agency and any other agency or local government that provided timely comments under subparagraph (b)2.
3. The state land planning agency shall notify the local government of any deficiencies within 5 working days after receipt of an amendment package. For purposes of completeness, an amendment shall be deemed complete if it contains a full, executed copy of the adoption ordinance or ordinances; in the case of a text amendment, a full copy of the amended language in legislative format with new words inserted in the text underlined, and words deleted stricken with hyphens; in the case of a future land use map amendment, a copy of the future land use map clearly depicting the parcel, its

existing future land use designation, and its adopted designation; and a copy of any data and analyses the local government deems appropriate.
4. An amendment adopted under this paragraph does not become effective until 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If timely challenged, an amendment does not become effective until the state land planning agency or the Administration Commission enters a final order determining the adopted amendment to be in compliance.
(4) STATE COORDINATED REVIEW PROCESS.—
(a) Coordination.—The state land planning agency shall only use the state coordinated review process described in this subsection for review of comprehensive plans and plan amendments described in paragraph (2)(c). Each comprehensive plan or plan amendment proposed to be adopted pursuant to this subsection shall be transmitted, adopted, and reviewed in the manner prescribed in this subsection. The state land planning agency shall have responsibility for plan review, coordination, and the preparation and transmission of comments, pursuant to this subsection, to the local governing body responsible for the comprehensive plan or plan amendment.
(b) Local government transmittal of proposed plan or amendment.—Each local governing body proposing a plan or plan amendment specified in paragraph (2)(c) shall transmit the complete proposed comprehensive plan or plan amendment to the reviewing agencies within 10 working days after the first public hearing pursuant to subsection (11). The transmitted document shall clearly indicate on the cover sheet that this plan amendment is subject to the state coordinated review process of this subsection. The local governing body shall also transmit a copy of the complete proposed comprehensive plan or plan amendment to any other unit of local government or government agency in the state that has filed a written request with the governing body for the plan or plan amendment.
(c) Reviewing agency comments.—The agencies specified in paragraph (b) may provide comments regarding the plan or plan amendments in accordance with subparagraphs (3)(b)2.-4. However, comments on plans or plan amendments required to be reviewed under the state coordinated review process shall be sent to the state land planning agency within 30 days after receipt by the state land planning agency of the complete proposed plan or plan amendment from the local government. If the state land planning agency comments on a plan or plan amendment adopted under the state coordinated review process, it shall provide comments according to paragraph (d). Any other unit of local government or government agency specified in paragraph (b) may provide comments to the state land planning agency in accordance with subparagraphs (3)(b)2.-4. within 30 days after receipt by the state land planning agency of the complete proposed plan or plan amendment. Written comments submitted by the public shall be sent directly to the local government.
(d) State land planning agency review.—
1. If the state land planning agency elects to review a plan or plan amendment specified in paragraph (2)(c), the agency shall issue a report giving its objections, recommendations, and comments regarding the proposed plan or plan amendment within 60 days after receipt of the proposed plan or plan amendment. Notwithstanding the limitation on comments in sub-subparagraph (3)(b)4.g., the state land planning agency may make objections, recommendations, and comments in its report regarding

whether the plan or plan amendment is in compliance and whether the plan or plan amendment will adversely impact important state resources and facilities. Any objection regarding an important state resource or facility that will be adversely impacted by the adopted plan or plan amendment shall also state with specificity how the plan or plan amendment will adversely impact the important state resource or facility and shall identify measures the local government may take to eliminate, reduce, or mitigate the adverse impacts. When a federal, state, or regional agency has implemented a permitting program, a local government is not required to duplicate or exceed that permitting program in its comprehensive plan or to implement such a permitting program in its land development regulations. This subparagraph does not prohibit the state land planning agency in conducting its review of local plans or plan amendments from making objections, recommendations, and comments regarding densities and intensities consistent with this part. In preparing its comments, the state land planning agency shall only base its considerations on written, and not oral, comments.

2. The state land planning agency review shall identify all written communications with the agency regarding the proposed plan amendment. The written identification must include a list of all documents received or generated by the agency, which list must be of sufficient specificity to enable the documents to be identified and copies requested, if desired, and the name of the person to be contacted to request copies of any identified document.

(e) Local government review of comments; adoption of plan or amendments and transmittal.—

1. The local government shall review the report submitted to it by the state land planning agency, if any, and written comments submitted to it by any other person, agency, or government. The local government, upon receipt of the report from the state land planning agency, shall hold its second public hearing, which shall be a hearing to determine whether to adopt the comprehensive plan or one or more comprehensive plan amendments pursuant to subsection (11). If the local government fails to hold the second hearing within 180 days after receipt of the state land planning agency's report, the amendments shall be deemed withdrawn unless extended by agreement with notice to the state land planning agency and any affected person that provided comments on the amendment. The 180-day limitation does not apply to amendments processed pursuant to s. 380.06.

2. All comprehensive plan amendments adopted by the governing body, along with the supporting data and analysis, shall be transmitted within 10 working days after the second public hearing to the state land planning agency and any other agency or local government that provided timely comments under paragraph (c).

3. The state land planning agency shall notify the local government of any deficiencies within 5 working days after receipt of a plan or plan amendment package. For purposes of completeness, a plan or plan amendment shall be deemed complete if it contains a full, executed copy of the adoption ordinance or ordinances; in the case of a text amendment, a full copy of the amended language in legislative format with new words inserted in the text underlined, and words deleted stricken with hyphens; in the case of a future land use map amendment, a copy of the future land use map clearly depicting the parcel, its existing future land use designation, and its adopted designation; and a copy of any data and analyses the local government deems appropriate.

4. After the state land planning agency makes a determination of completeness regarding the adopted plan or plan amendment, the state land planning agency shall have 45 days to determine if the plan or plan amendment is in compliance with this act. Unless the plan or plan amendment is substantially changed from the one commented on, the state land planning agency's compliance determination shall be limited to objections raised in the objections, recommendations, and comments report. During the period provided for in this subparagraph, the state land planning agency shall issue, through a senior administrator or the secretary, a notice of intent to find that the plan or plan amendment is in compliance or not in compliance. The state land planning agency shall post a copy of the notice of intent on the agency's Internet website. Publication by the state land planning agency of the notice of intent on the state land planning agency's Internet site shall be prima facie evidence of compliance with the publication requirements of this subparagraph.
5. A plan or plan amendment adopted under the state coordinated review process shall go into effect pursuant to the state land planning agency's notice of intent. If timely challenged, an amendment does not become effective until the state land planning agency or the Administration Commission enters a final order determining the adopted amendment to be in compliance.
(5) ADMINISTRATIVE CHALLENGES TO PLANS AND PLAN AMENDMENTS.—
(a) Any affected person as defined in paragraph (1)(a) may file a petition with the Division of Administrative Hearings pursuant to ss. 120.569 and 120.57, with a copy served on the affected local government, to request a formal hearing to challenge whether the plan or plan amendments are in compliance as defined in paragraph (1)(b). This petition must be filed with the division within 30 days after the local government adopts the amendment. The state land planning agency may not intervene in a proceeding initiated by an affected person.
(b) The state land planning agency may file a petition with the Division of Administrative Hearings pursuant to ss. 120.569 and 120.57, with a copy served on the affected local government, to request a formal hearing to challenge whether the plan or plan amendment is in compliance as defined in paragraph (1)(b). The state land planning agency's petition must clearly state the reasons for the challenge. Under the expedited state review process, this petition must be filed with the division within 30 days after the state land planning agency notifies the local government that the plan amendment package is complete according to subparagraph (3)(c)3. Under the state coordinated review process, this petition must be filed with the division within 45 days after the state land planning agency notifies the local government that the plan amendment package is complete according to subparagraph (4)(e)3.
1. The state land planning agency's challenge to plan amendments adopted under the expedited state review process shall be limited to the comments provided by the reviewing agencies pursuant to subparagraphs (3)(b)2.-4., upon a determination by the state land planning agency that an important state resource or facility will be adversely impacted by the adopted plan amendment. The state land planning agency's petition shall state with specificity how the plan amendment will adversely impact the important state resource or facility. The state land planning agency may challenge a plan amendment that has substantially changed from the version on which the agencies

provided comments but only upon a determination by the state land planning agency that an important state resource or facility will be adversely impacted.
2. If the state land planning agency issues a notice of intent to find the comprehensive plan or plan amendment not in compliance with this act, the notice of intent shall be forwarded to the Division of Administrative Hearings of the Department of Management Services, which shall conduct a proceeding under ss. 120.569 and 120.57 in the county of and convenient to the affected local jurisdiction. The parties to the proceeding shall be the state land planning agency, the affected local government, and any affected person who intervenes. No new issue may be alleged as a reason to find a plan or plan amendment not in compliance in an administrative pleading filed more than 21 days after publication of notice unless the party seeking that issue establishes good cause for not alleging the issue within that time period. Good cause does not include excusable neglect.
(c) An administrative law judge shall hold a hearing in the affected local jurisdiction on whether the plan or plan amendment is in compliance.
1. In challenges filed by an affected person, the comprehensive plan or plan amendment shall be determined to be in compliance if the local government's determination of compliance is fairly debatable.
2.a. In challenges filed by the state land planning agency, the local government's determination that the comprehensive plan or plan amendment is in compliance is presumed to be correct, and the local government's determination shall be sustained unless it is shown by a preponderance of the evidence that the comprehensive plan or plan amendment is not in compliance.
b. In challenges filed by the state land planning agency, the local government's determination that elements of its plan are related to and consistent with each other shall be sustained if the determination is fairly debatable.
3. In challenges filed by the state land planning agency that require a determination by the agency that an important state resource or facility will be adversely impacted by the adopted plan or plan amendment, the local government may contest the agency's determination of an important state resource or facility. The state land planning agency shall prove its determination by clear and convincing evidence.
(d) If the administrative law judge recommends that the amendment be found not in compliance, the judge shall submit the recommended order to the Administration Commission for final agency action. The Administration Commission shall make every effort to enter a final order expeditiously, but at a minimum within the time period provided by s. 120.569.
(e) If the administrative law judge recommends that the amendment be found in compliance, the judge shall submit the recommended order to the state land planning agency.
1. If the state land planning agency determines that the plan amendment should be found not in compliance, the agency shall make every effort to refer the recommended order and its determination expeditiously to the Administration Commission for final agency action, but at a minimum within the time period provided by s. 120.569.
2. If the state land planning agency determines that the plan amendment should be found in compliance, the agency shall make every effort to enter its final order expeditiously, but at a minimum within the time period provided by s. 120.569.

3. The recommended order submitted under this paragraph becomes a final order 90 days after issuance unless the state land planning agency acts as provided in subparagraph 1. or subparagraph 2. or all parties consent in writing to an extension of the 90-day period.

(f) Parties to a proceeding under this subsection may enter into compliance agreements using the process in subsection (6).

(6) COMPLIANCE AGREEMENT.—

(a) At any time after the filing of a challenge, the state land planning agency and the local government may voluntarily enter into a compliance agreement to resolve one or more of the issues raised in the proceedings. Affected persons who have initiated a formal proceeding or have intervened in a formal proceeding may also enter into a compliance agreement with the local government. All parties granted intervenor status shall be provided reasonable notice of the commencement of a compliance agreement negotiation process and a reasonable opportunity to participate in such negotiation process. Negotiation meetings with local governments or intervenors shall be open to the public. The state land planning agency shall provide each party granted intervenor status with a copy of the compliance agreement within 10 days after the agreement is executed. The compliance agreement shall list each portion of the plan or plan amendment that has been challenged, and shall specify remedial actions that the local government has agreed to complete within a specified time in order to resolve the challenge, including adoption of all necessary plan amendments. The compliance agreement may also establish monitoring requirements and incentives to ensure that the conditions of the compliance agreement are met.

(b) Upon the filing of a compliance agreement executed by the parties to a challenge and the local government with the Division of Administrative Hearings, any administrative proceeding under ss. 120.569 and 120.57 regarding the plan or plan amendment covered by the compliance agreement shall be stayed.

(c) Before its execution of a compliance agreement, the local government must approve the compliance agreement at a public hearing advertised at least 10 days before the public hearing in a newspaper of general circulation in the area in accordance with the advertisement requirements of chapter 125 or chapter 166, as applicable.

(d) The local government shall hold a single public hearing for adopting remedial amendments.

(e) For challenges to amendments adopted under the expedited review process, if the local government adopts a comprehensive plan amendment pursuant to a compliance agreement, an affected person or the state land planning agency may file a revised challenge with the Division of Administrative Hearings within 15 days after the adoption of the remedial amendment.

(f) For challenges to amendments adopted under the state coordinated process, the state land planning agency shall issue a cumulative notice of intent addressing both the remedial amendment and the plan or plan amendment that was the subject of the agreement within 20 days after receiving a complete plan or plan amendment adopted pursuant to a compliance agreement.

1. If the local government adopts a comprehensive plan or plan amendment pursuant to a compliance agreement and a notice of intent to find the plan amendment in compliance is issued, the state land planning agency shall forward the notice of intent to

the Division of Administrative Hearings and the administrative law judge shall realign the parties in the pending proceeding under ss. 120.569 and 120.57, which shall thereafter be governed by the process contained in paragraph (5)(a) and subparagraph (5)(c)1., including provisions relating to challenges by an affected person, burden of proof, and issues of a recommended order and a final order. Parties to the original proceeding at the time of realignment may continue as parties without being required to file additional pleadings to initiate a proceeding, but may timely amend their pleadings to raise any challenge to the amendment that is the subject of the cumulative notice of intent, and must otherwise conform to the rules of procedure of the Division of Administrative Hearings. Any affected person not a party to the realigned proceeding may challenge the plan amendment that is the subject of the cumulative notice of intent by filing a petition with the agency as provided in subsection (5). The agency shall forward the petition filed by the affected person not a party to the realigned proceeding to the Division of Administrative Hearings for consolidation with the realigned proceeding. If the cumulative notice of intent is not challenged, the state land planning agency shall request that the Division of Administrative Hearings relinquish jurisdiction to the state land planning agency for issuance of a final order.

2. If the local government adopts a comprehensive plan amendment pursuant to a compliance agreement and a notice of intent is issued that finds the plan amendment not in compliance, the state land planning agency shall forward the notice of intent to the Division of Administrative Hearings, which shall consolidate the proceeding with the pending proceeding and immediately set a date for a hearing in the pending proceeding under ss. 120.569 and 120.57. Affected persons who are not a party to the underlying proceeding under ss. 120.569 and 120.57 may challenge the plan amendment adopted pursuant to the compliance agreement by filing a petition pursuant to paragraph (5)(a).

(g) This subsection does not prohibit a local government from amending portions of its comprehensive plan other than those that are the subject of a challenge. However, such amendments to the plan may not be inconsistent with the compliance agreement.

(h) This subsection does not require settlement by any party against its will or preclude the use of other informal dispute resolution methods in the course of or in addition to the method described in this subsection.

(7) MEDIATION AND EXPEDITIOUS RESOLUTION.—

(a) At any time after the matter has been forwarded to the Division of Administrative Hearings, the local government proposing the amendment may demand formal mediation or the local government proposing the amendment or an affected person who is a party to the proceeding may demand informal mediation or expeditious resolution of the amendment proceedings by serving written notice on the state land planning agency if a party to the proceeding, all other parties to the proceeding, and the administrative law judge.

(b) Upon receipt of a notice pursuant to paragraph (a), the administrative law judge shall set the matter for final hearing no more than 30 days after receipt of the notice. Once a final hearing has been set, no continuance in the hearing, and no additional time for post-hearing submittals, may be granted without the written agreement of the parties absent a finding by the administrative law judge of extraordinary circumstances. Extraordinary circumstances do not include matters relating to workload or need for additional time for preparation, negotiation, or mediation.

(c) Absent a showing of extraordinary circumstances, the administrative law judge shall issue a recommended order, in a case proceeding under subsection (5), within 30 days after filing of the transcript, unless the parties agree in writing to a longer time.
(d) For a case following the procedures under this subsection, absent written consent of the parties or a showing of extraordinary circumstances, if the administrative law judge recommends that the amendment be found not in compliance, the Administration Commission shall issue a final order~~, in a case proceeding under subsection (5),~~ within 45 days after ~~the~~ issuance of the recommended order~~, unless the parties agree in writing to a longer time~~. If the administrative law judge recommends that the amendment be found in compliance, the state land planning agency shall issue a final order within 45 days after issuance of the recommended order. If the state land planning agency fails to timely issue a final order, the recommended order finding the amendment to be in compliance immediately becomes the final order.
(8) ADMINISTRATION COMMISSION.—
(a) If the Administration Commission, upon a hearing pursuant to subsection (5), finds that the comprehensive plan or plan amendment is not in compliance with this act, the commission shall specify remedial actions that would bring the comprehensive plan or plan amendment into compliance.
(b) The commission may specify the sanctions provided in subparagraphs 1. and 2. to which the local government will be subject if it elects to make the amendment effective notwithstanding the determination of noncompliance.
1. The commission may direct state agencies not to provide funds to increase the capacity of roads, bridges, or water and sewer systems within the boundaries of those local governmental entities which have comprehensive plans or plan elements that are determined not to be in compliance. The commission order may also specify that the local government is not eligible for grants administered under the following programs:
a. The Florida Small Cities Community Development Block Grant Program, as authorized by ss. 290.0401-290.048.
b. The Florida Recreation Development Assistance Program, as authorized by chapter 375.
c. Revenue sharing pursuant to ss. 206.60, 210.20, and 218.61 and chapter 212, to the extent not pledged to pay back bonds.
2. If the local government is one which is required to include a coastal management element in its comprehensive plan pursuant to s. 163.3177(6)(g), the commission order may also specify that the local government is not eligible for funding pursuant to s. 161.091. The commission order may also specify that the fact that the coastal management element has been determined to be not in compliance shall be a consideration when the department considers permits under s. 161.053 and when the Board of Trustees of the Internal Improvement Trust Fund considers whether to sell, convey any interest in, or lease any sovereignty lands or submerged lands until the element is brought into compliance.
3. The sanctions provided by subparagraphs 1. and 2. do not apply to a local government regarding any plan amendment, except for plan amendments that amend plans that have not been finally determined to be in compliance with this part, and except as provided in this paragraph.

(9) GOOD FAITH FILING.—The signature of an attorney or party constitutes a certificate that he or she has read the pleading, motion, or other paper and that, to the best of his or her knowledge, information, and belief formed after reasonable inquiry, it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay, or for economic advantage, competitive reasons, or frivolous purposes or needless increase in the cost of litigation. If a pleading, motion, or other paper is signed in violation of these requirements, the administrative law judge, upon motion or his or her own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.
(10) EXCLUSIVE PROCEEDINGS.—The proceedings under this section shall be the sole proceeding or action for a determination of whether a local government's plan, element, or amendment is in compliance with this act.
(11) PUBLIC HEARINGS.—
(a) The procedure for transmittal of a complete proposed comprehensive plan or plan amendment pursuant to subparagraph (3)(b)1. and paragraph (4)(b) and for adoption of a comprehensive plan or plan amendment pursuant to subparagraphs (3)(c)1. and (4)(e)1. shall be by affirmative vote of not less than a majority of the members of the governing body present at the hearing. The adoption of a comprehensive plan or plan amendment shall be by ordinance. For the purposes of transmitting or adopting a comprehensive plan or plan amendment, the notice requirements in chapters 125 and 166 are superseded by this subsection, except as provided in this part.
(b) The local governing body shall hold at least two advertised public hearings on the proposed comprehensive plan or plan amendment as follows:
1. The first public hearing shall be held at the transmittal stage. It shall be held on a weekday at least 7 days after the day that the first advertisement is published pursuant to the requirements of chapter 125 or chapter 166.
2. The second public hearing shall be held at the adoption stage. It shall be held on a weekday at least 5 days after the day that the second advertisement is published pursuant to the requirements of chapter 125 or chapter 166.
(c) Nothing in this part is intended to prohibit or limit the authority of local governments to require a person requesting an amendment to pay some or all of the cost of the public notice.
(12) CONCURRENT ZONING.—At the request of an applicant, a local government shall consider an application for zoning changes that would be required to properly enact any proposed plan amendment transmitted pursuant to this section. Zoning changes approved by the local government are contingent upon the comprehensive plan or plan amendment transmitted becoming effective.
(13) AREAS OF CRITICAL STATE CONCERN.—No proposed local government comprehensive plan or plan amendment that is applicable to a designated area of critical state concern shall be effective until a final order is issued finding the plan or amendment to be in compliance as defined in paragraph (1)(b).
History.—s. 9, ch. 75-257; s. 1, ch. 77-174; s. 4, ch. 77-331; s. 7, ch. 83-308; s. 8, ch. 84-254; s. 8, ch. 85-55; s. 9, ch. 86-191; s. 7, ch. 92-129; s. 77, ch. 92-279; s. 55, ch. 92-326; s. 10, ch. 93-206; s. 34, ch. 94-356; s. 1445, ch. 95-147; s. 5, ch. 95-181; s. 11, ch. 95-310; s. 2, ch. 95-322; s. 26, ch. 96-410; s. 16, ch. 97-99; s. 2, ch. 97-253; s. 3, ch. 98-146; s. 12, ch. 98-176; s. 15, ch.

2000-158; s. 34, ch. 2001-254; s. 7, ch. 2002-296; s. 2, ch. 2004-384; s. 6, ch. 2005-290; s. 19, ch. 2006-1; s. 3, ch. 2007-198; s. 7, ch. 2009-96; s. 6, ch. 2011-14; s. 17, ch. 2011-139; s. 15, ch. 2012-5; s. 1, ch. 2012-75; s. 8, ch. 2012-99; s. 3, ch. 2015-30; s. 3, ch. 2016-148.

Chapter 252
Emergency Management
Enforceable Policies

Any additions are underlined and any deletions are struck-through.

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*Sections 252.515, .62, .63, .905, .921, and .9335, F.S., are not considered enforceable policies for federal consistency purposes

**Section 252.359 is not proposed as an enforceable policy for federal consistency purposes

252.34 Definitions.—As used in this part, the term:
(1) “Activate” means the execution and implementation of the necessary plans and activities required to mitigate, respond to, or recover from an emergency or disaster pursuant to this chapter and the state comprehensive emergency management plan.
(2)~~(1)~~ “Disaster” means any natural, technological, or civil emergency that causes damage of sufficient severity and magnitude to result in a declaration of a state of emergency by a county, the Governor, or the President of the United States. Disasters shall be identified by the severity of resulting damage, as follows:
(a) “Catastrophic disaster” means a disaster that will require massive state and federal assistance, including immediate military involvement.
(b) “Major disaster” means a disaster that will likely exceed local capabilities and require a broad range of state and federal assistance.
(c) “Minor disaster” means a disaster that is likely to be within the response capabilities of local government and to result in only a minimal need for state or federal assistance.
(3)~~(2)~~ “Division” means the Division of Emergency Management within the Executive Office of the Governor, or the successor to that division.
(4)~~(3)~~ “Emergency” means any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.
(5)~~(4)~~ “Emergency management” means the preparation for, the mitigation of, the response to, and the recovery from emergencies and disasters. Specific emergency management responsibilities include, but are not limited to:
(a) Reduction of vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from natural, technological, or manmade emergencies or hostile military or paramilitary action.
(b) Preparation for prompt and efficient response and recovery to protect lives and property affected by emergencies.
(c) Response to emergencies using all systems, plans, and resources necessary to preserve adequately the health, safety, and welfare of persons or property affected by the emergency.
(d) Recovery from emergencies by providing for the rapid and orderly start of restoration and rehabilitation of persons and property affected by emergencies.
(e) Provision of an emergency management system embodying all aspects of preemergency preparedness and postemergency response, recovery, and mitigation.
(f) Assistance in anticipation, recognition, appraisal, prevention, and mitigation of emergencies which may be caused or aggravated by inadequate planning for, and regulation of, public and private facilities and land use.
(6)~~(5)~~ “Local emergency management agency” means an organization created in accordance with the provisions of ss. 252.31-252.90 to discharge the emergency management responsibilities and functions of a political subdivision.
(7)~~(6)~~ “Manmade emergency” means an emergency caused by an action against persons or society, including, but not limited to, enemy attack, sabotage, terrorism, civil unrest, or other action impairing the orderly administration of government.

(8)~~(7)~~ “Natural emergency” means an emergency caused by a natural event, including, but not limited to, a hurricane, a storm, a flood, severe wave action, a drought, or an earthquake.
(9)~~(8)~~ “Political subdivision” means any county or municipality created pursuant to law.
(10)~~(9)~~ “Technological emergency” means an emergency caused by a technological failure or accident, including, but not limited to, an explosion, transportation accident, radiological accident, or chemical or other hazardous material incident.
History.—s. 1, ch. 74-285; s. 19, ch. 81-169; s. 22, ch. 83-55; s. 16, ch. 83-334; s. 7, ch. 84-241; s. 10, ch. 93-211; s. 31, ch. 2001-61; s. 98, ch. 2011-142; s. 1, ch. 2016-198.

252.359 Ensuring availability of emergency supplies.—
(1) In order to meet the needs of residents affected during a declared emergency and to ensure the continuing economic resilience of communities impacted by disaster, the division shall establish a statewide system to facilitate the transport and distribution of essentials in commerce.
(2) As used in this section, the term “essentials” means goods that are consumed or used as a direct result of a declared emergency, or that are consumed or used to preserve, protect, or sustain life, health, safety, or economic well-being.
(3) The division shall develop a system to certify each person who facilitates the transport or distribution of essentials in commerce. The division may not certify a person other than a person who routinely transports or distributes essentials. In developing the system, the division:
(a) May provide for a preemergency or postemergency declaration certification.
(b) Shall allow the certification of an employer, if requested by the employer, to constitute a certification of the employer’s employees.
(c) Shall create an easily recognizable indicium of certification to assist local officials’ efforts in determining which persons have been certified under this subsection.
(d) Shall limit the duration of each certificate to no more than 1 year. Each certificate may be renewed so long as the criteria for certification are met.
(4) A person or employer certified under subsection (3) is not required to obtain any additional certification or fulfill any additional requirement to transport or distribute essentials.
(5) Notwithstanding any curfew, a person or employer certified under subsection (3) may enter or remain in the curfew area for the limited purpose of facilitating the transport or distribution of essentials and may provide service that exceeds otherwise applicable hours of service maximums to the extent authorized by a duly executed declaration of a state of emergency.
(6) This section does not prohibit a law enforcement officer from specifying the permissible route of ingress or egress for a person certified under subsection (3).
History.—s. 2, ch. 2016-198.

Chapter 253
State Lands
Enforceable Policies

Any additions are underlined and any deletions are struck-through.

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253.002 Department of Environmental Protection, water management districts, and Department of Agriculture and Consumer Services; duties with respect to state lands.
253.01* Internal Improvement Trust Fund established
253.02 Board of Trustees; powers and duties.
253.025 Acquisition of state lands ~~for purposes other than preservation, conservation and recreation~~.
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*Sections 253.01, .027, .031, .034, and .61 (1)(d), .7824, and .7828, F.S., are not considered enforceable policies for federal consistency purposes

**Sections 253.0251 and .87 are not proposed as enforceable policies for federal consistency purposes

Chapter 253--State Lands

253.025 Acquisition of state lands ~~for purposes other than preservation, conservation, and recreation.—~~

(1)(a) ~~Neither~~ The Board of Trustees of the Internal Improvement Trust Fund or ~~nor~~ its duly authorized agent may not ~~shall~~ commit the state, through any instrument of negotiated contract or agreement for purchase, to the purchase of lands with or without appurtenances unless ~~the provisions of~~ this section has ~~have~~ been fully complied with.

(b) Except for the requirements of subsections (4), (11), and (22), if the public's interest is reasonably protected, the board of trustees may:

1. Waive any requirements of this section.

2. Waive any rules adopted pursuant to this section, notwithstanding chapter 120.

3. Substitute other reasonably prudent procedures.

(c) ~~However,~~ The board of trustees may also substitute federally mandated acquisition procedures for the provisions of this section if ~~when~~ federal funds are available and will be used ~~utilized~~ for the purchase of lands, title to which will vest in the board of trustees, and qualification for such federal funds requires compliance with federally mandated acquisition procedures.

(d) Notwithstanding ~~any provisions in~~ this section ~~to the contrary~~, if lands are being acquired by the board of trustees for the anticipated sale, conveyance, or transfer to the Federal Government pursuant to a joint state and federal acquisition project, the board of trustees may use appraisals obtained by the Federal Government in the acquisition of such lands. The board of trustees may waive any provision of this section when land is being conveyed from a state agency to the board.

(e) The title to lands acquired pursuant to this section shall vest in the board of trustees pursuant to s. 253.03(1) unless otherwise provided by law, and all such titled lands shall be administered pursuant to s. 253.03.

(2) Before ~~Prior to~~ any state agency initiates ~~initiating~~ any land acquisition, except for ~~as pertains to~~ the purchase of property for transportation facilities and transportation corridors and property for borrow pits for road building purposes, the agency shall coordinate with the Division of State Lands to determine the availability of existing, suitable state-owned lands in the area and the public purpose for which the acquisition is being proposed. If the state agency determines that no suitable state-owned lands exist, the state agency may proceed to acquire such lands by employing all available statutory authority for acquisition.

(3) The board of trustees is authorized to adopt rules to implement this section, including rules governing the terms and conditions of land purchases. The rules shall address, with specificity, but need not be limited to:

(a) The procedures to be followed in the acquisition process, including selection of appraisers, surveyors, title agents, and closing agents, and the content of appraisal reports.

(b) The determination of the value of parcels which the state has an interest in acquiring.

(c) Special requirements when multiple landowners are involved in an acquisition.

(d) Requirements for obtaining written option agreements so that the interests of the state are fully protected.

(4) An agreement to acquire real property for the purposes described in this chapter, chapter 259, chapter 260, or chapter 375, title to which will vest in the board of trustees, may not bind the state before the agreement is reviewed and approved by the Department of Environmental Protection as complying with this section and any rules adopted pursuant to this section. If any of the following conditions exist, the agreement shall be submitted to and approved by the board of trustees:
(a) The purchase price agreed to by the seller exceeds the value as established pursuant to the rules of the board of trustees;
(b) The contract price agreed to by the seller and the acquiring agency exceeds $1 million;
(c) The acquisition is the initial purchase in a Florida Forever project; or
(d) Other conditions that the board of trustees may adopt by rule. Such conditions may include, but are not limited to, Florida Forever projects when title to the property being acquired is considered nonmarketable or is encumbered in such a way as to significantly affect its management.
If approval of the board of trustees is required pursuant to this subsection, the acquiring agency must provide a justification as to why it is in the public's interest to acquire the parcel or Florida Forever project. Approval of the board of trustees is also required for Florida Forever projects the department recommends acquiring pursuant to subsections (11) and (22). Review and approval of agreements for acquisitions for Florida Greenways and Trails Program properties pursuant to chapter 260 may be waived by the department in any contract with nonprofit corporations that have agreed to assist the department with this program. If the contribution of the acquiring agency exceeds $100 million in any one fiscal year, the agreement shall be submitted to and approved by the Legislative Budget Commission.
(5)~~(3)~~ Land acquisition procedures provided for in this section are for voluntary, negotiated acquisitions.
(6)~~(4)~~ For the purposes of this section, the term "negotiations" does not include preliminary contacts with the property owner to determine the availability of the property, existing appraisal data, existing abstracts, and surveys.
(7)~~(5)~~ Evidence of marketable title shall be provided by the landowner before ~~prior to~~ the conveyance of title, as provided in the final agreement for purchase. Such evidence of marketability shall be in the form of title insurance or an abstract of title with a title opinion. The board of trustees may waive the requirement that the landowner provide evidence of marketable title, and, in such case, the acquiring agency shall provide evidence of marketable title. The board of trustees or its designee may waive the requirement of evidence of marketability for acquisitions of property assessed by the county property appraiser at $10,000 or less, if ~~where~~ the Division of State Lands finds, based upon such review of the title records as is reasonable under the circumstances, that there is no apparent impediment to marketability, or to management of the property by the state.
(8)~~(6)~~ Before approval by the board of trustees, or, when applicable, the Department of Environmental Protection, of any agreement to purchase land pursuant to this chapter, chapter 259, chapter 260, or chapter 375, and before ~~Prior to~~ negotiations with the parcel owner to purchase any other land ~~pursuant to this section~~, title to which will vest in the board of trustees, an appraisal of the parcel shall be required as follows:

(a) The board of trustees shall adopt by rule the method for determining the value of parcels sought to be acquired by state agencies pursuant to this section.
(b)~~(a)~~ Each parcel to be acquired shall have at least one appraisal. Two appraisals are required when the estimated value of the parcel exceeds $1 million. However, if both appraisals exceed $1 million and differ significantly, a third appraisal may be obtained. If ~~When~~ a parcel is estimated to be worth $100,000 or less and the director of the Division of State Lands finds that the cost of an outside appraisal is not justified, a comparable sales analysis, an appraisal prepared by the division, or other reasonably prudent procedures may be used by the division to estimate the value of the parcel, provided the public's interest is reasonably protected. The state is not required to appraise the value of lands and appurtenances that are being donated to the state.
(c)~~(b)~~ Appraisal fees and associated costs shall be paid by the agency proposing the acquisition. ~~The board of trustees shall approve qualified fee appraisal organizations.~~ All appraisals used for the acquisition of lands pursuant to this section shall be prepared by a ~~member of an approved appraisal organization or by a~~ state-certified appraiser. The board of trustees shall adopt rules for selecting individuals to perform appraisals pursuant to this section. Each fee appraiser selected to appraise a particular parcel shall, before ~~prior to~~ contracting with the agency or a participant in a multiparty agreement, submit to the ~~that~~ agency an affidavit substantiating that he or she has no vested or fiduciary interest in such parcel.
(d) The fee appraiser and the review appraiser for the agency may not act in any manner that may be construed as negotiating with the owner of a parcel proposed for acquisition.
(e)~~(c)~~ The board of trustees shall adopt by rule the minimum criteria, techniques, and methods to be used in the preparation of appraisal reports. Such rules shall incorporate, to the extent practicable, generally accepted appraisal standards. Any appraisal issued for acquisition of lands pursuant to this section must comply with the rules adopted by the board of trustees. A certified survey must be made which meets the minimum requirements for upland parcels established in the ~~Minimum Technical~~ Standards of Practice for Land Surveying in Florida published by the Department of Agriculture and Consumer Services ~~Business and Professional Regulation~~ and which accurately portrays, to the greatest extent practicable, the condition of the parcel as it currently exists. The requirement for a certified survey may, in part or in whole, be waived by the board of trustees any time before ~~prior to~~ submitting the agreement for purchase to the Division of State Lands. When an existing boundary map and description of a parcel are determined by the division to be sufficient for appraisal purposes, the division director may temporarily waive the requirement for a survey until any time before ~~prior to~~ conveyance of title to the parcel. ~~The fee appraiser and the review appraiser for the agency shall not act in any way that may be construed as negotiating with the property owner.~~
(f)~~(d)~~ Appraisal reports are confidential and exempt from ~~the provisions of~~ s. 119.07(1), for use by the agency and the board of trustees, until an option contract is executed or, if no option contract is executed, until 2 weeks before a contract or agreement for purchase is considered for approval by the board of trustees. The Department of Environmental Protection may disclose appraisal reports to private landowners during negotiations for acquisitions using alternatives to fee simple techniques, if the

department determines that disclosure of such reports will bring the proposed acquisition to closure. However, the private landowner must agree to maintain the confidentiality of the reports or information. ~~However,~~ The department ~~Division of State Lands~~ may also disclose appraisal information to public agencies or nonprofit organizations that agree to maintain the confidentiality of the reports or information when joint acquisition of property is contemplated, or when a public agency or nonprofit organization enters into a written agreement with the department ~~division~~ to purchase and hold property for subsequent resale to the board of trustees ~~division~~. In addition, the department ~~division~~ may use, as its own, appraisals obtained by a public agency or nonprofit organization, if ~~provided~~ the appraiser is selected from the department's ~~division's~~ list of appraisers and the appraisal is reviewed and approved by the department ~~division~~. For ~~the~~ purposes of this paragraph, the term "nonprofit organization" means an organization that ~~whose purpose is the preservation of natural resources, and which~~ is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code and, for purposes of the acquisition of conservation lands, an organization whose purpose must include the preservation of natural resources. The agency may release an appraisal report when the passage of time has rendered the conclusions of value in the report invalid or when the acquiring agency has terminated negotiations.

(g)~~(e)~~ Before ~~Prior to~~ acceptance of an appraisal, the agency shall submit a copy of such report to the division ~~of State Lands~~. The division shall review such report for compliance with the rules of the board ~~of trustees~~. Any questions of applicability of laws affecting an appraisal shall be addressed by the legal office of the agency.

(h)~~(f)~~ The appraisal report shall be accompanied by the sales history of the parcel for at least the previous ~~prior~~ 5 years. Such sales history shall include all parties and considerations with the amount of consideration verified, if possible. If a sales history would not be useful, or it is ~~its~~ cost prohibitive compared to the value of a parcel, the sales history may be waived by the board of trustees. The board of trustees shall adopt a rule specifying guidelines for waiver of a sales history.

(i)~~(g)~~ The board of trustees may consider an appraisal acquired by a seller, or any part thereof, in negotiating to purchase a parcel, but such appraisal may not be used in lieu of an appraisal required by this subsection or to determine the maximum offer allowed by law.

(j)1. The board of trustees shall adopt by rule the method for determining the value of parcels sought to be acquired by state agencies pursuant to this section. An offer by a state agency may not exceed the value for that parcel as determined pursuant to the highest approved appraisal or the value determined pursuant to the rules of the board of trustees, whichever value is less.

2. For a joint acquisition by a state agency and a local government or other entity apart from the state, the joint purchase price may not exceed 150 percent of the value for a parcel as determined in accordance with the limits in subparagraph 1. The state agency share of a joint purchase offer may not exceed what the agency may offer singly pursuant to subparagraph 1.

3. This paragraph does not apply to the acquisition of historically unique or significant property as determined by the Division of Historical Resources of the Department of State.

Notwithstanding this subsection, on behalf of the board of trustees and before the appraisal of parcels approved for purchase under this chapter or chapter 259, the Secretary of Environmental Protection or the director of the Division of State Lands may enter into option contracts to buy such parcels. Any such option contract shall state that the final purchase price is subject to approval by the board of trustees or, if applicable, the Secretary of Environmental Protection, and that the final purchase price may not exceed the maximum offer allowed by law. Any such option contract presented to the board of trustees for final purchase price approval shall explicitly state that payment of the final purchase price is subject to an appropriation from the Legislature. The consideration for such an option may not exceed $1,000 or 0.01 percent of the estimate by the department of the value of the parcel, whichever amount is greater.

(9)~~(7)~~(a) When the owner is represented by an agent or broker, negotiations may not be initiated or continued until a written statement verifying such agent's or broker's legal or fiduciary relationship with the owner is on file with the agency.

(b) The board of trustees or any state agency may contract for real estate acquisition services, including, but not limited to, contracts for real estate commission fees, surveying, mapping, environmental audits, title work, and legal and other professional assistance to review acquisition agreements and other documents and to perform acquisition closings. However, the Department of Environmental Protection may use outside counsel to review any agreements or documents or to perform acquisition closings unless department staff can conduct the same activity in 15 days or less.

(c) Upon the initiation of negotiations, the state agency shall inform the owner in writing that all agreements for purchase are subject to approval by the board of trustees.

(d) All offers or counteroffers shall be documented in writing and shall be confidential and exempt from ~~the provisions of~~ s. 119.07(1) until an option contract is executed, or if no option contract is executed, until 2 weeks before a contract or agreement for purchase is considered for approval by the board of trustees. The agency shall maintain complete and accurate records of all offers and counteroffers for all projects.

~~(e)1. The board of trustees shall adopt by rule the method for determining the value of parcels sought to be acquired by state agencies pursuant to this section. No offer by a state agency, except an offer by an agency acquiring lands pursuant to s. 259.041, may exceed the value for that parcel as determined pursuant to the highest approved appraisal or the value determined pursuant to the rules of the board of trustees, which ever value is less.~~

~~2. In the case of a joint acquisition by a state agency and a local government or other entity apart from the state, the joint purchase price may not exceed 150 percent of the value for a parcel as determined in accordance with the limits prescribed in subparagraph 1. The state agency share of a joint purchase offer may not exceed what the agency may offer singly as prescribed by subparagraph 1.~~

~~3. The provisions of this paragraph do not apply to the acquisition of historically unique or significant property as determined by the Division of Historical Resources of the Department of State.~~

(e)~~(f)~~ When making an offer to a landowner, a state agency shall consider the desirability of a single cash payment in relation to the maximum offer allowed by law.

(f)~~(g)~~ The state shall have the authority to reimburse the owner for the cost of the survey when deemed appropriate. The reimbursement is ~~shall~~ not ~~be~~ considered a part of the purchase price.
(g)~~(h)~~ A final offer shall be in the form of an option contract or agreement for purchase and shall be signed and attested to by the owner and the representative of the agency. Before the agency executes the option contract or agreement for purchase, the contract or agreement shall be reviewed for form and legality by legal staff of the agency. Before the agency signs the agreement for purchase or exercises the option contract, the provisions of s. 286.23 shall be complied with. Within 10 days after the signing of the agreement for purchase, the state agency shall furnish the Department of Environmental Protection ~~Division of State Lands~~ with the original of the agreement for purchase along with copies of the disclosure notice, evidence of marketability, the accepted appraisal report, the fee appraiser's affidavit, a statement that the inventory of existing state-owned lands was examined and contained no available suitable land in the area, and a statement outlining the public purpose for which the acquisition is being made and the statutory authority therefor.
(h)~~(i)~~ Within 45 days after ~~of~~ receipt by the Department of Environmental Protection ~~Division of State Lands~~ of the agreement for purchase and the required documentation, the board of trustees or, if ~~when~~ the purchase price does not exceed $100,000, its designee shall ~~either~~ reject or approve the agreement. An approved agreement for purchase is binding on both parties. Any agreement which has been disapproved shall be returned to the agency, along with a statement as to the deficiencies of the agreement or the supporting documentation. An agreement for purchase which has been disapproved by the board of trustees may be resubmitted when such deficiencies have been corrected.
(10)~~(8)~~(a) A ~~No~~ dedication, gift, grant, or bequest of lands and appurtenances may not be accepted by the board of trustees until the receiving state agency supplies sufficient evidence of marketability of title. The board of trustees may not accept by dedication, gift, grant, or bequest any lands and appurtenances that are determined as being owned by the state ~~either~~ in fee or by virtue of the state's sovereignty or which are so encumbered so as to preclude the use of such lands and appurtenances for any reasonable public purpose. The board of trustees may accept a dedication, gift, grant, or bequest of lands and appurtenances without formal evidence of marketability, or when the title is nonmarketable, if the board or its designee determines that such lands and appurtenances have value and are reasonably manageable by the state, and that their acceptance would serve the public interest. The state is not required to appraise the value of such donated lands and appurtenances as a condition of receipt.
(b) A ~~No~~ deed filed in the public records to donate lands to the board of trustees does not ~~of the Internal Improvement Trust Fund shall be construed to~~ transfer title to or vest title in the board of trustees unless ~~there shall also be filed in the public records,~~ a document indicating that the board of trustees has agreed to accept the transfer of title to such donated lands is also filed in the public records.
(c) Notwithstanding any other provision of law, the maximum value of a parcel to be purchased by the board of trustees as determined by the highest approved appraisal or as determined pursuant to the rules of the board of trustees may not be increased or decreased as a result of a change in zoning or permitted land uses, or changes in

market forces or prices that occur within 1 year after the date the Department of Environmental Protection or the board of trustees approves a contract to purchase the parcel.
(11) Notwithstanding this section, the board of trustees, by an affirmative vote of at least three members, voting at a regularly scheduled and advertised meeting, may direct the Department of Environmental Protection to exercise the power of eminent domain pursuant to chapters 73 and 74 to acquire any conservation parcel identified on the acquisition list established by the Acquisition and Restoration Council and approved by the board of trustees pursuant to chapter 259. However, the board of trustees may only make such a vote under the following circumstances:
(a) The state has made at least two bona fide offers to purchase the land through negotiation and, notwithstanding those offers, an impasse between the state and the landowner was reached.
(b) The land is of special importance to the state because of one or more of the following reasons:
1. It involves an endangered or natural resource and is in imminent danger of development.
2. It is of unique value to the state and the failure to acquire it will result in irreparable loss to the state.
3. The failure of the state to acquire it will seriously impair the state's ability to manage or protect other state-owned lands.
Pursuant to this subsection, the department may exercise condemnation authority directly or by contracting with the Department of Transportation or a water management district to provide that service. If the Department of Transportation or a water management district enters into such a contract with the department, the Department of Transportation or a water management district may use statutorily approved methods and procedures ordinarily used by the agency for condemnation purposes.
(12)~~(9)~~ Any conveyance to the board of trustees of fee title shall be made by no less than a special warranty deed, unless the conveyance is from the Federal Government, the county government, or another state agency or, in the event of a gift or donation by quitclaim deed, if the board of trustees, or its designee, determines that the acceptance of such quitclaim deed is in the best interest of the public. A quitclaim deed may also be accepted to aid in clearing title or boundary questions. ~~The title to lands acquired pursuant to this section shall vest in the board of trustees as provided in s. 253.03(1). All such lands, title to which is vested in the board pursuant to this section, shall be administered pursuant to the provisions of s. 253.03.~~
(13)~~(10)~~ The board of trustees may purchase tax certificates or tax deeds issued in accordance with chapter 197 relating to property eligible for purchase under this section.
(14)~~(11)~~ The Auditor General shall conduct audits of acquisitions and divestitures which, according to his or her preliminary assessments of board-approved acquisitions and divestitures, he or she deems necessary. These preliminary assessments shall be initiated not later than 60 days after ~~following~~ the board of trustees' final approval ~~by the board~~ of land acquisitions under this section. If an audit is conducted, the Auditor General shall submit an audit report to the board of trustees, the President of the Senate, the Speaker of the House of Representatives, and their designees.

(15)~~(12)~~ The board of trustees and all affected agencies shall adopt and may modify or repeal such rules and regulations as are necessary to carry out ~~the purposes of~~ this section, including rules governing the terms and conditions of land purchases. Such rules shall address the procedures to be followed, when multiple landowners are involved in an acquisition, in obtaining written option agreements so that the interests of the state are fully protected.
(16)~~(13)~~(a) The board of trustees ~~of the Internal Improvement Trust Fund~~ may deed property to the Department of Agriculture and Consumer Services, so that the Department of Agriculture and Consumer Services is ~~department shall be~~ able to sell, convey, transfer, exchange, trade, or purchase land on which a forestry facility resides for money or other more suitable property on which to relocate the facility. Any sale or purchase of property by the Department of Agriculture and Consumer Services shall follow the requirements of subsections (7)-(10) and (12) ~~(5)-(9)~~. Any sale shall be at fair market value, and any trade shall ensure that the state is getting at least an equal value for the property. Except as provided in subsections (7)-(10) and (12) ~~(5)-(9)~~, the Department of Agriculture and Consumer Services is excluded from following the provisions of this chapter and chapters 259 and 375. This exclusion does ~~shall~~ not apply to lands acquired for conservation purposes in accordance with s. 253.0341(1) or (2) ~~253.034(6)(a) or (b)~~.
(b) In the case of a sale by the Department of Agriculture and Consumer Services of a forestry facility, the proceeds of the sale shall be deposited ~~go~~ into the Department of Agriculture and Consumer Services Incidental Trust Fund. The Legislature may, at the request of the Department of Agriculture and Consumer Services ~~department~~, appropriate such money within the trust fund to the Department of Agriculture and Consumer Services ~~department~~ for purchase of land and construction of a facility to replace the disposed facility. All proceeds other than land from any sale, conveyance, exchange, trade, or transfer conducted pursuant to ~~as provided for in~~ this subsection shall be deposited into ~~placed within~~ the Department of Agriculture and Consumer Services ~~department's~~ Incidental Trust Fund.
(c) Additional funds may be added from time to time by the Legislature to further the relocation and construction of forestry facilities. If ~~In the instance where~~ an equal trade of land occurs, money from the trust fund may be appropriated for building construction even though no money was received from the trade.
(17)~~(14)~~ Any agency that acquires land on behalf of the board of trustees is authorized to request disbursement of payments for real estate closings in accordance with a written authorization from an ultimate beneficiary to allow a third party authorized by law to receive such payment provided the Chief Financial Officer determines that such disbursement is consistent with good business practices and can be completed in a manner minimizing costs and risks to the state.
(18)~~(15)~~ Pursuant to s. 944.10, the Department of Corrections is responsible for obtaining appraisals and entering into option agreements and agreements for the purchase of state correctional facility sites. An option agreement or agreement for purchase is not binding upon the state until it is approved by the board of trustees ~~of the Internal Improvement Trust Fund~~. The provisions of paragraphs (8)(c), (e), and (f) and (9)(b), (c), and (d) ~~(6)(b), (c), and (d) and (7)(b), (c), and (d)~~ apply to all appraisals,

offers, and counteroffers of the Department of Corrections for state correctional facility sites.
(19)~~(16)~~ Many parcels of land acquired pursuant to this section may contain cattle-dipping vats as defined in s. 376.301. The state is encouraged to continue with the acquisition of such lands, including any ~~the~~ cattle-dipping vats ~~vat~~.
(20)~~(17)~~ Pursuant to s. 985.682, the Department of Juvenile Justice is responsible for obtaining appraisals and entering into option agreements and agreements for the purchase of state juvenile justice facility sites. An option agreement or agreement for purchase is not binding upon the state until it is approved by the board of trustees ~~of the Internal Improvement Trust Fund~~. The provisions of paragraphs (8)(c), (e), and (f) and (9)(b), (c), and (d) ~~(6)(b), (c), and (d) and (7)(b), (c), and (d)~~ apply to all appraisals, offers, and counteroffers of the Department of Juvenile Justice for state juvenile justice facility sites.
(21)~~(18)~~ The board of trustees may acquire, pursuant to s. 288.980(2)(b), nonconservation lands from the annual list submitted by the Department of Economic Opportunity for the purpose of buffering a military installation against encroachment.
(22) The board of trustees, by an affirmative vote of at least three members, may direct the department to purchase lands on an immediate basis using up to 15 percent of the funds allocated to the department pursuant to s. 259.105 for the acquisition of lands that:
(a) Are listed or placed at auction by the Federal Government as part of the Resolution Trust Corporation sale of lands from failed savings and loan associations;
(b) Are listed or placed at auction by the Federal Government as part of the Federal Deposit Insurance Corporation sale of lands from failed banks; or
(c) Will be developed or otherwise lost to potential public ownership, or for which federal matching funds will be lost, by the time the land can be purchased under the program within which the land is listed for acquisition.
For such acquisitions, the board of trustees may waive or modify all procedures required for land acquisition pursuant to this chapter and all competitive bid procedures required pursuant to chapters 255 and 287. Lands acquired pursuant to this subsection must, at the time of purchase, be on one of the acquisition lists established pursuant to chapter 259, or be essential for water resource development, protection, or restoration, or a significant portion of the lands must contain natural communities or plant or animal species that are listed by the Florida Natural Areas Inventory as critically imperiled, imperiled, or rare, or as excellent quality occurrences of natural communities.
(23) Title to lands to be held jointly by the board of trustees and a water management district and acquired pursuant to s. 373.139 may be deemed to meet the standards necessary for ownership by the board of trustees, notwithstanding this section or related rules.
History.—s. 9, ch. 79-255; s. 7, ch. 80-356; s. 166, ch. 81-259; s. 2, ch. 82-152; s. 2, ch. 83-114; s. 14, ch. 84-330; s. 57, ch. 85-80; s. 1, ch. 85-84; s. 12, ch. 86-163; s. 65, ch. 86-186; s. 1, ch. 87-307; s. 1, ch. 87-319; s. 7, ch. 88-168; s. 2, ch. 88-387; s. 1, ch. 89-117; s. 9, ch. 89-174; s. 2, ch. 89-276; s. 9, ch. 90-217; s. 1, ch. 90-234; s. 5, ch. 91-56; s. 3, ch. 92-288; s. 28, ch. 94-218; s. 2, ch. 94-240; s. 3, ch. 94-273; s. 66, ch. 94-356; s. 842, ch. 95-148; s. 2, ch. 95-349; s. 14, ch. 96-398; s. 109, ch. 96-406; s. 14, ch. 96-420; s. 25, ch. 98-280; s. 9, ch. 99-4; s. 32, ch. 99-13; s. 10, ch. 2000-308; s. 87, ch. 2001-266; s. 272, ch. 2003-261; s. 1, ch. 2003-394; s. 59,

ch. 2003-399; s. 106, ch. 2006-120; s. 3, ch. 2008-229; s. 1, ch. 2013-222; s. 12, ch. 2014-43; s. 4, ch. 2016-233.

253.0251 Alternatives to fee simple acquisition.—

(1) The Legislature finds that:

(a) With the increasing pressures on the natural areas of this state and on open space suitable for recreational use, the state must develop creative techniques to maximize the use of acquisition and management funds.

(b) The state's conservation and recreational land acquisition agencies should be encouraged to augment their traditional, fee simple acquisition programs with the use of alternatives to fee simple acquisition techniques. In addition, the Legislature finds that generations of private landowners have been good stewards of their land, protecting or restoring native habitats and ecosystems to the benefit of the natural resources of this state, its heritage, and its citizens. The Legislature also finds that using alternatives to fee simple acquisition by public land acquisition agencies will achieve the following public policy goals:

1. Allow more lands to be brought under public protection for preservation, conservation, and recreational purposes with less expenditure of public funds.

2. Retain, on local government tax rolls, some portion of or interest in lands which are under public protection.

3. Reduce long-term management costs by allowing private property owners to continue acting as stewards of their land, when appropriate.

Therefore, it is the intent of the Legislature that public land acquisition agencies develop programs to pursue alternatives to fee simple acquisition and to educate private landowners about such alternatives and the benefits of such alternatives. It is also the intent of the Legislature that a portion of the shares of Florida Forever bond proceeds be used to purchase eligible properties using alternatives to fee simple acquisition.

(2) All applications for alternatives to fee simple acquisition projects shall identify, within their acquisition plans, projects that require a full fee simple interest to achieve the public policy goals, together with the reasons full title is determined to be necessary. The state agencies and the water management districts may use alternatives to fee simple acquisition to bring the remaining projects in their acquisition plans under public protection. For purposes of this section, the phrase "alternatives to fee simple acquisition" includes, but is not limited to, purchase of development rights; obtaining conservation easements; obtaining flowage easements; purchase of timber rights, mineral rights, or hunting rights; purchase of agricultural interests or silvicultural interests; fee simple acquisitions with reservations; creating life estates; or any other acquisition technique that achieves the public policy goals listed in subsection (1). It is presumed that a private landowner retains the full range of uses for all the rights or interests in the landowner's land which are not specifically acquired by the public agency. The lands upon which hunting rights are specifically acquired pursuant to this section shall be available for hunting in accordance with the management plan or hunting regulations adopted by the Fish and Wildlife Conservation Commission, unless the hunting rights are purchased specifically to protect activities on adjacent lands.

(3) When developing the acquisition plan pursuant to s. 259.105, the Acquisition and Restoration Council may give preference to those less than fee simple acquisitions that provide any public access. However, the Legislature recognizes that public access is

not always appropriate for certain less than fee simple acquisitions. Therefore, any proposed less than fee simple acquisition may not be rejected simply because public access would be limited.
(4) The Department of Environmental Protection, the Department of Agriculture and Consumer Services, and each water management district shall implement initiatives for using alternatives to fee simple acquisition and to educate private landowners about such alternatives. The Department of Environmental Protection, the Department of Agriculture and Consumer Services, and the water management districts may enter into joint acquisition agreements to jointly fund the purchase of lands using alternatives to fee simple techniques.
(5) The Legislature finds that the lack of direct sales comparison information has served as an impediment to successful implementation of alternatives to fee simple acquisition. It is the intent of the Legislature that, in the absence of direct comparable sales information, appraisals of alternatives to fee simple acquisitions be based on the difference between the full fee simple valuation and the value of the interests remaining with the seller after acquisition.
(6) The public agency that has been assigned management responsibility shall inspect and monitor any less than fee simple interest according to the terms of the purchase agreement relating to such interest.
(7) For less than fee simple acquisitions pursuant to s. 570.71, the Department of Agriculture and Consumer Services shall comply with the acquisition procedures set forth in s. 570.715.
History.—s. 5, ch. 2016-233.

253.03 Board of trustees to administer state lands; lands enumerated.—
(1) The Board of Trustees of the Internal Improvement Trust Fund of the state is vested and charged with the acquisition, administration, management, control, supervision, conservation, protection, and disposition of all lands owned by, or which may hereafter inure to, the state or any of its agencies, departments, boards, or commissions, excluding lands held for transportation facilities and transportation corridors and canal rights-of-way, spoil areas and lands required for disposal of materials, or borrow pits; any land, title to which is vested or may become vested in any port authority, flood control district, water management district, or navigation district or agency created by any general or special act; and any lands, including the Camp Blanding Military Reservation, which have been conveyed to the state for military purposes only, and which are subject to reversion if conveyed by the original grantee or if the conveyance to the Board of Trustees of the Internal Improvement Trust Fund under this act would work a reversion from any other cause, or where any conveyance of lands held by a state agency which are encumbered by or subject to liens, trust agreements, or any form of contract which encumbers state lands for the repayment of funded debt. Lands vested in the Board of Trustees of the Internal Improvement Trust Fund shall be deemed to be:
(a) All swamp and overflowed lands held by the state or which may hereafter inure to the state;
(b) All lands owned by the state by right of its sovereignty;
(c) All internal improvement lands proper;

(d) All tidal lands;
(e) All lands covered by shallow waters of the ocean or gulf, or bays or lagoons thereof, and all lands owned by the state covered by fresh water;
(f) All parks, reservations, or lands or bottoms set aside in the name of the state, excluding lands held for transportation facilities and transportation corridors and canal rights-of-way;
(g) All lands which have accrued, or which may hereafter accrue, to the state from any source whatsoever, excluding lands held for transportation facilities and transportation corridors and canal rights-of-way, spoil areas, or borrow pits or any land, the title to which is vested or may become vested in any port authority, flood control district, water management district, or navigation district or agency created by any general or special act.
(2) It is the intent of the Legislature that the board of trustees ~~of the Internal Improvement Trust Fund~~ continue to receive proceeds from the sale or disposition of the products of lands and the sale of lands of which the use and possession are not subsequently transferred by appropriate lease or similar instrument from the board of trustees to the proper using agency. Such using agency shall be entitled to the proceeds from the sale of products on, under, growing out of, or connected with lands which such using agency holds under lease or similar instrument from the board of trustees. The board of trustees ~~of the Internal Improvement Trust Fund~~ is directed and authorized to enter into leases or similar instruments for the use, benefit, and possession of public lands by agencies which may properly use and possess them for the benefit of the state. ~~The board of trustees shall adopt by rule an annual administrative fee for all existing and future leases or similar instruments, to be charged agencies that are leasing land from it. This annual administrative fee assessed for all leases or similar instruments is to compensate the board for costs incurred in the administration and management of such leases or similar instruments.~~
(3) The provisions of s. 270.11, requiring the board of trustees to reserve unto itself certain oil and mineral interests in all deeds of conveyances executed by the board of trustees, shall not have application to any lands that inure to the board of trustees from other state agencies, departments, boards, or commissions under the terms and provisions of this act.
(4) It is the intent of the Legislature that, when title to any lands is in the state, with no specific agency authorized by the Legislature to convey or otherwise dispose of such lands, the Board of Trustees of the Internal Improvement Trust Fund be vested with such title and hereafter be authorized to exercise over such lands such authority as may be provided by law.
(5) It is the specific intent of the Legislature that this act repeal any provision of state law which may require the Board of Trustees of the Internal Improvement Trust Fund to pay taxes or assessments of any kind to any state or local public agency on lands which are transferred or conveyed to the Board of Trustees of the Internal Improvement Trust Fund under the terms of this act and which at the time of the passage of this act are entitled to tax-exempt status under the constitution or laws of the state.
(6) Commencing September 1, 1967, all land held in the name of the state or any of its boards, departments, agencies, or commissions shall be deemed to be vested in the Board of Trustees of the Internal Improvement Trust Fund for the use and benefit of the

state. By October 1, 1967, any board, commission, department, or agency holding title to any state lands used for public purpose shall execute all instruments necessary to transfer such title to the Board of Trustees of the Internal Improvement Trust Fund for the use and benefit of the state, except lands which reverted to the state under the provisions of chapter 18296, Laws of Florida, 1937, commonly known and referred to as the “Murphy Act.”

(7)(a) The Board of Trustees of the Internal Improvement Trust Fund is hereby authorized and directed to administer all state-owned lands and shall be responsible for the creation of an overall and comprehensive plan of development concerning the acquisition, management, and disposition of state-owned lands so as to ensure maximum benefit and use. The Board of Trustees of the Internal Improvement Trust Fund has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this act.

(b) With respect to administering, controlling, and managing sovereignty submerged lands, the Board of Trustees of the Internal Improvement Trust Fund also may adopt rules governing all uses of sovereignty submerged lands by vessels, floating homes, or any other watercraft, which shall be limited to regulations for anchoring, mooring, or otherwise attaching to the bottom; the establishment of anchorages; and the discharge of sewage, pumpout requirements, and facilities associated with anchorages. The regulations must not interfere with commerce or the transitory operation of vessels through navigable water, but shall control the use of sovereignty submerged lands as a place of business or residence.

(c) Structures which are listed in or are eligible for the National Register of Historic Places or the State Inventory of Historic Places which are over the waters of the state ~~of Florida~~ and which have a submerged land lease, or have been grandfathered-in to use sovereignty submerged lands until January 1, 1998, pursuant to former rule 18-21.00405, Florida Administrative Code, as it existed in rule on March 15, 1990, shall have the right to continue such submerged land leases, regardless of the fact that the present landholder is not an adjacent riparian landowner, so long as the lessee maintains the structure in a good state of repair consistent with the guidelines for listing. If the structure is damaged or destroyed, the lessee may ~~shall be allowed to~~ reconstruct, so long as the reconstruction is consistent with the integrity of the listed structure and does not increase the footprint of the structure. If a listed structure ~~so listed~~ falls into disrepair and the lessee is not willing to repair and maintain it consistent with its listing, the state may cancel the submerged lease and ~~either~~ repair and maintain the property or require that the structure be removed from sovereignty submerged lands.

(d) By January 1, 2001, the owners of habitable structures built on or before May 1, 1999, located in conservation areas 2 or 3, on district or state-owned lands, the existence or use which will not impede the restoration of the Everglades, whether pursuant to a submerged lease or not, must provide written notification to the South Florida Water Management District of their existence and location, including an identification of the footprint of the structures. This notification will grant the leaseholders an automatic 20-year lease at a reasonable fee established by the district, or the Department of Environmental Protection, as appropriate, to expire on January 1, 2020. The district or Department of Environmental Protection, as appropriate, may impose reasonable conditions consistent with existing laws and rules. If the structures

are located on privately owned lands, the landowners must provide the same notification required for a 20-year permit. If the structures are located on state-owned lands, the South Florida Water Management District shall submit this notification to the Department of Environmental Protection on the owner's behalf. At the expiration of this 20-year lease or permit, the South Florida Water Management District or the Department of Environmental Protection, as appropriate, shall have the right to require that the leaseholder remove the structures if the district determines that the structures or their use are causing harm to the water or land resources of the district, or to renew the lease agreement. The structure of any owner who does not provide notification to the South Florida Water Management District as required under this subsection, shall be considered illegal and subject to immediate removal. Any structure built in any water conservation area after May 1, 1999, without necessary permits and leases from the South Florida Water Management District, the Department of Environmental Protection, or other local government, as appropriate, shall be considered illegal and subject to removal.

(e) Failure to comply with the conditions contained in any permit or lease agreement as described in paragraph (d) makes the structure illegal and subject to removal. Any structure built in any water conservation area on or after July 1, 2000, is also illegal and subject to immediate removal.

(8)(a) The Board of Trustees of the Internal Improvement Trust Fund shall prepare, using tax roll data provided by the Department of Revenue, or the county property appraisers, an annual inventory of all publicly owned lands within the state. Such inventory shall include all lands owned by any unit of state government or local government; by the Federal Government, to the greatest extent possible; and by any other public entity.

(b) In addition to any other parcel data available, the inventory shall include a legal description or proper reference thereto, the number of acres or square feet within the boundaries, and the assessed value of all publicly owned uplands. To the greatest extent practicable, the legal description or proper reference thereto and the number of acres or square feet shall be determined for all publicly owned submerged lands. For the purposes of this subsection, the term "submerged lands" means publicly owned lands below the ordinary high-water mark of fresh waters and below the mean high-water line of salt waters extending seaward to the outer jurisdiction of the state.

(c) By September 30 of each year, the Department of Revenue shall furnish to the board, in electronic form, the approved preliminary tax roll data for public lands to be used in compiling the inventory. By November 30 of each year, the board shall prepare and provide to each state agency and local government and any other public entity which holds title to real property, including any water management district, drainage district, navigation district, or special taxing district, a list of the real property owned by such entity, required to be listed on county assessment rolls, using tax roll data provided by the Department of Revenue. By January 31 of the following year, each such entity shall review its list and inform the appropriate property appraiser and the board of any corrections to the list. The appropriate county property appraiser shall enter such corrections on the appropriate county tax roll.

(d) Whenever real property is listed on the real property assessment rolls of the respective counties in the name of the State of Florida or any of its agencies, the listing

shall not be changed in the absence of a recorded deed executed by the State of Florida or the state agency in whose name the property is listed. If, in preparing the assessment rolls, the property appraisers within the state become aware of the existence of a recorded deed not executed by the state and purporting to convey real property listed on the assessment rolls as state-owned, the property appraiser shall immediately forward a copy of the recorded deed to the state agency in whose name the property is listed.
(e) The board shall use tax roll data, which shall be provided by the Department of Revenue, to assist in the identification and confirmation of publicly held lands. Lands that are held by the state or a water management district and lands that are purchased by the state, a state agency, or a water management district and that are deemed not essential or necessary for conservation purposes are subject to review for surplus sale.
(9) The Board of Trustees of the Internal Improvement Trust Fund is responsible for the acquisition and disposal of federal lands and buildings which are declared surplus or excess. The Board of Trustees of the Internal Improvement Trust Fund shall establish regular procedures to assure that state and local agencies are made aware of the availability of federal lands and buildings.
(10) The Board of Trustees of the Internal Improvement Trust Fund and the state through any of its agencies are hereby prohibited from levying any charge, by whatever name known, or attaching any lien, on any and all materials dredged from state sovereignty tidal lands or submerged bottom lands or on the lands constituting the spoil areas on which such dredged materials are placed, except as otherwise provided for in this subsection, when such materials are dredged by or on behalf of the United States or the local sponsors of active federal navigation projects in the pursuance of the improvement, construction, maintenance, and operation of such projects or by a public body authorized to operate a public port facility (all such parties referred to herein shall hereafter be called “public body”) in pursuance of the improvement, construction, maintenance, and operation of such facility, including any public transfer and terminal facilities, which actions are hereby declared to be for a public purpose. The term “local sponsor” means the local agency designated pursuant to an act of Congress to assume a portion of the navigation project costs and duties. Active federal navigation projects are those congressionally approved projects which are being performed by the United States Army Corps of Engineers or maintained by the local sponsors.
(a) Except for beach nourishment seaward of existing lines of vegetation on privately owned or publicly owned uplands fronting on the waters of the Atlantic Ocean or Gulf of Mexico and authorized pursuant to the provisions of part I of chapter 161, no materials dredged from state sovereignty tidal or submerged bottom lands by a public body shall be deposited on private lands until:
1. The United States Army Corps of Engineers or the local sponsor has first certified that no public lands are available within a reasonable distance of the dredging site; and
2. The public body has published notice of its intention to utilize certain private lands for the deposit of materials, in a newspaper published and having general circulation in the appropriate county at least three times within a 60-day period prior to the date of the scheduled deposit of any such material, and therein advised the general public of the opportunity to bid on the purchase of such materials for deposit on the purchaser’s designated site, provided any such deposit shall be at no increased cost to the public

body. Such notice shall state the terms, location, and conditions for receipt of bids and shall state that the public body shall accept the highest responsible bid. All bids shall be submitted to the Board of Trustees of the Internal Improvement Trust Fund. All moneys obtained from such purchases of materials shall be remitted forthwith to the Board of Trustees of the Internal Improvement Trust Fund. Compliance with this subsection shall vest, without any obligation, full title to the materials in the owner of the land where deposited.
(b) When public lands on which are deposited materials dredged from state sovereignty tidal or submerged bottom lands by the public body are sold or leased for a period in excess of 20 years, which term includes any options to a private party, 50 percent of any remuneration received shall forthwith be remitted to the Board of Trustees of the Internal Improvement Trust Fund and the balance shall be retained by the public body owning the land.
(c) Any materials which have been dredged from state sovereignty tidal or submerged bottom lands by the public body and deposited on public lands may be removed by the public body to private lands or interests only after due advertisement for bids, which means a notice published at least three times within a 60-day period in a newspaper published and having general circulation in the appropriate county. The purchase price submitted by the highest responsible bidder shall be remitted to the Board of Trustees of the Internal Improvement Trust Fund. If no bid is received, the public body shall have the right to fully convey title to, and dispose of, any such material on its land, with no requirement of payment to the Board of Trustees of the Internal Improvement Trust Fund.
(d) Notwithstanding the provisions of paragraphs (a)-(c), the Board of Trustees of the Internal Improvement Trust Fund shall allow private or public entities to remove, at no charge and with no public notice requirements, spoil site material dredged from state sovereignty tidal lands or submerged bottom lands and to place the material upon public or private lands when:
1. Such removal and placement is done pursuant to a spoil site rejuvenation plan the board of trustees approves; and
2. The board of trustees finds that the removal and placement is in the public interest and would rejuvenate a site for continued spoil disposal. The board of trustees may give priority to requests for spoil site material, which would result in the environmental restoration or enhancement of the new placement site.
(e) Nothing in this subsection shall affect any preexisting contract or permit to engage in dredging of materials from state sovereignty tidal and submerged bottom lands, nor shall it be construed to void any preexisting agreement or lien against the lands upon which dredged materials have been placed or to have any retroactive effect.
(11) The board of trustees ~~of the Internal Improvement Trust Fund~~ may adopt rules to provide for the assessment and collection of reasonable fees, commensurate with the actual cost to the board, for disclaimers, easements, exchanges, gifts, leases, releases, or sales of any interest in lands or any applications therefor and for reproduction of documents. All revenues received from the application fees charged by a water management district to process applications that include a request to use state lands are to be retained by the water management district. <u>The board of trustees shall adopt by rule an annual administrative fee for all existing and future leases or similar</u>

instruments to be charged to agencies that are leasing land from the board of trustees. This annual administrative fee assessed for all leases or similar instruments is to compensate the board of trustees for costs incurred in the administration and management of such leases or similar instruments.

(12) The Board of Trustees of the Internal Improvement Trust Fund is hereby authorized to administer, manage, control, conserve, protect, and sell all real property forfeited to the state pursuant to ss. 895.01-895.09 or acquired by the state pursuant to s. 607.0505 or former s. 620.192. The board is directed to immediately determine the value of all such property and shall ascertain whether the property is in any way encumbered. If the board determines that it is in the best interest of the state to do so, funds from the Internal Improvement Trust Fund may be used to satisfy any such encumbrances. If forfeited property receipts are not sufficient to satisfy encumbrances on the property and expenses permitted under this section, funds from another appropriate trust fund may be used to satisfy any such encumbrances and expenses. All property acquired by the board pursuant to s. 607.0505, former s. 620.192, or ss. 895.01-895.09 shall be sold as soon as commercially feasible unless the Attorney General recommends and the board determines that retention of the property in public ownership would effectuate one or more of the following policies of statewide significance: protection or enhancement of floodplains, marshes, estuaries, lakes, rivers, wilderness areas, wildlife areas, wildlife habitat, or other environmentally sensitive natural areas or ecosystems; or preservation of significant archaeological or historical sites identified by the Secretary of State. In such event the property shall remain in the ownership of the board, to be controlled, managed, and disposed of in accordance with this chapter, and the Internal Improvement Trust Fund shall be reimbursed from the Land Acquisition Trust Fund, or other appropriate fund designated by the board, for any funds expended from the Internal Improvement Trust Fund pursuant to this subsection in regard to such property. Upon the recommendation of the Attorney General, the board may reimburse the investigative agency for its investigative expenses, costs, and attorneys' fees, and may reimburse law enforcement agencies for actual expenses incurred in conducting investigations leading to the forfeiture of such property from funds deposited in the Internal Improvement Trust Fund of the Department of Environmental Protection. The proceeds of the sale of property acquired under s. 607.0505, former s. 620.192, or ss. 895.01-895.09 shall be distributed as follows:

(a) After satisfaction of any valid claims arising under s. 895.09(1)(a) or (b), any moneys used to satisfy encumbrances and expended as costs of administration, appraisal, management, conservation, protection, sale, and real estate sales services and any interest earnings lost to the trust fund that was used as of a date certified by the Department of Environmental Protection shall be replaced first in the trust fund that was used to satisfy any such encumbrance or expense, if those funds were used, and then in the Internal Improvement Trust Fund; and

(b) The remainder shall be distributed as set forth in s. 895.09.

(13) For applications not reviewed pursuant to s. 373.427, the department must review applications for the use of state-owned submerged lands, including a purchase, lease, easement, disclaimer, or other consent to use such lands and must request submittal of all additional information necessary to process the application. Within 30 days after receipt of the additional information, the department must review the information

submitted and may request only that information needed to clarify the additional information, to process the appropriate form of approval indicated by the additional information, or to answer those questions raised by, or directly related to, the additional information. An application for the authority to use state-owned submerged land must be approved, denied, or submitted to the board of trustees for approval or denial within 90 days after receipt of the original application or the last item of timely requested additional information. This time is tolled by any notice requirements of s. 253.115 or any hearing held under ss. 120.569 and 120.57. If the review of the application is not completed within the 90-day period, the department must report quarterly to the board the reasons for the failure to complete the report and provide an estimated date by which the application will be approved or denied. Failure to comply with these time periods shall not result in approval by default.
(14) Where necessary to establish a price for the sale or other disposition of state lands, including leases or easements, the Division of State Lands may utilize appropriate appraiser selection and contracting procedures established under s. 253.025. The board of trustees may adopt rules to implement this subsection.
(15) The board of trustees ~~of the Internal Improvement Trust Fund~~ shall encourage the use of sovereign submerged lands for public access and water-dependent uses which may include related minimal secondary nonwater-dependent uses ~~and public access~~.
(16) The Board of Trustees of the Internal Improvement Trust Fund, and the state through its agencies, may not control, regulate, permit, or charge for any severed materials which are removed from the area adjacent to an intake or discharge structure pursuant to an exemption authorized in s. 403.813(1)(f) and (r).
History.—s. 1, ch. 15642, 1931; CGL 1936 Supp. 1446(13); s. 2, ch. 61-119; ss. 2, 3, ch. 67-269; s. 2, ch. 67-2236; ss. 27, 35, ch. 69-106; s. 8, ch. 71-286; s. 1, ch. 75-76; s. 1, ch. 78-251; s. 10, ch. 79-255; s. 15, ch. 80-356; s. 3, ch. 82-144; s. 2, ch. 83-223; s. 10, ch. 84-79; s. 4, ch. 84-249; s. 58, ch. 85-80; s. 1, ch. 85-306; s. 2, ch. 87-307; s. 8, ch. 88-168; s. 3, ch. 88-264; s. 1, ch. 88-357; s. 5, ch. 89-102; s. 7, ch. 89-174; s. 16, ch. 89-175; s. 131, ch. 90-179; s. 1, ch. 91-175; s. 2, ch. 92-109; ss. 67, 490, ch. 94-356; s. 57, ch. 96-410; s. 1, ch. 97-22; s. 36, ch. 97-160; s. 2, ch. 97-164; s. 44, ch. 98-200; s. 9, ch. 99-247; s. 4, ch. 2000-170; s. 22, ch. 2004-234; s. 4, ch. 2005-157; s. 27, ch. 2006-1; s. 5, ch. 2007-73; s. 6, ch. 2009-20; s. 20, ch. 2009-21; ss. 6, 10, ch. 2010-280; SJR 8-A, 2010 Special Session A; s. 15, ch. 2015-229; s. 6, ch. 2016-233.

253.0341 Surplus of state-owned lands ~~to counties or local governments.—~~
~~Counties and local governments may submit surplusing requests for state-owned lands directly to the board of trustees. County or local government requests for the state to surplus conservation or nonconservation lands, whether for purchase or exchange, shall be expedited throughout the surplusing process. Property jointly acquired by the state and other entities shall not be surplused without the consent of all joint owners.~~
(1) The board of trustees shall determine which lands, the title to which is vested in the board, may be surplused. For all conservation lands, the Acquisition and Restoration Council shall make a recommendation to the board of trustees, and the board of trustees shall determine whether the lands are no longer needed for conservation purposes. If the board of trustees determines the lands are no longer needed for conservation purposes, it may dispose of such lands by an affirmative vote of at least three members. In the case of a land exchange involving the disposition of conservation lands, the board of trustees must determine by an affirmative vote of at least three

members that the exchange will result in a net positive conservation benefit. For all nonconservation lands, the board of trustees shall determine whether the lands are no longer needed. If the board of trustees determines the lands are no longer needed, it may dispose of such lands by an affirmative vote of at least three members. Local government requests for the state to surplus conservation or nonconservation lands, whether for purchase or exchange, shall be expedited throughout the surplusing process. Property jointly acquired by the state and other entities may not be surplused without the consent of all joint owners. ~~The decision to surplus state-owned nonconservation lands may be made by the board without a review of, or a recommendation on, the request from the Acquisition and Restoration Council or the Division of State Lands. Such requests for nonconservation lands shall be considered by the board within 60 days of the board's receipt of the request~~

(2) For purposes of this section, all lands acquired by the state before July 1, 1999, using proceeds from Preservation 2000 bonds, the former Conservation and Recreation Lands Trust Fund, the former Water Management Lands Trust Fund, Environmentally Endangered Lands Program, and the Save Our Coast Program and titled to the board of trustees which are identified as core parcels or within original project boundaries are deemed to have been acquired for conservation purposes. ~~County or local government requests for the surplusing of state-owned conservation lands are subject to review of, and recommendation on, the request to the board by the Acquisition and Restoration Council. Requests to surplus conservation landsshall beconsidered bythe boardwithin 120 daysof the board's receipt of the request.~~

(3) For any lands purchased by the state on or after July 1, 1999, before acquisition, the board of trustees must determine which parcels must be designated as having been acquired for conservation purposes. Lands acquired for use by the Department of Corrections; the Department of Management Services for use as state offices; the Department of Transportation, except those lands specifically managed for conservation or recreation purposes; the State University System; or the Florida College System may not be designated as having been acquired for conservation purposes. ~~A local government may request that state lands be specifically declared surplus lands for the purpose of providing alternative water supply and water resource development projects as defined in s. 373.019, public facilities such as schools, fire and police facilities, and affordable housing. The request shall comply with the requirements of subsection (1) if the lands are nonconservation lands or subsection (2) if the lands are conservation lands. Surplus lands that are conveyed to a local government for affordable housing shall be disposed of by the local government under the provisions of s. 125.379 or s. 166.0451.~~

(4) At least every 10 years, as a component of each land management plan or land use plan and in a form and manner adopted by rule of the board of trustees, each manager shall evaluate and indicate to the board of trustees those lands that are not being used for the purpose for which they were originally leased. For conservation lands, the Acquisition and Restoration Council shall review and recommend to the board of trustees whether such lands should be retained in public ownership or disposed of by the board of trustees. For nonconservation lands, the Division of State Lands shall review and recommend to the board of trustees whether such lands should be retained in public ownership or disposed of by the board of trustees. ~~Notwithstanding the~~

~~requirements of this section and the requirements of s. 253.034 which provides a surplus process for the disposal of state lands, the board shall convey to Miami-Dade County title to the property on which the Graham Building, which houses the offices of the Miami-Dade State Attorney, is located. By January 1, 2008, the board shall convey fee simple title to the property to Miami-Dade County for a consideration of one dollar. The deed conveying title to Miami-Dade County must contain restrictions that limit the use of the property for the purpose of providing workforce housing as defined in s. 420.5095, and to house the offices of the Miami-Dade State Attorney. Employees of the Miami-Dade State Attorney and the Miami-Dade Public Defender who apply for and meet the income qualifications for workforce housing shall receive preference over other qualified applicants~~

(5) Conservation lands owned by the board of trustees which are not actively managed by any state agency or for which a land management plan has not been completed pursuant to s. 253.034(5) must be reviewed by the Acquisition and Restoration Council for its recommendation as to whether such lands should be disposed of by the board of trustees.

(6) Before any decision by the board of trustees to surplus conservation lands, the Acquisition and Restoration Council shall review and make recommendations to the board of trustees concerning the request for surplusing. The council shall determine whether the request for surplusing is compatible with the resource values of and management objectives for such lands.

(7) Before a building or parcel of land is offered for lease or sale to a local or federal unit of government or a private party, it shall first be offered for lease to state agencies, state universities, and Florida College System institutions, with priority consideration given to state universities and Florida College System institutions. Within 60 days after the offer for lease of a surplus building or parcel, a state university or Florida College System institution that requests the lease must submit a plan for review and approval by the Board of Trustees of the Internal Improvement Trust Fund regarding the intended use, including future use, of the building or parcel of land before approval of a lease. Within 60 days after the offer for lease of a surplus building or parcel, a state agency that requests the lease of such facility or parcel must submit a plan for review and approval by the board of trustees regarding the intended use. The state agency plan must, at a minimum, include the proposed use of the facility or parcel, the estimated cost of renovation, a capital improvement plan for the building, evidence that the building or parcel meets an existing need that cannot otherwise be met, and other criteria developed by rule by the board of trustees. The board or its designee shall compare the estimated value of the building or parcel to any submitted business plan to determine if the lease or sale is in the best interest of the state. The board of trustees shall adopt rules pursuant to chapter 120 for the implementation of this section.

(8) The sale price of lands determined to be surplus pursuant to this section and s. 253.82 shall be determined by the Division of State Lands, which shall consider an appraisal of the property or, if the estimated value of the land is $500,000 or less, a comparable sales analysis or a broker’s opinion of value. The division may require a second appraisal. The individual or entity that requests to purchase the surplus parcel shall pay all costs associated with determining the property’s value, if any.

(a) A written valuation of land determined to be surplus pursuant to this section and s. 253.82, and related documents used to form the valuation or which pertain to the valuation, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
1. The exemption expires 2 weeks before the contract or agreement regarding the purchase, exchange, or disposal of the surplus land is first considered for approval by the board of trustees.
2. Before expiration of the exemption, the Division of State Lands may disclose confidential and exempt appraisals, valuations, or valuation information regarding surplus land:
a. During negotiations for the sale or exchange of the land;
b. During the marketing effort or bidding process associated with the sale, disposal, or exchange of the land to facilitate closure of such effort or process;
c. When the passage of time has made the conclusions of value invalid; or
d. When negotiations or marketing efforts concerning the land are concluded.
(b) A unit of government that acquires title to lands pursuant to this section for less than appraised value may not sell or transfer title to all or any portion of the lands to any private owner for 10 years. A unit of government seeking to transfer or sell lands pursuant to this paragraph must first allow the board of trustees to reacquire such lands for the price at which the board of trustees sold such lands.
(9) Parcels with a market value over $500,000 must be initially offered for sale by competitive bid. Any parcels unsuccessfully offered for sale by competitive bid, and parcels with a market value of $500,000 or less, may be sold by any reasonable means, including procuring real estate services, open or exclusive listings, competitive bid, auction, negotiated direct sales, or other appropriate services, to facilitate the sale.
(10) After reviewing the recommendations of the Acquisition and Restoration Council, the board of trustees shall determine whether conservation lands identified for surplus should be held for other public purposes or are no longer needed. The board of trustees may require an agency to release its interest in such lands. An entity approved to use conservation lands by the board of trustees must secure the property under a fully executed lease within 90 days after being notified that it may use such property or the request is voidable.
(11) Requests to surplus lands may be made by any public or private entity or person and shall be determined by the board of trustees. All requests to surplus conservation lands shall be submitted to the lead managing agency for review and recommendation to the Acquisition and Restoration Council, and all requests to surplus nonconservation lands shall be submitted to the Division of State Lands for review and recommendation to the board of trustees. The lead managing agencies shall review such requests and make recommendations to the council within 90 days after receipt of the requests. Any requests to surplus conservation lands that are not acted upon within the 90-day period shall be immediately scheduled for hearing at the next regularly scheduled meeting of the council. Requests to surplus lands shall be considered by the board of trustees within 60 days after receipt of the requests from the council or division. Requests to surplus lands pursuant to this subsection are not required to be offered to state agencies as provided in subsection (7).

(12) Proceeds from the sale of surplus conservation lands purchased before July 1, 2015, shall be deposited into the Florida Forever Trust Fund.
(13) Proceeds from the sale of surplus conservation lands purchased on or after July 1, 2015, shall be deposited into the Land Acquisition Trust Fund, except when such lands were purchased with funds other than those from the Land Acquisition Trust Fund or a land acquisition trust fund created to implement s. 28, Art. X of the State Constitution, the proceeds shall be deposited into the fund from which the lands were purchased.
(14) Funds received from the sale of surplus nonconservation lands or lands that were acquired by gift, by donation, or for no consideration shall be deposited into the Internal Improvement Trust Fund.
(15) Notwithstanding this section, such disposition of land may not be made if it would have the effect of causing all or any portion of the interest on any revenue bonds issued to lose the exclusion from gross income for federal income tax purposes.
(16) The sale of filled, formerly submerged land that does not exceed 5 acres in area is not subject to review by the Acquisition and Restoration Council.
(17) The board of trustees may adopt rules to administer this section, including procedures for administering surplus land requests and criteria for when the Division of State Lands may approve requests to surplus nonconservation lands on behalf of the board of trustees.
(18) Surplus lands that are conveyed to a local government for affordable housing shall be disposed of by the local government under s. 125.379 or s. 166.0451.
History.—s. 3, ch. 2003-394; s. 10, ch. 2006-69; s. 7, ch. 2007-198; s. 6, ch. 2008-229; s. 9, ch. 2016-233.

253.111 Riparian owners of land ~~Notice to board of county commissioners before sale.—~~
~~The Board of Trustees of the Internal Improvement Trust Fund of the state may not sell any land to which they hold title unless and until they afford an opportunity to the county in which such land is situated to receive such land on the following terms and conditions:~~
~~(1) If an application is filed with the board requesting that they sell certain land to which they hold title and the board decides to sell such land or if the board, without such application, decides to sell such land, the board shall, before consideration of any private offers, notify the board of county commissioners of the county in which such land is situated that such land is available to such county. Such notification shall be given by registered mail, return receipt requested.~~
~~(2) The board of county commissioners of the county in which such land is situated shall, within 40 days after receipt of such notification from the board, determine by resolution whether or not it proposes to acquire such land.~~
~~(3) If the board receives, within 45 days after notice is given to the board of county commissioners pursuant to subsection (1), the certified copy of the resolution provided for in subsection (2), the board shall forthwith convey to the county such land at a price that is equal to its appraised market value established by generally accepted professional standards for real estate appraisal and subject to such other terms and conditions as the board determines.~~
~~(4) Nothing in This section restricts any right otherwise granted to the board by this chapter to convey land to which they hold title to the state or any department, office,~~

~~authority, board, bureau, commission, institution, court, tribunal, agency, or other instrumentality of or under the state. The word "land" as used in this act means all lands vested in the Board of Trustees of the Internal Improvement Trust Fund.~~
(1)~~(5)~~ If a ~~any~~ riparian owner exists with respect to any land to be sold by the board of trustees, such riparian owner shall have a right to secure such land, ~~which right is prior in interest to the right in the county created by this section,~~ provided that such riparian owner shall be required to pay for such land upon such prices, terms, and conditions as determined by the board of trustees. Such riparian owner may waive this ~~prior~~ right, ~~in which case this section shall apply~~.
(2)~~(6)~~ This section does not apply to:
(a) Any land exchange approved by the board of trustees;
(b) The conveyance of any lands located within the Everglades Agricultural Area; or
(c) Lands managed pursuant to ss. 253.781-253.785.
History.—s. 1, ch. 65-324; ss. 27, 35, ch. 69-106; s. 1, ch. 79-83; s. 4, ch. 83-223; s. 3, ch. 89-174; s. 4, ch. 91-80; s. 4, ch. 92-109; s. 3, ch. 2001-275; s. 7, ch. 2008-229; s. 10, ch. 2016-233.

253.42 Board of trustees may exchange lands.—
~~The provisions of~~ This section applies ~~apply~~ to all lands owned by, vested in, or titled in the name of the board of trustees whether the lands were acquired by the state as a purchase, or through gift, donation, or any other conveyance for which no consideration was paid.
(1) The board of trustees may exchange any lands owned by, vested in, or titled in its ~~the~~ name ~~of the board~~ for other lands in the state owned by counties, local governments, individuals, or private or public corporations, and may fix the terms and conditions of any such exchange. ~~Any nonconservation lands that were acquired by the state through gift, donation, or any other conveyance for which no consideration was paid must first be offered at no cost to a county or local government unless otherwise provided in a deed restriction of record or other legal impediment, and so long as the use proposed by the county or local government is for a public purpose.~~ For conservation lands acquired by the state through gift, donation, or any other conveyance for which no consideration was paid, the state may request land of equal conservation value from the county or local government but no other consideration.
(2) In exchanging state-owned lands not acquired by the state through gift, donation, or any other conveyance for which no consideration was paid, with counties or local governments, the board of trustees shall require an exchange of equal value. Equal value is defined as the conservation benefit of the lands being offered for exchange by a county or local government being equal or greater in conservation benefit than the state-owned lands. Such exchanges may include cash transactions if based on an appropriate measure of value of the state-owned land, but must also include the determination of a net-positive conservation benefit by the Acquisition and Restoration Council, irrespective of appraised value.
(3) The board of trustees shall select and agree upon the state lands to be exchanged and the lands to be conveyed to the state and shall pay or receive any sum of money the board of trustees deems ~~deemed~~ necessary ~~by the board~~ for the purpose of equalizing the value of the exchanged property. The board of trustees is authorized to make and enter into contracts or agreements for such purpose or purposes.

(4)(a) A person who owns land contiguous to state-owned land titled to the board of trustees may submit a request to the Division of State Lands to exchange all or a portion of the privately owned land for all or a portion of the state-owned land, whereby the state retains a permanent conservation easement over all or a portion of the exchanged state-owned land and a permanent conservation easement over all or a portion of the exchanged privately owned land. State-owned land exchanged pursuant to this subsection shall be contiguous to the privately owned land upon which the state retains a permanent conservation easement. If the division elects to proceed with a request, the division must submit the request to the Acquisition and Restoration Council for review and the council must provide recommendations to the division. If the division elects to forward a request to the board of trustees, the division must provide its recommendations and the recommendations of the council to the board. This subsection does not apply to state-owned sovereign submerged land.
(b) After receiving a request and the division's recommendations, the board of trustees shall consider such request and recommendations and may approve the request if:
1. At least 30 percent of the perimeter of the privately owned land is bordered by state-owned land and the exchange does not create an inholding.
2. The approval does not result in a violation of the terms of a preexisting lease or agreement by the board of trustees, the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or the Fish and Wildlife Conservation Commission.
3. For state-owned land purchased for conservation purposes, the board of trustees makes a determination that the exchange of land under this subsection will result in a net positive conservation benefit.
4. The approval does not conflict with any existing flowage easement.
5. The request is approved by three or more members of the board of trustees.
(c) Special consideration shall be given to a request that maintains public access for any recreational purpose allowed on the state-owned land at the time the request is submitted to the board of trustees. A person who maintains public access pursuant to this paragraph is entitled to the limitation on liability provided in s. 375.251.
(d) Land subject to a permanent conservation easement granted pursuant to this subsection is subject to inspection by the Department of Environmental Protection to ensure compliance with the terms of the permanent conservation easement.
History.—s. 1, ch. 8525, 1921; CGL 1432; s. 2, ch. 61-119; ss. 27, 35, ch. 69-106; s. 4, ch. 2003-394; s. 11, ch. 2016-233.

253.782 Retention of state-owned lands in and around Lake Rousseau and the Cross Florida Barge Canal right-of-way from Lake Rousseau west to the Withlacoochee River.—
(1) It is the intent of the Legislature to conserve, protect, and maintain the natural resources, recreational values, and water management capabilities of Lake Rousseau and the Withlacoochee River. It is the finding of the Legislature that said lands and waters are areas containing and having a significant impact on environmental and recreational resources of statewide importance and that public ownership of and access to such areas are necessary and desirable to protect the health, welfare, safety, and quality of life of the residents of this state and to implement s. 7, Art. II of the State Constitution. It is further the finding of the Legislature that retention of ownership and

control of said lands by the state will properly protect and conserve the natural resources of Florida, enhance recreational opportunities, and be in the public interest.
(2) The Department of Environmental Protection is authorized ~~and directed~~ to retain ownership of and maintain all lands or interests in land owned by the Board of Trustees of the Internal Improvement Trust Fund, including all fee and less than fee ~~less-than-fee~~ interests in lands previously owned by the canal authority in Lake Rousseau and the Cross Florida Barge Canal right-of-way from Lake Rousseau at U.S. Highway 41 west to and including the Withlacoochee River.
(3) The Board of Trustees of the Internal Improvement Trust Fund may acquire by purchase, exchange of other state lands, or the exercise of the power of eminent domain the fee title to any less-than-fee title interest in land owned by the Board of Trustees of the Internal Improvement Trust Fund, including interests previously owned by the canal authority, as described in subsection (2). The Legislature finds that such exercise of the power of eminent domain to accomplish the purposes of this section is necessary and for a public purpose. Such power of eminent domain shall be exercised pursuant to the provisions of chapter 73.
History.—ss. 3, 16, ch. 79-167; s. 5, ch. 84-287; s. 57, ch. 93-213; s. 81, ch. 94-356; s. 12, ch. 2016-233.

253.7821 Cross Florida Greenways State Recreation and Conservation Area assigned to the Department of Environmental Protection ~~Office of the Executive Director.—~~
The Cross Florida Greenways State Recreation and Conservation Area is ~~hereby~~ established and ~~is initially~~ assigned to the department ~~Office of Greenways Management within the Office of the Secretary~~. The department ~~office~~ shall manage the greenways pursuant to the department's existing statutory authority until administrative rules are adopted by the department. However, the provisions of this act shall control in any conflict between this act and any other authority of the department.
History.—s. 49, ch. 93-213; s. 82, ch. 94-356; s. 9, ch. 99-5; s. 13, ch. 2016-233.

253.87 Inventory of state, federal, and local government conservation lands by the Department of Environmental Protection.—
(1) By July 1, 2018, the department shall include in the Florida State-Owned Lands and Records Information System (FL-SOLARIS) database all federally owned conservation lands in the state, all lands on which the Federal Government retains a permanent conservation easement in the state, and all lands on which the state retains a permanent conservation easement. The department shall update the database at least every 5 years.
(2) By July 1, 2018, for counties and municipalities, and by July 1, 2019, for financially disadvantaged small communities, as defined in s. 403.1838, and at least every 5 years thereafter, respectively, each county, municipality, and financially disadvantaged small community shall identify all conservation lands that it owns in fee simple and all lands on which it retains a permanent conservation easement and submit, in a manner determined by the department, a list of such lands to the department. Within 6 months after receiving such list, the department shall add such lands to the FL-SOLARIS database.

(3) By January 1, 2018, the department shall conduct a study and submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the technical and economic feasibility of including the following lands in the FL-SOLARIS database or a similar public lands inventory:
(a) All lands on which local comprehensive plans, land use restrictions, zoning ordinances, or land development regulations prohibit the land from being developed or limit the amount of development to one unit per 40 or more acres.
(b) All publicly and privately owned lands for which development rights have been transferred.
(c) All privately owned lands under a permanent conservation easement.
(d) All lands owned by a nonprofit or nongovernmental organization for conservation purposes.
(e) All lands that are part of a mitigation bank.
History.—s. 14, ch. 2016-233.

Chapter 259
Land Acquisitions for Conservation or Recreation
Enforceable Policies

Any additions are underlined and any deletions are struck-through.

Remain as Enforceable Policies

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Proposed as Non-Enforceable Policies

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259.1052	Babcock Crescent B Ranch Florida Forever acquisition; conditions for purchase.
259.10521*	Citizen support organization; use of property.
259.1053	Babcock Ranch Preserve; Babcock Ranch, Inc.; creation; membership; organization; meetings.

*Sections 259.037, .042, and .10521, F.S., are not considered enforceable policies for federal consistency purposes

Chapter 259 -- Land Acquisition for Conservation and Recreation-Enforceable Policies

*Statutes changed by 2016 Legislature

259.04 Board; powers and duties.—

(1) For projects and acquisitions selected for purchase pursuant to ss. 259.035 and 259.105:

(a) The board is given the responsibility, authority, and power to develop and execute a comprehensive, statewide 5-year plan to conserve, restore, and protect environmentally endangered lands, ecosystems, lands necessary for outdoor recreational needs, and other lands as identified in ss. 259.032 and 259.105. This plan shall be kept current through continual reevaluation and revision. The advisory council or its successor shall assist the board in the development, reevaluation, and revision of the plan.

(b) The board may enter into contracts with the government of the United States or any agency or instrumentality thereof; the state or any county, municipality, district authority, or political subdivision; or any private corporation, partnership, association, or person providing for or relating to the conservation or protection of certain lands in accomplishing the purposes of this chapter.

(c) Within 45 days after the advisory council or its successor submits the lists of projects to the board, the board shall approve, in whole or in part, the lists of projects in the order of priority in which such projects are presented. To the greatest extent practicable, projects on the lists shall be acquired in their approved order of priority.

(d) The board is authorized to acquire, by purchase, gift, or devise or otherwise, the fee title or any lesser interest of lands, water areas, and related resources for environmentally endangered lands.

(2) For state capital projects for outdoor recreation lands, the provisions of chapter 375 and s. 253.025 shall also apply.

History.—s. 1, ch. 72-300; s. 15, ch. 79-255; s. 4, ch. 81-210; s. 4, ch. 83-114; s. 12, ch. 89-116; s. 6, ch. 92-288; s. 16, ch. 94-240; s. 18, ch. 99-247; s. 29, ch. 2000-152; s. 24, ch. 2015-229.

259.06 Construction.—

The provisions of ss. 259.01-259.06 shall be liberally construed in a manner to accomplish the purposes thereof.

History.—s. 1, ch. 72-300.

*259.105 The Florida Forever Act.—

(1) This section may be cited as the “Florida Forever Act.”

(2)(a) The Legislature finds and declares that:

1. Land acquisition programs have provided tremendous financial resources for purchasing environmentally significant lands to protect those lands from imminent development or alteration, thereby ensuring present and future generations’ access to important waterways, open spaces, and recreation and conservation lands.

2. The continued alteration and development of the state’s ~~Florida’s~~ natural and rural areas to accommodate the state’s growing population have contributed to the degradation of water resources, the fragmentation and destruction of wildlife habitats,

the loss of outdoor recreation space, and the diminishment of wetlands, forests, working landscapes, and coastal open space.
3. The potential development of the state's ~~Florida's~~ remaining natural areas and escalation of land values require government efforts to restore, bring under public protection, or acquire lands and water areas to preserve the state's essential ecological functions and invaluable quality of life.
4. It is essential to protect the state's ecosystems by promoting a more efficient use of land, to ensure opportunities for viable agricultural activities on working lands, and to promote vital rural and urban communities that support and produce development patterns consistent with natural resource protection.
5. The state's ~~Florida's~~ groundwater, surface waters, and springs are under tremendous pressure due to population growth and economic expansion and require special protection and restoration efforts, including the protection of uplands and springsheds that provide vital recharge to aquifer systems and are critical to the protection of water quality and water quantity of the aquifers and springs. To ensure that sufficient quantities of water are available to meet the current and future needs of the natural systems and citizens of the state, and assist in achieving the planning goals of the department and the water management districts, water resource development projects on public lands, if ~~where~~ compatible with the resource values of and management objectives for the lands, are appropriate.
6. The needs of urban, suburban, and small communities in the state ~~Florida~~ for high-quality outdoor recreational opportunities, greenways, trails, and open space have not been fully met by previous acquisition programs. Through such programs as the Florida Communities Trust and the Florida Recreation Development Assistance Program, the state shall place additional emphasis on acquiring, protecting, preserving, and restoring open space, ecological greenways, and recreation properties within urban, suburban, and rural areas where pristine natural communities or water bodies no longer exist because of the proximity of developed property.
7. Many of the state's ~~Florida's~~ unique ecosystems, such as the Florida Everglades, are facing ecological collapse due to the state's ~~Florida's~~ burgeoning population growth and other economic activities. To preserve these valuable ecosystems for future generations, essential parcels of land must be acquired to facilitate ecosystem restoration.
8. Access to public lands to support a broad range of outdoor recreational opportunities and the development of necessary infrastructure, if ~~where~~ compatible with the resource values of and management objectives for such lands, promotes an appreciation for the state's ~~Florida's~~ natural assets and improves the quality of life.
9. Acquisition of lands, in fee simple, less than fee ~~less-than-fee~~ interest, or other techniques shall be based on a comprehensive science-based assessment of the state's ~~Florida's~~ natural resources which targets essential conservation lands by prioritizing all current and future acquisitions based on a uniform set of data and planned so as to protect the integrity and function of ecological systems and working landscapes, and provide multiple benefits, including preservation of fish and wildlife habitat, recreation space for urban and rural areas, and the restoration of natural water storage, flow, and recharge.

10. The state has embraced performance-based program budgeting as a tool to evaluate the achievements of publicly funded agencies, build in accountability, and reward those agencies which are able to consistently achieve quantifiable goals. While previous and existing state environmental programs have achieved varying degrees of success, few of these programs can be evaluated as to the extent of their achievements, primarily because performance measures, standards, outcomes, and goals were not established at the outset. Therefore, the Florida Forever program shall be developed and implemented in the context of measurable state goals and objectives.
11. The state must play a major role in the recovery and management of its imperiled species through the acquisition, restoration, enhancement, and management of ecosystems that can support the major life functions of such species. It is the intent of the Legislature to support local, state, and federal programs that result in net benefit to imperiled species habitat by providing public and private land owners meaningful incentives for acquiring, restoring, managing, and repopulating habitats for imperiled species. It is the further intent of the Legislature that public lands, both existing and to be acquired, identified by the lead land managing agency, in consultation with the ~~Florida~~ Fish and Wildlife Conservation Commission for animals or the Department of Agriculture and Consumer Services for plants, as habitat or potentially restorable habitat for imperiled species, be restored, enhanced, managed, and repopulated as habitat for such species to advance the goals and objectives of imperiled species <u>management for conservation, recreation, or both,</u> consistent with the <u>land management plan</u> ~~purposes for which such lands are acquired~~ without restricting other uses identified in the management plan. It is also the intent of the Legislature that of the proceeds distributed pursuant to subsection (3), additional consideration be given to acquisitions that achieve a combination of conservation goals, including the restoration, enhancement, management, or repopulation of habitat for imperiled species. The ~~Acquisition and Restoration~~ council, in addition to the criteria in subsection (9), shall give weight to projects that include acquisition, restoration, management, or repopulation of habitat for imperiled species. The term “imperiled species” as used in this chapter and chapter 253, means plants and animals that are federally listed under the Endangered Species Act, or state-listed by the Fish and Wildlife Conservation Commission or the Department of Agriculture and Consumer Services.
~~a.~~ As part of the state’s role, all state lands that have imperiled species habitat shall include as a consideration in management plan development the restoration, enhancement, management, and repopulation of such habitats. In addition, the lead land managing agency of such state lands may use fees received from public or private entities for projects to offset adverse impacts to imperiled species or their habitat in order to restore, enhance, manage, repopulate, or acquire land and to implement land management plans developed under s. 253.034 or a land management prospectus developed and implemented under this chapter. Such fees shall be deposited into a foundation or fund created by each land management agency under s. 379.223, s. 589.012, or s. 259.032(9)(c), to be used solely to restore, manage, enhance, repopulate, or acquire imperiled species habitat.
~~b. Where habitat or potentially restorable habitat for imperiled species is located on state lands, the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services shall be included on any advisory group required~~

~~under chapter 253, and the short-term and long-term management goals required under chapter 253 must advance the goals and objectives of imperiled species management consistent with the purposes for which the land was acquired without restricting other uses identified in the management plan.~~

12. There is a need to change the focus and direction of the state's major land acquisition programs and to extend funding and bonding capabilities, so that future generations may enjoy the natural resources of this state.

(b) The Legislature recognizes that acquisition of lands in fee simple is only one way to achieve the aforementioned goals and encourages the use of less-than-fee interests, other techniques, and the development of creative partnerships between governmental agencies and private landowners. Such partnerships may include those that advance the restoration, enhancement, management, or repopulation of imperiled species habitat on state lands as provided for in subparagraph (a)11. Easements acquired pursuant to s. 570.71(2)(a) and (b), land protection agreements, and nonstate funded tools such as rural land stewardship areas, sector planning, and mitigation should be used, where appropriate, to bring environmentally sensitive tracts under an acceptable level of protection at a lower financial cost to the public, and to provide private landowners with the opportunity to enjoy and benefit from their property.

(c) Public agencies or other entities that receive funds under this section shall coordinate their expenditures so that project acquisitions, when combined with acquisitions under Florida Forever, Preservation 2000, Save Our Rivers, the Florida Communities Trust, other public land acquisition programs, and the techniques, partnerships, and tools referenced in subparagraph (a)11. and paragraph (b), are used to form more complete patterns of protection for natural areas, ecological greenways, and functioning ecosystems, to better accomplish the intent of this section.

(d) A long-term financial commitment to restoring, enhancing, and managing Florida's public lands in order to implement land management plans developed under s. 253.034 or a land management prospectus developed and implemented under this chapter must accompany any land acquisition program to ensure that the natural resource values of such lands are restored, enhanced, managed, and protected; that the public enjoys the lands to their fullest potential; and that the state achieves the full benefits of its investment of public dollars. Innovative strategies such as public-private partnerships and interagency planning and sharing of resources shall be used to achieve the state's management goals.

(e) With limited dollars available for restoration, enhancement, management, and acquisition of land and water areas and for providing long-term management and capital improvements, a competitive selection process shall select those projects best able to meet the goals of Florida Forever and maximize the efficient use of the program's funding.

(f) To ensure success and provide accountability to the citizens of this state, it is the intent of the Legislature that any cash or bond proceeds used pursuant to this section be used to implement the goals and objectives recommended by a comprehensive science-based assessment and approved by the Board of Trustees of the Internal Improvement Trust Fund and the Legislature.

(g) As it has with previous land acquisition programs, the Legislature recognizes the desires of the residents of this state to prosper through economic development and to

preserve, restore, and manage the state's natural areas and recreational open space. The Legislature further recognizes the urgency of restoring the natural functions, including wildlife and imperiled species habitat functions, of public lands or water bodies before they are degraded to a point where recovery may never occur, yet acknowledges the difficulty of ensuring adequate funding for restoration, enhancement, and management efforts in light of other equally critical financial needs of the state. It is the Legislature's desire and intent to fund the implementation of this section and to do so in a fiscally responsible manner, by issuing bonds to be repaid with documentary stamp tax or other revenue sources, including those identified in subparagraph (a)11.

(h) The Legislature further recognizes the important role that many of our state and federal military installations contribute to protecting and preserving Florida's natural resources as well as our economic prosperity. Where the state's land conservation plans overlap with the military's need to protect lands, waters, and habitat to ensure the sustainability of military missions, it is the Legislature's intent that agencies receiving funds under this program cooperate with our military partners to protect and buffer military installations and military airspace, by:

1. Protecting habitat on nonmilitary land for any species found on military land that is designated as threatened or endangered, or is a candidate for such designation under the Endangered Species Act or any Florida statute;
2. Protecting areas underlying low-level military air corridors or operating areas;
3. Protecting areas identified as clear zones, accident potential zones, and air installation compatible use buffer zones delineated by our military partners; and
4. Providing the military with technical assistance to restore, enhance, and manage military land as habitat for imperiled species or species designated as threatened or endangered, or a candidate for such designation, and for the recovery or reestablishment of such species.

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

(a) Thirty percent to the Department of Environmental Protection for the acquisition of lands and capital project expenditures necessary to implement the water management districts' priority lists developed pursuant to s. 373.199. The funds are to be distributed to the water management districts as provided in subsection (11). A minimum of 50 percent of the total funds provided over the life of the Florida Forever program pursuant to this paragraph shall be used for the acquisition of lands.

(b) Thirty-five percent to the Department of Environmental Protection for the acquisition of lands and capital project expenditures described in this section. Of the proceeds distributed pursuant to this paragraph, it is the intent of the Legislature that an increased priority be given to those acquisitions which achieve a combination of conservation goals, including protecting Florida's water resources and natural groundwater recharge. At a minimum, 3 percent, and no more than 10 percent, of the funds allocated pursuant to this paragraph shall be spent on capital project expenditures identified during the time of acquisition which meet land management planning activities necessary for public access. Beginning in the 2017-2018 fiscal year and continuing through the 2026-2027

fiscal year, at least $5 million of the funds allocated pursuant to this paragraph shall be spent on land acquisition within the Florida Keys Area of Critical State Concern as authorized pursuant to s. 259.045.

(c) Twenty-one percent to the Department of Environmental Protection for use by the Florida Communities Trust for the purposes of part III of chapter 380, as described and limited by this subsection, and grants to local governments or nonprofit environmental organizations that are tax-exempt under s. 501(c)(3) of the United States Internal Revenue Code for the acquisition of community-based projects, urban open spaces, parks, and greenways to implement local government comprehensive plans. From funds available to the trust and used for land acquisition, 75 percent shall be matched by local governments on a dollar-for-dollar basis. The Legislature intends that the Florida Communities Trust emphasize funding projects in low-income or otherwise disadvantaged communities and projects that provide areas for direct water access and water-dependent facilities that are open to the public and offer public access by vessels to waters of the state, including boat ramps and associated parking and other support facilities. At least 30 percent of the total allocation provided to the trust shall be used in Standard Metropolitan Statistical Areas, but one-half of that amount shall be used in localities in which the project site is located in built-up commercial, industrial, or mixed-use areas and functions to intersperse open spaces within congested urban core areas. From funds allocated to the trust, no less than 5 percent shall be used to acquire lands for recreational trail systems, provided that in the event these funds are not needed for such projects, they will be available for other trust projects. Local governments may use federal grants or loans, private donations, or environmental mitigation funds for any part or all of any local match required for acquisitions funded through the Florida Communities Trust. Any lands purchased by nonprofit organizations using funds allocated under this paragraph must provide for such lands to remain permanently in public use through a reversion of title to local or state government, conservation easement, or other appropriate mechanism. Projects funded with funds allocated to the trust shall be selected in a competitive process measured against criteria adopted in rule by the trust.

(d) Two percent to the Department of Environmental Protection for grants pursuant to s. 375.075.

(e) One and five-tenths percent to the Department of Environmental Protection for the purchase of inholdings and additions to state parks and for capital project expenditures as described in this section. At a minimum, 1 percent, and no more than 10 percent, of the funds allocated pursuant to this paragraph shall be spent on capital project expenditures identified during the time of acquisition which meet land management planning activities necessary for public access. For the purposes of this paragraph, “state park” means any real property in the state which is under the jurisdiction of the Division of Recreation and Parks of the department, or which may come under its jurisdiction.

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

for the acquisition of inholdings and additions pursuant to this paragraph shall be spent on capital project expenditures identified during the time of acquisition which meet land management planning activities necessary for public access.
(g) One and five-tenths percent to the Fish and Wildlife Conservation Commission to fund the acquisition of inholdings and additions to lands managed by the commission which are important to the conservation of fish and wildlife and for capital project expenditures as described in this section. At a minimum, 1 percent, and no more than 10 percent, of the funds allocated pursuant to this paragraph shall be spent on capital project expenditures identified during the time of acquisition which meet land management planning activities necessary for public access.
(h) One and five-tenths percent to the Department of Environmental Protection for the Florida Greenways and Trails Program, to acquire greenways and trails or greenways and trail systems pursuant to chapter 260, including, but not limited to, abandoned railroad rights-of-way and the Florida National Scenic Trail and for capital project expenditures as described in this section. At a minimum, 1 percent, and no more than 10 percent, of the funds allocated pursuant to this paragraph shall be spent on capital project expenditures identified during the time of acquisition which meet land management planning activities necessary for public access.
(i) Three and five-tenths percent to the Department of Agriculture and Consumer Services for the acquisition of agricultural lands, through perpetual conservation easements and other perpetual less than fee ~~less-than-fee~~ techniques, which will achieve the objectives of Florida Forever and s. 570.71. Rules concerning the application, acquisition, and priority ranking process for such easements shall be developed pursuant to s. 570.71(10) and as provided by this paragraph. The board shall ensure that such rules are consistent with the acquisition process provided for in s. 570.715 ~~259.041~~. ~~Provisions of~~ The rules developed pursuant to s. 570.71(10), shall also provide for the following:
1. An annual priority list shall be developed pursuant to s. 570.71(10), submitted to the ~~Acquisition and Restoration~~ council for review, and approved by the board pursuant to s. 259.04.
2. Terms of easements and acquisitions proposed pursuant to this paragraph shall be approved by the board and may ~~shall~~ not be delegated by the board to any other entity receiving funds under this section.
3. All acquisitions pursuant to this paragraph shall contain a clear statement that they are subject to legislative appropriation.
~~No~~ Funds provided under this paragraph may not ~~shall~~ be expended until final adoption of rules by the board pursuant to s. 570.71.
(j) Two and five-tenths percent to the Department of Environmental Protection for the acquisition of land and capital project expenditures necessary to implement the Stan Mayfield Working Waterfronts Program within the Florida Communities Trust pursuant to s. 380.5105.
(k) It is the intent of the Legislature that cash payments or proceeds of Florida Forever bonds distributed under this section shall be expended in an efficient and fiscally responsible manner. An agency that receives proceeds from Florida Forever bonds under this section may not maintain a balance of unencumbered funds in its Florida Forever subaccount beyond 3 fiscal years from the date of deposit of funds from each

bond issue. Any funds that have not been expended or encumbered after 3 fiscal years from the date of deposit shall be distributed by the Legislature at its next regular session for use in the Florida Forever program.
(l) For the purposes of paragraphs (e), (f), (g), and (h), the agencies that receive the funds shall develop their individual acquisition or restoration lists in accordance with specific criteria and numeric performance measures developed pursuant to s. 259.035(4). Proposed additions may be acquired if they are identified within the original project boundary, the management plan required pursuant to s. 253.034(5), or the management prospectus required pursuant to s. 259.032(7)(c) ~~259.032(7)(d)~~. Proposed additions not meeting the requirements of this paragraph shall be submitted to the ~~Acquisition and Restoration~~ council for approval. The council may only approve the proposed addition if it meets two or more of the following criteria: serves as a link or corridor to other publicly owned property; enhances the protection or management of the property; would add a desirable resource to the property; would create a more manageable boundary configuration; has a high resource value that otherwise would be unprotected; or can be acquired at less than fair market value.
[1](m) Notwithstanding paragraphs (a)-(j) and for the 2016-2017 ~~2015-2016~~ fiscal year only:~~,~~
1. The amount of $15,156,206 ~~$17.4 million~~ to only the Division of State Lands within the Department of Environmental Protection for the Board of Trustees Florida Forever Priority List land acquisition projects.
2. Thirty-five million dollars to the Department of Agriculture and Consumer Services for the acquisition of agricultural lands through perpetual conservation easements and other perpetual less-than-fee techniques, which will achieve the objectives of Florida Forever and s. 570.71.
3.a. Notwithstanding any allocation required pursuant to paragraph (c), $10 million shall be allocated to the Florida Communities Trust for projects acquiring conservation or recreation lands to enhance recreational opportunities for individuals with unique abilities.
b. The Department of Environmental Protection may waive the local government matching fund requirement of paragraph (c) for projects acquiring conservation or recreation lands to enhance recreational opportunities for individuals with unique abilities.
c. Notwithstanding sub-subparagraphs a. and b., any funds required to be used to acquire conservation or recreation lands to enhance recreational opportunities for individuals with unique abilities which have not been awarded for those purposes by May 1, 2017, may be awarded to redevelop or renew outdoor recreational facilities on public lands, including recreational trails, parks, and urban open spaces, together with improvements required to enhance recreational enjoyment and public access to public lands, if such redevelopment and renewal is primarily geared toward enhancing recreational opportunities for individuals with unique abilities. The department may waive the local matching requirement of paragraph (c) for such redevelopment and renewal projects.
This paragraph expires July 1, 2017 ~~2016~~.
(4) It is the intent of the Legislature that projects or acquisitions funded pursuant to paragraphs (3)(a) and (b) contribute to the achievement of the following goals, which

shall be evaluated in accordance with specific criteria and numeric performance measures developed pursuant to s. 259.035(4):
(a) Enhance the coordination and completion of land acquisition projects, as measured by:
1. The number of acres acquired through the state's land acquisition programs that contribute to the enhancement of essential natural resources, ecosystem service parcels, and connecting linkage corridors as identified and developed by the best available scientific analysis;
2. The number of acres protected through the use of alternatives to fee simple acquisition; or
3. The number of shared acquisition projects among Florida Forever funding partners and partners with other funding sources, including local governments and the Federal Government.
(b) Increase the protection of Florida's biodiversity at the species, natural community, and landscape levels, as measured by:
1. The number of acres acquired of significant strategic habitat conservation areas;
2. The number of acres acquired of highest priority conservation areas for Florida's rarest species;
3. The number of acres acquired of significant landscapes, landscape linkages, and conservation corridors, giving priority to completing linkages;
4. The number of acres acquired of underrepresented native ecosystems;
5. The number of landscape-sized protection areas of at least 50,000 acres that exhibit a mosaic of predominantly intact or restorable natural communities established through new acquisition projects or augmentations to previous projects; or
6. The percentage increase in the number of occurrences of imperiled species on publicly managed conservation areas.
(c) Protect, restore, and maintain the quality and natural functions of land, water, and wetland systems of the state, as measured by:
1. The number of acres of publicly owned land identified as needing restoration, enhancement, and management, acres undergoing restoration or enhancement, acres with restoration activities completed, and acres managed to maintain such restored or enhanced conditions; the number of acres which represent actual or potential imperiled species habitat; the number of acres which are available pursuant to a management plan to restore, enhance, repopulate, and manage imperiled species habitat; and the number of acres of imperiled species habitat managed, restored, enhanced, repopulated, or acquired;
2. The percentage of water segments that fully meet, partially meet, or do not meet their designated uses as reported in the Department of Environmental Protection's State Water Quality Assessment 305(b) Report;
3. The percentage completion of targeted capital improvements in surface water improvement and management plans created under s. 373.453(2), regional or master stormwater management system plans, or other adopted restoration plans;
4. The number of acres acquired that protect natural floodplain functions;
5. The number of acres acquired that protect surface waters of the state;
6. The number of acres identified for acquisition to minimize damage from flooding and the percentage of those acres acquired;

7. The number of acres acquired that protect fragile coastal resources;
8. The number of acres of functional wetland systems protected;
9. The percentage of miles of critically eroding beaches contiguous with public lands that are restored or protected from further erosion;
10. The percentage of public lakes and rivers in which invasive, nonnative aquatic plants are under maintenance control; or
11. The number of acres of public conservation lands in which upland invasive, exotic plants are under maintenance control.
(d) Ensure that sufficient quantities of water are available to meet the current and future needs of natural systems and the citizens of the state, as measured by:
1. The number of acres acquired which provide retention and storage of surface water in naturally occurring storage areas, such as lakes and wetlands, consistent with the maintenance of water resources or water supplies and consistent with district water supply plans;
2. The quantity of water made available through the water resource development component of a district water supply plan for which a water management district is responsible; or
3. The number of acres acquired of groundwater recharge areas critical to springs, sinks, aquifers, other natural systems, or water supply.
(e) Increase natural resource-based public recreational and educational opportunities, as measured by:
1. The number of acres acquired that are available for natural resource-based public recreation or education;
2. The miles of trails that are available for public recreation, giving priority to those that provide significant connections including those that will assist in completing the Florida National Scenic Trail; or
3. The number of new resource-based recreation facilities, by type, made available on public land.
(f) Preserve significant archaeological or historic sites, as measured by:
1. The increase in the number of and percentage of historic and archaeological properties listed in the Florida Master Site File or National Register of Historic Places which are protected or preserved for public use; or
2. The increase in the number and percentage of historic and archaeological properties that are in state ownership.
(g) Increase the amount of forestland available for sustainable management of natural resources, as measured by:
1. The number of acres acquired that are available for sustainable forest management;
2. The number of acres of state-owned forestland managed for economic return in accordance with current best management practices;
3. The number of acres of forestland acquired that will serve to maintain natural groundwater recharge functions; or
4. The percentage and number of acres identified for restoration actually restored by reforestation.
(h) Increase the amount of open space available in urban areas, as measured by:
1. The percentage of local governments that participate in land acquisition programs and acquire open space in urban cores; or

2. The percentage and number of acres of purchases of open space within urban service areas.
Florida Forever projects and acquisitions funded pursuant to paragraph (3)(c) shall be measured by goals developed by rule by the Florida Communities Trust Governing Board created in s. 380.504.
(5)(a) All lands acquired pursuant to this section shall be managed for multiple-use purposes, where compatible with the resource values of and management objectives for such lands. As used in this section, “multiple-use” includes, but is not limited to, outdoor recreational activities as described in ss. 253.034 and 259.032(7)(b), water resource development projects, sustainable forestry management, carbon sequestration, carbon mitigation, or carbon offsets.
(b) Upon a decision by the entity in which title to lands acquired pursuant to this section has vested, such lands may be designated single use as defined in s. 253.034(2)(b).
(c) For purposes of this section, the Board of Trustees of the Internal Improvement Trust Fund shall adopt rules that pertain to the use of state lands for carbon sequestration, carbon mitigation, or carbon offsets and that provide for climate-change-related benefits.
(6) As provided in this section, a water resource or water supply development project may be allowed only if the following conditions are met: minimum flows and levels have been established for those waters, if any, which may reasonably be expected to experience significant harm to water resources as a result of the project; the project complies with all applicable permitting requirements; and the project is consistent with the regional water supply plan, if any, of the water management district and with relevant recovery or prevention strategies if required pursuant to s. 373.0421(2).
(7)(a) Beginning no later than July 1, 2001, and every year thereafter, the Acquisition and Restoration Council shall accept applications from state agencies, local governments, nonprofit and for-profit organizations, private land trusts, and individuals for project proposals eligible for funding pursuant to paragraph (3)(b). The council shall evaluate the proposals received pursuant to this subsection to ensure that they meet at least one of the criteria under subsection (9).
(b) Project applications shall contain, at a minimum, the following:
1. A minimum of two numeric performance measures that directly relate to the overall goals adopted by the council. Each performance measure shall include a baseline measurement, which is the current situation; a performance standard which the project sponsor anticipates the project will achieve; and the performance measurement itself, which should reflect the incremental improvements the project accomplishes towards achieving the performance standard.
2. Proof that property owners within any proposed acquisition have been notified of their inclusion in the proposed project. Any property owner may request the removal of such property from further consideration by submitting a request to the project sponsor or the Acquisition and Restoration Council by certified mail. Upon receiving this request, the council shall delete the property from the proposed project; however, the board of trustees, at the time it votes to approve the proposed project lists pursuant to subsection (16), may add the property back on to the project lists if it determines by a super majority of its members that such property is critical to achieve the purposes of the project.

(c) The title to lands acquired under this section shall vest in the Board of Trustees of the Internal Improvement Trust Fund, except that title to lands acquired by a water management district shall vest in the name of that district and lands acquired by a local government shall vest in the name of the purchasing local government.
(8) The Acquisition and Restoration Council shall develop a project list that shall represent those projects submitted pursuant to subsection (7).
(9) The Acquisition and Restoration Council shall recommend rules for adoption by the board of trustees to competitively evaluate, select, and rank projects eligible for Florida Forever funds pursuant to paragraph (3)(b). In developing these proposed rules, the Acquisition and Restoration Council shall give weight to the following criteria:
(a) The project meets multiple goals described in subsection (4).
(b) The project is part of an ongoing governmental effort to restore, protect, or develop land areas or water resources.
(c) The project enhances or facilitates management of properties already under public ownership.
(d) The project has significant archaeological or historic value.
(e) The project has funding sources that are identified and assured through at least the first 2 years of the project.
(f) The project contributes to the solution of water resource problems on a regional basis.
(g) The project has a significant portion of its land area in imminent danger of development, in imminent danger of losing its significant natural attributes or recreational open space, or in imminent danger of subdivision which would result in multiple ownership and make acquisition of the project costly or less likely to be accomplished.
(h) The project implements an element from a plan developed by an ecosystem management team.
(i) The project is one of the components of the Everglades restoration effort.
(j) The project may be purchased at 80 percent of appraised value.
(k) The project may be acquired, in whole or in part, using alternatives to fee simple, including but not limited to, tax incentives, mitigation funds, or other revenues; the purchase of development rights, hunting rights, agricultural or silvicultural rights, or mineral rights; or obtaining conservation easements or flowage easements.
(l) The project is a joint acquisition, either among public agencies, nonprofit organizations, or private entities, or by a public-private partnership.
(10) The ~~Acquisition and Restoration~~ council shall give increased priority to:
(a) ~~those~~ Projects for which matching funds are available.
(b) ~~and to~~ Project elements previously identified on an acquisition list pursuant to this section that can be acquired at 80 percent or less of appraised value.
(c) Projects that can be acquired in less than fee ownership, such as a permanent conservation easement.
(d) Projects that contribute to improving the quality and quantity of surface water and groundwater.
(e) Projects that contribute to improving the water quality and flow of springs.

(f) ~~The council shall also give increased priority to those~~ Projects for which ~~where~~ the state's land conservation plans overlap with the military's need to protect lands, water, and habitat to ensure the sustainability of military missions including:
1.~~(a)~~ Protecting habitat on nonmilitary land for any species found on military land that is designated as threatened or endangered, or is a candidate for such designation under the Endangered Species Act or any Florida statute;
2.~~(b)~~ Protecting areas underlying low-level military air corridors or operating areas; and
3.~~(c)~~ Protecting areas identified as clear zones, accident potential zones, and air installation compatible use buffer zones delineated by our military partners, and for which federal or other funding is available to assist with the project.
(11) For the purposes of funding projects pursuant to paragraph (3)(a), the Secretary of Environmental Protection shall ensure that each water management district receives the following percentage of funds annually:
(a) Thirty-five percent to the South Florida Water Management District, of which amount $25 million for 2 years beginning in fiscal year 2000-2001 shall be transferred by the Department of Environmental Protection into the Save Our Everglades Trust Fund and shall be used exclusively to implement the comprehensive plan under s. 373.470.
(b) Twenty-five percent to the Southwest Florida Water Management District.
(c) Twenty-five percent to the St. Johns River Water Management District.
(d) Seven and one-half percent to the Suwannee River Water Management District.
(e) Seven and one-half percent to the Northwest Florida Water Management District.
(12) It is the intent of the Legislature that in developing the list of projects for funding pursuant to paragraph (3)(a), that these funds not be used to abrogate the financial responsibility of those point and nonpoint sources that have contributed to the degradation of water or land areas. Therefore, an increased priority shall be given by the water management district governing boards to those projects that have secured a cost-sharing agreement allocating responsibility for the cleanup of point and nonpoint sources.
(13) An affirmative vote of at least five members of the ~~Acquisition and Restoration~~ council shall be required in order to place a ~~proposed~~ project submitted pursuant to subsection (7) on the proposed project list developed pursuant to subsection (8). Any member of the council who by family or a business relationship has a connection with any project proposed to be ranked shall declare such interest before ~~prior to~~ voting for a project's inclusion on the list.
(14) Each year that cash disbursements or bonds are to be issued pursuant to this section, the Acquisition and Restoration Council shall review the most current approved project list and shall, by the first board meeting in May, present to the Board of Trustees of the Internal Improvement Trust Fund for approval a listing of projects developed pursuant to subsection (8). The board of trustees may remove projects from the list developed pursuant to this subsection, but may not add projects or rearrange project rankings.
(15) The ~~Acquisition and Restoration~~ council shall submit to the board ~~of trustees~~, with its list of projects, a report that includes, but need ~~shall~~ not be limited to, the following information for each project listed:
(a) The stated purpose for inclusion.
(b) Projected costs to achieve the project goals.

(c) An interim management budget that includes all costs associated with immediate public access.
(d) Specific performance measures.
(e) Plans for public access.
(f) An identification of the essential parcel or parcels within the project without which the project cannot be properly managed.
(g) Where applicable, an identification of those projects or parcels within projects which should be acquired in fee simple or in less than fee simple.
(h) An identification of those lands being purchased for conservation purposes.
(i) A management policy statement for the project and a management prospectus pursuant to s. 259.032(7)(c) ~~259.032(7)(d)~~.
(j) An estimate of land value based on county tax assessed values.
(k) A map delineating project boundaries.
(l) An assessment of the project's ecological value, outdoor recreational value, forest resources, wildlife resources, ownership pattern, utilization, and location.
(m) A discussion of whether alternative uses are proposed for the property and what those uses are.
(n) A designation of the management agency or agencies.
(16) All proposals for projects pursuant to paragraph (3)(b) shall be implemented only if adopted by the Acquisition and Restoration Council and approved by the board of trustees. The council shall consider and evaluate in writing the merits and demerits of each project that is proposed for Florida Forever funding. The council shall ensure that each proposed project will meet a stated public purpose for the restoration, conservation, or preservation of environmentally sensitive lands and water areas or for providing outdoor recreational opportunities. The council also shall determine whether the project or addition conforms, where applicable, with the comprehensive plan developed pursuant to s. 259.04(1)(a), the comprehensive multipurpose outdoor recreation plan developed pursuant to s. 375.021, the state lands management plan adopted pursuant to s. 253.03(7), the water resources work plans developed pursuant to s. 373.199, and the provisions of this section.
(17) On an annual basis, the Division of State Lands shall prepare an annual work plan that prioritizes projects on the Florida Forever list and sets forth the funding available in the fiscal year for land acquisition. The work plan shall consider the following categories of expenditure for land conservation projects already selected for the Florida Forever list pursuant to subsection (8):
(a) A critical natural lands category, including functional landscape-scale natural systems, intact large hydrological systems, lands that have significant imperiled natural communities, and corridors linking large landscapes, as identified and developed by the best available scientific analysis.
(b) A partnerships or regional incentive category, including:
1. Projects where local and regional cost-share agreements provide a lower cost and greater conservation benefit to the people of the state. Additional consideration shall be provided under this category where parcels are identified as part of a local or regional visioning process and are supported by scientific analysis; and

2. Bargain and shared projects where the state will receive a significant reduction in price for public ownership of land as a result of the removal of development rights or other interests in lands or receives alternative or matching funds.
(c) A substantially complete category of projects where mainly inholdings, additions, and linkages between preserved areas will be acquired and where 85 percent of the project is complete.
(d) A climate-change category list of lands where acquisition or other conservation measures will address the challenges of global climate change, such as through protection, restoration, mitigation, and strengthening of Florida's land, water, and coastal resources. This category includes lands that provide opportunities to sequester carbon, provide habitat, protect coastal lands or barrier islands, and otherwise mitigate and help adapt to the effects of sea-level rise and meet other objectives of the program.
(e) A less-than-fee category for working agricultural lands that significantly contribute to resource protection through conservation easements and other less-than-fee techniques, tax incentives, life estates, landowner agreements, and other partnerships, including conservation easements acquired in partnership with federal conservation programs, which will achieve the objectives of Florida Forever while allowing the continuation of compatible agricultural uses on the land. Terms of easements proposed for acquisition under this category shall be developed by the Division of State Lands in coordination with the Department of Agriculture and Consumer Services.
Projects within each category shall be ranked by order of priority. The work plan shall be adopted by the Acquisition and Restoration Council after at least one public hearing. A copy of the work plan shall be provided to the board of trustees of the Internal Improvement Trust Fund no later than October 1 of each year.
(18)(a) The Board of Trustees of the Internal Improvement Trust Fund, or, in the case of water management district lands, the owning water management district, may authorize the granting of a lease, easement, or license for the use of certain lands acquired pursuant to this section, for certain uses that are determined by the appropriate board to be compatible with the resource values of and management objectives for such lands.
(b) Any existing lease, easement, or license acquired for incidental public or private use on, under, or across any lands acquired pursuant to this section shall be presumed to be compatible with the purposes for which such lands were acquired.
(c) Notwithstanding the provisions of paragraph (a), no such lease, easement, or license shall be entered into by the Department of Environmental Protection or other appropriate state agency if the granting of such lease, easement, or license would adversely affect the exclusion of the interest on any revenue bonds issued to fund the acquisition of the affected lands from gross income for federal income tax purposes, pursuant to Internal Revenue Service regulations.
(19) The ~~Acquisition and Restoration~~ council shall recommend adoption of rules by the board ~~of trustees~~ necessary to implement ~~the provisions of~~ this section relating to~~:~~ solicitation, scoring, selecting, and ranking of Florida Forever project proposals; disposing of or leasing lands or water areas selected for funding through the Florida Forever program; and the process of reviewing and recommending for approval or rejection the land management plans associated with publicly owned properties. ~~Rules promulgated pursuant to this subsection shall be submitted to the President of the Senate and the Speaker of the House of Representatives, for review by the Legislature,~~

~~no later than 30 days prior to the 2010 Regular Session and shall become effective only after legislative review. In its review, the Legislature may reject, modify, or take no action relative to such rules. The board of trustees shall conform such rules to changes made by the Legislature, or, if no action was taken by the Legislature, such rules shall become effective.~~

(20) Lands listed as projects for acquisition under the Florida Forever program may be managed for conservation pursuant to s. 259.032, on an interim basis by a private party in anticipation of a state purchase in accordance with a contractual arrangement between the acquiring agency and the private party that may include management service contracts, leases, cost-share arrangements, or resource conservation agreements. Lands designated as eligible under this subsection shall be managed to maintain or enhance the resources the state is seeking to protect by acquiring the land and to accelerate public access to the lands as soon as practicable. Funding for these contractual arrangements may originate from the documentary stamp tax revenue deposited into the Land Acquisition Trust Fund. No more than $6.2 million may be expended from the Land Acquisition Trust Fund for this purpose.

History.—s. 21, ch. 99-247; s. 3, ch. 2000-129; s. 32, ch. 2000-152; s. 11, ch. 2000-170; s. 1, ch. 2001-275; s. 3, ch. 2002-261; s. 66, ch. 2003-399; s. 12, ch. 2005-3; s. 5, ch. 2006-231; s. 13, ch. 2008-229; ss. 5, 14, ch. 2009-2; s. 22, ch. 2009-21; s. 120, ch. 2011-142; s. 9, ch. 2012-7; s. 33, ch. 2012-119; s. 28, ch. 2013-41; s. 37, ch. 2014-17; s. 36, ch. 2014-53; s. 47, ch. 2015-222; s. 27, ch. 2015-229; s. 82, ch. 2016-62; s. 5, ch. 2016-225; s. 24, ch. 2016-233.

[1]Note.—Section 82, ch. 2016-62, amended paragraph (3)(m) "[i]n order to implement Specific Appropriations 1533 and 1534 of the 2016-2017 General Appropriations Act."

Chapter 267
Historical Resources
Enforceable Policies

Remain as enforceable policies

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*Sections 267.0612, .076, .17, .1735, and .1736, F.S., are not considered enforceable policies for federal consistency purposes

Chapter 267--Historical Resources – Enforceable Policies

No changes were made to these statutes during 2016 Legislature

267.021 Definitions.—

For the purpose of this act, the term:

(1) “Division” means the Division of Historical Resources of the Department of State.

(2) “Agency” means any state, county, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law.

(3) “Historic property” or “historic resource” means any prehistoric or historic district, site, building, object, or other real or personal property of historical, architectural, or archaeological value, and folklife resources. These properties or resources may include, but are not limited to, monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, sunken or abandoned ships, engineering works, treasure trove, artifacts, or other objects with intrinsic historical or archaeological value, or any part thereof, relating to the history, government, and culture of the state.

(4) “Preservation” or “historic preservation” means the identification, evaluation, recordation, documentation, analysis, recovery, interpretation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, or reconstruction of historic properties.

(5) “National Register of Historic Places” means the list of historic properties significant in American history, architecture, archaeology, engineering, and culture, maintained by the Secretary of the Interior, as established by the National Historic Preservation Act of 1966, as amended.

(6) “Folklife” means the traditional expressive culture shared within the various groups in Florida: familial, ethnic, occupational, religious, and regional. Expressive culture includes a wide range of creative and symbolic forms such as custom, belief, technical skill, language, literature, art, architecture, music, play, dance, drama, ritual, pageantry, and handicraft, which forms are generally learned orally, by imitation, or in performance and are maintained or perpetuated without formal instruction or institutional direction.

(7) “Florida history museum” means a public or private nonprofit institution which is established permanently in this state for the purpose of promoting and encouraging knowledge and appreciation of Florida history through the collection, preservation, exhibition, and interpretation of artifacts and other historical properties related to Florida history and the primary role of which is to collect and care for artifacts and other objects of intrinsic historical or archaeological value and exhibit them regularly through a facility or facilities owned or operated by the institution.

(8) “Official Florida Historical Marker” means any marker, plaque, or similar device awarded, approved, or administered by the Division of Historical Resources for the purpose of recognizing and informing the general public about historic properties, persons, events, and other topics relating to the history and culture of the state.

History.—s. 2, ch. 67-50; ss. 10, 35, ch. 69-106; s. 72, ch. 71-377; s. 3, ch. 79-322; s. 1, ch. 81-124; s. 1, ch. 85-281; s. 43, ch. 86-163; s. 4, ch. 89-359; s. 2, ch. 94-190; s. 1, ch. 98-266.

Note.—Subsection (6) former s. 265.135.

267.031 Division of Historical Resources; powers and duties.—
(1) The division has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of this chapter conferring duties upon it.
(2) The division may make and enter into all contracts and agreements with other agencies, organizations, associations, corporations and individuals, or federal agencies as it may determine are necessary, expedient, or incidental to the performance of its duties or the execution of its powers under this chapter.
(3) The division may accept gifts, grants, bequests, loans, and endowments for purposes not inconsistent with its responsibilities under this chapter. The division may also establish an endowment that is consistent with the responsibilities of this chapter.
(4) All law enforcement agencies and offices are authorized and directed to assist the division in carrying out its duties under this chapter.
(5) It is the responsibility of the division to:
(a) Cooperate with federal and state agencies, local governments, and private organizations and individuals to direct and conduct a comprehensive statewide survey of historic resources and to maintain an inventory of such resources.
(b) Develop a comprehensive statewide historic preservation plan.
(c) Identify and nominate through the State Historic Preservation Officer eligible properties to the National Register of Historic Places and otherwise administer applications for listing historic properties in the National Register.
(d) Cooperate with federal and state agencies, local governments, and organizations and individuals to ensure that historic resources are taken into consideration at all levels of planning and development.
(e) Advise and assist, as appropriate, federal and state agencies and local governments in carrying out their historic preservation responsibilities and programs.
(f) Provide public information, education, and technical assistance relating to historic preservation programs.
(g) Cooperate with local governments and organizations and individuals in the development of local historic preservation programs, including the Main Street Program of the National Trust for Historic Preservation, or any similar programs that may be developed by the division.
(h) Carry out on behalf of the state the programs of the National Historic Preservation Act of 1966, as amended, and to establish, maintain, and administer a state historic preservation program meeting the requirements of an approved program and fulfilling the responsibilities of state historic preservation programs as provided in s. 101(b) of that act.
(i) Take such other actions necessary or appropriate to locate, acquire, protect, preserve, operate, interpret, and promote the location, acquisition, protection, preservation, operation, and interpretation of historic resources to foster an appreciation of Florida history and culture. Prior to the acquisition, preservation, interpretation, or operation of a historic property by a state agency, the division shall be provided a reasonable opportunity to review and comment on the proposed undertaking and shall determine that there exists historical authenticity and a feasible means of providing for the preservation, interpretation, and operation of such property. Expenditures by the division to protect or preserve historic properties leased by the division from the Board

of Trustees of the Internal Improvement Trust Fund may be exempt from the competitive bid requirements of chapters 255 and 287.
(j) Cooperate and coordinate with the Division of Recreation and Parks of the Department of Environmental Protection in the operation and management of historic properties or resources subject to review under s. 267.061(2) by the Division of Historical Resources.
(k) Establish professional standards for the preservation, exclusive of acquisition, of historic resources in state ownership or control.
(l) Establish guidelines for state agency responsibilities under s. 267.061(2).
(m) Establish and maintain a central inventory of historic properties for the state which shall consist of all such properties as may be reported to the division. This inventory shall be known as the Florida Master Site File.
(n) Protect and administer historical resources abandoned on state-owned lands or on state-owned sovereignty submerged lands. The division may issue permits for survey and exploration activities to identify historical resources and may issue permits for excavation and salvage activities to recover historical resources. The division may issue permits for archaeological excavation for scientific or educational purposes on state-owned lands or on state-owned sovereignty submerged lands. The division may also issue permits for exploration and salvage of historic shipwreck sites by commercial salvors on state-owned sovereignty submerged lands. The division shall adopt rules to administer the issuance of permits for all such activities. In addition, the division shall adopt rules to administer the transfer of objects recovered by commercial salvors under permit in exchange for recovery services provided to the state.
(o) Advise and assist, as appropriate, federal and state agencies, local governments, and organizations and individuals in the recognition, protection, and preservation of the archaeological sites and artifacts of this state, directly and through a memorandum of agreement with a network of public archaeology centers as described in s. 267.145.
(6) The division may enter into a memorandum of agreement with the University of West Florida to coordinate the establishment and operation of a network of regional public archaeology centers to provide public outreach and assistance to local governments in identifying, evaluating, developing, and preserving the archaeology in their local areas and in assisting the division in its archaeological responsibilities as outlined in this chapter and the memorandum of agreement.
(7) The division shall employ a State Archaeologist, and such other archaeologists as deemed necessary, who shall possess such qualifications as the division may prescribe. The State Archaeologist shall serve at the pleasure of the division director and shall have his or her duties prescribed by the division director.
(8) The division shall employ a State Historic Preservation Officer, qualified by special training or experience in the field of historic preservation, and such other specialists in the field of historic preservation as deemed necessary, who shall possess such qualifications as the division may prescribe. The State Historic Preservation Officer shall be designated as such by the Governor, upon the recommendation of the Secretary of State, and shall serve at the pleasure of the Secretary of State. The State Historic Preservation Officer shall conduct relations with representatives of the Federal Government and the respective states concerning matters of historic preservation, and shall perform such other duties as prescribed by the Secretary of State.

History.—s. 3, ch. 67-50; ss. 10, 25, 27, 35, ch. 69-106; s. 73, ch. 71-377; s. 1, ch. 73-280; s. 4, ch. 78-323; s. 1, ch. 81-173; s. 11, ch. 83-85; s. 130, ch. 83-217; s. 44, ch. 86-163; s. 54, ch. 98-200; s. 10, ch. 2001-75; s. 3, ch. 2001-199; s. 1, ch. 2004-91; s. 13, ch. 2005-207; s. 2, ch. 2008-141.

267.061 Historic properties; state policy, responsibilities.—

(1) STATE POLICY RELATIVE TO HISTORIC PROPERTIES.—

(a) The rich and unique heritage of historic properties in this state, representing more than 10,000 years of human presence, is an important legacy to be valued and conserved for present and future generations. The destruction of these nonrenewable historical resources will engender a significant loss to the state's quality of life, economy, and cultural environment. It is therefore declared to be state policy to:

1. Provide leadership in the preservation of the state's historic resources;

2. Administer state-owned or state-controlled historic resources in a spirit of stewardship and trusteeship;

3. Contribute to the preservation of non-state-owned historic resources and to give encouragement to organizations and individuals undertaking preservation by private means;

4. Foster conditions, using measures that include financial and technical assistance, for a harmonious coexistence of society and state historic resources;

5. Encourage the public and private preservation and utilization of elements of the state's historically built environment; and

6. Assist local governments to expand and accelerate their historic preservation programs and activities.

(b) It is further declared to be the public policy of the state that all treasure trove, artifacts, and such objects having intrinsic or historical and archaeological value which have been abandoned on state-owned lands or state-owned sovereignty submerged lands shall belong to the state with the title thereto vested in the Division of Historical Resources of the Department of State for the purposes of administration and protection.

(2) RESPONSIBILITIES OF STATE AGENCIES OF THE EXECUTIVE BRANCH.—

(a) Each state agency of the executive branch having direct or indirect jurisdiction over a proposed state or state-assisted undertaking shall, in accordance with state policy and prior to the approval of expenditure of any state funds on the undertaking, consider the effect of the undertaking on any historic property that is included in, or eligible for inclusion in, the National Register of Historic Places. Each such agency shall afford the division a reasonable opportunity to comment with regard to such an undertaking.

(b) Each state agency of the executive branch shall initiate measures in consultation with the division to assure that where, as a result of state action or assistance carried out by such agency, a historic property is to be demolished or substantially altered in a way which adversely affects the character, form, integrity, or other qualities which contribute to historical, architectural, or archaeological value of the property, timely steps are taken to determine that no feasible and prudent alternative to the proposed demolition or alteration exists, and, where no such alternative is determined to exist, to assure that timely steps are taken either to avoid or mitigate the adverse effects, or to undertake an appropriate archaeological salvage excavation or other recovery action to document the property as it existed prior to demolition or alteration.

(c) In consultation with the division, each state agency of the executive branch shall establish a program to locate, inventory, and evaluate all historic properties under the agency's ownership or control that appear to qualify for the National Register. Each such agency shall exercise caution to assure that any such historic property is not inadvertently transferred, sold, demolished, substantially altered, or allowed to deteriorate significantly.
(d) Each state agency of the executive branch shall assume responsibility for the preservation of historic resources which are owned or controlled by such agency. Prior to acquiring, constructing, or leasing buildings for the purpose of carrying out agency responsibilities, the agency shall use, to the maximum extent feasible, historic properties available to the agency. Each agency shall undertake, consistent with the preservation of such properties, the mission of the agency, and the professional standards established pursuant to s. 267.031(5)(k), any preservation actions necessary to carry out the intent of this paragraph.
(e) Each state agency of the executive branch, in seeking to acquire additional space through new construction or lease, shall give preference to the acquisition or use of historic properties when such acquisition or use is determined to be feasible and prudent compared with available alternatives. The acquisition or use of historic properties is considered feasible and prudent if the cost of purchase or lease, the cost of rehabilitation, remodeling, or altering the building to meet compliance standards and the agency's needs, and the projected costs of maintaining the building and providing utilities and other services is less than or equal to the same costs for available alternatives. The agency shall request the division to assist in determining if the acquisition or use of a historic property is feasible and prudent. Within 60 days after making a determination that additional space is needed, the agency shall request the division to assist in identifying buildings within the appropriate geographic area that are historic properties suitable for acquisition or lease by the agency, whether or not such properties are in need of repair, alteration, or addition.
(f) Consistent with the agency's mission and authority, all state agencies of the executive branch shall carry out agency programs and projects, including those under which any state assistance is provided, in a manner which is generally sensitive to the preservation of historic properties and shall give consideration to programs and projects which will further the purposes of this section.
(3) DEPARTMENT OF MANAGEMENT SERVICES.—The Department of Management Services, in consultation with the division, shall adopt rules for the renovation of historic properties which are owned or leased by the state. Such rules shall be based on national guidelines for historic renovation, including the standards and guidelines for rehabilitation adopted by the United States Secretary of the Interior.
History.—s. 6, ch. 67-50; ss. 10, 25, 35, ch. 69-106; s. 5, ch. 81-173; s. 19, ch. 83-216; s. 2, ch. 85-281; s. 47, ch. 86-163; s. 2, ch. 87-33; s. 1, ch. 88-351; s. 1, ch. 90-259; s. 243, ch. 91-224; s. 2, ch. 92-61; s. 197, ch. 92-279; s. 55, ch. 92-326; s. 3, ch. 94-190; s. 108, ch. 94-356; s. 854, ch. 95-148; s. 3, ch. 95-235; s. 9, ch. 96-418; s. 7, ch. 97-68; s. 4, ch. 2001-199.

267.11 Designation of archaeological sites.—

The division may publicly designate an archaeological site of significance to the scientific study or public representation of the state's historical, prehistoric, or aboriginal past as a "state archaeological landmark." In addition, the division may publicly

designate an interrelated grouping of significant archaeological sites as a “state archaeological landmark zone.” However, no site or grouping of sites shall be so designated without the express written consent of the private owner thereof. Upon designation of an archaeological site, the owners and occupants of each designated state archaeological landmark or landmark zone shall be given written notification of such designation by the division. Once so designated, no person may conduct field investigation activities without first securing a permit from the division.
History.—s. 1, ch. 73-166; s. 55, ch. 86-163.

267.115 Objects of historical or archaeological value.—
The division shall acquire, maintain, preserve, interpret, exhibit, and make available for study objects which have intrinsic historical or archaeological value relating to the history, government, or culture of the state. Such objects may include tangible personal property of historical or archaeological value. Objects acquired under this section belong to the state, and title to such objects is vested in the division.
(1) Notwithstanding s. 273.02, the division shall maintain an adequate record of all objects in its custody which have a historical or archaeological value. Once each year, on July 1 or as soon thereafter as practicable, the division shall take a complete inventory of all such objects in its custody the value or cost of which is $500 or more and a sample inventory of such objects the value or cost of which is less than $500. Each inventory shall be compared with the property record, and all discrepancies shall be traced and reconciled. Objects of historical or archaeological value are not required to be identified by marking or other physical alteration of the objects.
(2) The division may arrange for the temporary or permanent loan of any object which has historical or archaeological value in its custody. Such loans shall be for the purpose of assisting historical, archaeological, or other studies; providing objects relating to interpretive exhibits and other educational programs which promote knowledge and appreciation of Florida history and the programs of the division; or assisting the division in carrying out its responsibility to ensure proper curation of the objects.
(3) The division may determine from time to time that an object which is in its custody and which is owned by the state has no further use or value for the research, exhibit, or educational programs of the division, or that such an object will receive more appropriate maintenance and preservation by another agency, institution, or organization, and may loan, exchange, sell, or otherwise transfer ownership and custody of such object to another agency, institution, or organization for the purpose of ensuring the continued maintenance and preservation of such object, or for the purpose of acquiring another object which better serves the interests of the state and is more appropriate for promoting knowledge and appreciation of Florida history and the programs of the division.
(4) For the purpose of the exchange, sale, or other transfer of objects of historical or archaeological value, the division is exempt from chapter 273.
(5) All moneys received from the sale of an object which has historical or archaeological value pursuant to subsection (3) shall be deposited in the Historical Resources Operating Trust Fund and shall be used exclusively for the acquisition of additional historical and archaeological objects or the preservation and maintenance of any such objects in the custody of the division.

(6) The division shall adopt rules pursuant to ss. 120.536(1) and 120.54 that prescribe criteria for the inventory and for the loan, exchange, sale, transfer, or other disposal of state-owned objects of historical or archaeological value.
(7) Any custodian as defined in s. 273.01(1) who violates any provision of this section or any rule adopted pursuant to this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
(8) Notwithstanding any provision of s. 287.022 or s. 287.025(1)(e), the division may enter into contracts to insure museum collections, artifacts, relics, and fine arts to which it holds title.
(9) The division may implement a program to administer finds of isolated historic artifacts from state-owned river bottoms whereby the division may transfer ownership of such artifacts to the finder in exchange for information about the artifacts and the circumstances and location of their discovery.
History.—s. 14, ch. 2001-199.

267.12 Research permits; procedure.—
(1) As used in this section and s. 267.13, the term “water authority” means an independent special district created by special act whose purpose is to control and conserve freshwater resources. The term does not include any water management district created pursuant to s. 373.069.
(2) The division may issue permits for excavation and surface reconnaissance on land owned or controlled by the state, land owned by a water authority, or land within the boundaries of a designated state archaeological landmark or landmark zone to institutions that the division deems to be properly qualified to conduct such activity, subject to such rules and regulations as the division may prescribe, provided such activity is undertaken by reputable museums, universities, colleges, or other historical, scientific, or educational institutions or societies that possess or will secure the archaeological expertise for the performance of systematic archaeological field research, comprehensive analysis, and interpretation in the form of publishable reports and monographs, such reports to be submitted to the division.
(3) Those state institutions considered by the division permanently to possess the required archaeological expertise to conduct the archaeological activities allowed under the permit may be designated as accredited institutions which will be allowed to conduct archaeological field activities on land owned or controlled by the state, land owned by a water authority, or land within the boundaries of a designated state archaeological landmark or landmark zone without obtaining an individual permit for each project, except that those accredited institutions will be required to give prior written notice of all anticipated archaeological field activities on land owned or controlled by the state, land owned by a water authority, or land within the boundaries of a designated state archaeological landmark or landmark zone to the division, together with such information as may reasonably be required by the division to ensure the proper preservation, protection, and excavation of the archaeological resources. However, archaeological activity may not be commenced by the accredited institution until the division has determined that the planned project will be in conformity with the guidelines, regulations, and criteria adopted pursuant to ss. 267.11-267.14. Such

determination will be made by the division and notification to the institution given within 15 days after receipt of the prior notification by the division.
(4) All specimens collected under a permit issued by the division or under the procedures adopted for accredited institutions shall belong to the state with the title thereto vested in the division for the purpose of administration and protection. The division may arrange for the disposition of the specimens so collected by accredited state institutions at those institutions and for the temporary or permanent loan of such specimens at permitholding institutions for the purpose of further scientific study, interpretative displays, and curatorial responsibilities.
History.—s. 1, ch. 73-166; s. 56, ch. 86-163; s. 1, ch. 2013-204.

267.13 Prohibited practices; penalties.—
(1)(a) Any person who by means other than excavation conducts archaeological field investigations on, or removes or attempts to remove or defaces, destroys, or otherwise alters any archaeological site or specimen located upon, land owned or controlled by the state, land owned by a water authority, or land within the boundaries of a designated state archaeological landmark or landmark zone, except in the course of activities pursued under the authority of a permit or under procedures relating to accredited institutions granted by the division, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and, in addition, shall forfeit to the state all specimens, objects, and materials collected, together with all photographs and records relating to such material.
(b) Any person who by means of excavation conducts archaeological field investigations on, or removes or attempts to remove or defaces, destroys, or otherwise alters any archaeological site or specimen located upon, land owned or controlled by the state, land owned by a water authority, or land within the boundaries of a designated state archaeological landmark or landmark zone, except in the course of activities pursued under the authority of a permit or under procedures relating to accredited institutions granted by the division, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and any vehicle or equipment of any person used in connection with the violation is subject to forfeiture to the state if it is determined by any court of law that the vehicle or equipment was involved in the violation. Such person shall forfeit to the state all specimens, objects, and materials collected or excavated, together with all photographs and records relating to such material. The court may also order the defendant to make restitution to the state for the archaeological or commercial value and cost of restoration and repair as defined in subsection (4).
(c) Any person who offers for sale or exchange any object with knowledge that it has previously been collected or excavated in violation of any of the terms of ss. 267.11-267.14, or who procures, counsels, solicits, or employs any other person to violate any prohibition contained in ss. 267.11-267.14 or to sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange any archaeological resource excavated or removed from land owned or controlled by the state, land owned by a water authority, or land within the boundaries of a designated state archaeological landmark or landmark zone, except with the express consent of the division, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and any vehicle or equipment of any person used in connection with the violation is subject to

forfeiture to the state if it is determined by any court of law that such vehicle or equipment was involved in the violation. All specimens, objects, and material collected or excavated, together with all photographs and records relating to such material, shall be forfeited to the state. The court may also order the defendant to make restitution to the state for the archaeological or commercial value and cost of restoration and repair as defined in subsection (4).
(2)(a) The division may institute an administrative proceeding to impose an administrative fine of not more than $500 a day on any person or business organization that, without written permission of the division, explores for, salvages, or excavates treasure trove, artifacts, sunken or abandoned ships, or other objects having historical or archaeological value located upon land owned or controlled by the state, including state sovereignty submerged land, or land owned by a water authority.
(b) The division shall institute an administrative proceeding by serving written notice of a violation by certified mail upon the alleged violator. The notice shall specify the law or rule allegedly violated and the facts upon which the allegation is based. The notice shall also specify the amount of the administrative fine sought by the division. The fine is not due until after service of notice and an administrative hearing. However, the alleged violator has 20 days after service of notice to request an administrative hearing. Failure to respond within that time constitutes a waiver, and the fine becomes due without a hearing.
(c) The division may enter its judgment for the amount of the administrative penalty imposed in a court of competent jurisdiction, pursuant to s. 120.69. The judgment may be enforced as any other judgment.
(d) The division may apply to a court of competent jurisdiction for injunctive relief against any person or business organization that explores for, salvages, or excavates treasure trove, artifacts, sunken or abandoned ships, or other objects having historical or archaeological value located upon land owned or controlled by the state, including state sovereignty submerged land, or land owned by a water authority without the written permission of the division.
(e) The division shall adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section.
(3) Any person who:
(a) Reproduces, retouches, reworks, or forges any archaeological or historical object originating from an archaeological site as designated by ss. 267.11-267.14 and deriving its principal value from its antiquity or makes any such object, whether a copy or not; or
(b) Falsely labels, describes, identifies, or offers for sale or exchange any object with intent to represent the same to be an original and genuine archaeological or historical specimen,
commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
(4) DETERMINATION OF ARCHAEOLOGICAL OR COMMERCIAL VALUE AND COST OF RESTORATION AND REPAIR.—
(a) Archaeological value.—For purposes of this section, the archaeological value of any archaeological resource involved in a violation of the prohibitions in ss. 267.11-267.14 or conditions of a permit issued pursuant to ss. 267.11-267.14 shall be the value of the data associated with the archaeological resource. This value shall be appraised in terms

of the costs of the retrieval of the scientific information which would have been obtainable prior to the violation. These costs may include, but need not be limited to, the cost of preparing a research design, conducting field work, carrying out laboratory analysis, and preparing reports as would be necessary to realize the information potential.
(b) Commercial value.—For purposes of this section, the commercial value of any archaeological resource involved in a violation of the prohibitions in ss. 267.11-267.14 or conditions of a permit issued pursuant to ss. 267.11-267.14 shall be its fair market value. Where the violation has resulted in damage to the archaeological resource, the fair market value should be determined using the condition of the archaeological resource prior to the violation, to the extent that its prior condition can be ascertained.
(c) Cost of restoration and repair.—For purposes of this section, the cost of restoration and repair of archaeological resources damaged as a result of a violation of prohibitions or conditions pursuant to this section shall be the sum of the costs already incurred for emergency restoration or repair work, plus those costs projected to be necessary to complete restoration and repair, which may include, but need not be limited to, the costs of the following:
1. Reconstruction of the archaeological resource.
2. Stabilization of the archaeological resource.
3. Ground contour reconstruction and surface stabilization.
4. Research necessary to carry out reconstruction or stabilization.
5. Physical barriers or other protective devices, necessitated by the disturbance of the archaeological resource, to protect it from further disturbance.
6. Examination and analysis of the archaeological resource, including recording remaining archaeological information, where necessitated by disturbance, in order to salvage remaining values which cannot be otherwise conserved.
7. Reinterment of human remains in accordance with religious custom and state, local, or tribal law, where appropriate, as determined by the land manager.
8. Preparation of reports relating to any of the activities described in this paragraph.
History.—s. 1, ch. 73-166; s. 9, ch. 81-173; s. 1, ch. 93-114; s. 15, ch. 2001-199; s. 18, ch. 2005-207; s. 2, ch. 2013-204.

267.135 Location of archaeological sites.—

Any information identifying the location of an archaeological site held by the Division of Historical Resources of the Department of State is exempt from s. 119.07(1) and s. 24(a) of Art. I of the State Constitution, if the Division of Historical Resources finds that disclosure of such information will create a substantial risk of harm, theft, or destruction at such site.
History.—s. 1, ch. 2001-162; s. 1, ch. 2006-106.

267.14 Legislative intent.—

It is hereby declared to be the public policy of the state to preserve archaeological sites and objects of antiquity for the public benefit and to limit exploration, excavation, and collection of such matters to qualified persons and educational institutions possessing the requisite skills and purpose to add to the general store of knowledge concerning history, archaeology, and anthropology. It is further declared to be the public policy of the state to provide public outreach and assistance to local governments in identifying,

evaluating, developing, and preserving the archaeology in their local areas through the establishment of a network of regional public archaeology centers. It is further declared to be the public policy of the state that field investigation activities on privately owned lands should be discouraged except in accordance with both the provisions and spirit of ss. 267.11-267.145; and persons having knowledge of the location of archaeological sites are encouraged to communicate such information to the division.

History.—s. 1, ch. 73-166; s. 57, ch. 86-163; s. 16, ch. 2001-199; s. 2, ch. 2004-91.

Chapter 334
Transportation Administration
Enforceable Policies

Any additions are underlined and any deletions are struck-through.

Proposed as Non-Enforceable Policies

334.01	Florida Transportation Code; short title.
334.03	Definitions.
334.035	Purpose of transportation code.
334.044	Department; powers and duties.
334.045	Transportation performance and productivity standards; development; measurement; application.
334.046	Department mission, goals, and objectives.
334.047	Prohibition.
334.048	Legislative intent with respect to department management accountability and monitoring systems.
334.049	Patents, copyrights, trademarks; notice to Department of State; confidentiality of trade secrets.
334.05	Department headquarters; acquisition of office space.
334.063	Statistical studies relating to traffic count and accidents.
334.065*	Center for Urban Transportation Research.
334.071	Legislative designation of transportation facilities.
334.131	Department employees' benefit fund.
334.14	Employees of department who are required to be engineers.
334.17	Consulting services; provision by department to other governmental units.
334.175	Certification of project design plans and surveys.
334.185	Financial responsibility for construction, material, or design failures; review of contracts; financial assurances.
334.187	Guarantee of obligations to the department.
334.193	Unlawful for certain persons to be financially interested in purchases, sales, and certain contracts; penalties.
334.195	Officers or employees of the department; conflicts of interest; exception; penalties.
334.196	Authority of department to photograph or microphotograph records and to destroy original records; admissibility of photographs or microphotographs in evidence.
334.24	Compilation, maintenance, and provision of information relating to roads and road building and repair.
334.27	Governmental transportation entities; property acquired for transportation purposes; limitation on soil or groundwater contamination liability.
334.30	Private-private transportation facilities.
334.351*	Youth work experience program; findings and intent; authority to contract; limitation.
334.60	511 traveler information system.

Sections 343.065 and .351, F.S., are not considered enforceable policies for federal consistency purposes

Chapter 339
Transportation Finance and Planning
Enforceable Policies

Any additions are shown underlined and any deletions are struck-through.

Remain as Enforceable Policies

339.175	Metropolitan planning organization.
339.241	Florida Junkyard Control Law.

Proposed as Non-Enforceable Policies

339.035	Expenditures.
339.04	Disposition of proceeds of sale or lease of realty by the department.
339.041*	Factoring of revenues from leases for wireless communication facilities
339.05	Assent to federal aid given.
339.06	Authority of department to amortize advancements from United States.
339.07	National aid expended under supervision of the department.
339.08	Use of moneys in State Transportation Trust Fund.
339.0801*	Allocation of increased revenues derived from amendments to s. 319.32(5)(a) by ch. 2012-128
339.0805	Funds to be expended with certified disadvantaged business enterprises; construction management development program; bond guarantee program.
339.0809***	Florida Department of Transportation Financing Corporation
339.081	Department trust funds.
339.0815*	Transportation Revenue Bond Trust Fund.
339.0816*	Transportation Governmental Bond Trust Fund
339.09	Use of transportation tax revenues; restrictions.
339.12	Aid and contributions by governmental entities for department projects; federal aid.
339.125	Covenants to complete on revenue-producing projects.
339.135	Work program; legislative budget request; definitions; preparation, adoption, execution and amendment.
339.1371	Mobility 2000; funding.
339.139*	Transportation debt assessment
339.155	Transportation planning.
339.176	Voting membership for M.P.O. with boundaries including certain counties.
339.177	Transportation management programs.
339.24	Beautification of state transportation facilities.
339.2405	Florida Highway Beautification Council.
339.28	Willful and malicious damage to boundary marks, guideposts, lampposts,etc. on transportation facility.

339.281	Damage to transportation facility by vessel; marine accident report; Investigative authorities; penalties.
339.2815	Purchase orders.
339.2816	Small County Road Assistance Program; definitions; program funding; funding eligibility; project contract administration.
339.2817*	County Incentive Grant Program.
339.2818*	Small County Outreach Program.
339.2819*	Transportation Regional Incentive Program.
339.282*	Transportation concurrency incentives
339.2821	Economic development transportation projects.
339.2825*	Approval of contractor-financed projects
339.285*	Enhanced Bridge Program for Sustainable Transportation
339.55	State-funded infrastructure bank.
339.61	Florida Strategic Intermodal System; legislative findings, declaration, and intent.
339.62	System components.
339.63	System facilities designated; additions and deletions.
339.64	Strategic Intermodal System Plan.
339.65	Strategic Intermodal System highway corridors
339.70*	Authority referendum
339.81**	Florida Shared-Use Nonmotorized Trail Network

*Sections 339.041, .0801, .0815, .0816, .139, .2817, .2818, .2819, .282, .2825, .285, and .70 F.S., are not considered enforceable policies for federal consistency purposes

**Section 339.81, F.S., was added in 2015. It was not proposed as an enforceable policy during the first full review of Chapter 339 during last year's submittal.

***Section 339.0809 was created in 2016. It is not proposed as an enforceable policy for federal consistency purposes.

Chapter 339 -- Transportation Finance and Planning - Enforceable Policies

*Statutes changed by 2016 Legislature
**Section 339.0809 was created by the 2016 Legislature. It is not proposed as an enforceable policy for federal consistency purposes

****339.0809 Florida Department of Transportation Financing Corporation.—**

(1) The Florida Department of Transportation Financing Corporation is created as a nonprofit corporation for the purpose of financing or refinancing projects for the department as provided in subsection (4).

(2) The Florida Department of Transportation Financing Corporation shall be governed by a board of directors consisting of the director of the Office of Policy and Budget within the Executive Office of the Governor, the director of the Division of Bond Finance, and the Secretary of Transportation. The director of the Division of Bond Finance shall be the chief executive officer of the corporation and shall direct and supervise the administrative affairs of the corporation and shall control, direct, and supervise the operation of the corporation. The corporation shall have such other officers as may be determined by the board of directors.

(3) The Florida Department of Transportation Financing Corporation shall have all the powers of a corporate body under the laws of the state to the extent not inconsistent with or restricted by this section, including, but not limited to, the power to:

(a) Adopt, amend, and repeal bylaws.

(b) Sue and be sued.

(c) Adopt and use a common seal.

(d) Acquire, purchase, hold, lease, and convey such real and personal property as may be proper or expedient to carry out the purposes of the corporation and this section and to sell, lease, or otherwise dispose of such property.

(e) Elect or appoint and employ such other officers, agents, and employees as the corporation deems advisable to operate and manage the affairs of the corporation, which officers, agents, and employees may be officers or employees of the department and the state agencies represented on the board of directors of the corporation.

(f) Borrow money and issue notes, bonds, certificates of indebtedness, or other obligations or evidences of indebtedness necessary to finance or refinance projects as provided in subsection (4).

(g) Make and execute any and all contracts, trust agreements, and other instruments and agreements necessary or convenient to accomplish the purposes of the corporation and this section.

(h) Select, retain, and employ professionals, contractors, or agents, which may include the Division of Bond Finance, as necessary or convenient to enable or assist the corporation in carrying out the purposes of the corporation and this section.

(i) Take any action necessary or convenient to carry out the purposes of the corporation and this section and the powers provided in this section.

(4) The Florida Department of Transportation Financing Corporation may enter into one or more service contracts with the department to provide services to the department in connection with projects approved in the department’s work program, which approval specifically provides that the department may enter into a service contract for the project

pursuant to this section. The department may enter into one or more such service contracts with the corporation and provide for payments under such contracts, subject to annual appropriation by the Legislature. The proceeds from such service contracts may be used for the corporation's administrative costs and expenses after payments under subsection (5). Each service contract may have a term of up to 35 years. In compliance with s. 287.0641 and other applicable law, the obligations of the department under such service contracts do not constitute a general obligation of the state or a pledge of the full faith and credit or taxing power of the state, and such obligations are not an obligation of the State Board of Administration or entities for which it invests funds, other than the department as provided in this section, but are payable solely from amounts available in the State Transportation Trust Fund, subject to annual appropriation. In compliance with this subsection and s. 287.0582, the service contract must expressly include the following statement: "The State of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature."

(5) The Florida Department of Transportation Financing Corporation may issue and incur notes, bonds, certificates of indebtedness, and other obligations or evidences of indebtedness payable from and secured by amounts payable to the corporation by the department under a service contract entered into under subsection (4) for the purpose of financing or refinancing projects approved as provided in subsection (4). The duration of any such note, bond, certificate of indebtedness, or other obligation or evidence of indebtedness may not exceed 30 annual maturities. The corporation may select its financing team and issue its obligations through competitive bidding or negotiated contracts, whichever is most cost-effective. Indebtedness of the corporation does not constitute a debt or obligation of the state or a pledge of the full faith and credit or taxing power of the state but is payable from and secured by payments made by the department under the service contract.

(6) The fulfillment of the purposes of the Florida Department of Transportation Financing Corporation promotes the health, safety, and general welfare of the people of the state and serves as essential governmental functions and a paramount public purpose.

(7) The Florida Department of Transportation Financing Corporation is exempt from taxation and assessments on its income, property, and assets or revenues acquired, received, or used in the furtherance of the purposes provided in this chapter. The obligations of the corporation incurred under subsection (5) and the interest and income on such obligations and all security agreements, letters of credit, liquidity facilities, or other obligations or instruments arising out of, entered into in connection with, or given to secure payment of such obligations are exempt from taxation; however, such exemption does not apply to any tax imposed under chapter 220 on the interest, income, or profits on debt obligations owned by corporations.

(8) The Florida Department of Transportation Financing Corporation may validate obligations to be incurred under subsection (5) and the validity and enforceability of any service contracts providing for payments pledged to the payment of such obligations by proceedings under chapter 75. The validation complaint may be filed only in the circuit court of the Second Judicial Circuit in and for Leon County. The notice required to be published by s. 75.06 must be published in Leon County, and the complaint and order of the circuit court may be served only on the State Attorney for the Second Judicial

Circuit. Sections 75.04(2) and 75.06(2) do not apply to a complaint for validation filed under this subsection.
(9) The Florida Department of Transportation Financing Corporation is not a special district for purposes of chapter 189 or a unit of local government for purposes of part III of chapter 218. Chapters 120 and 215, except the limitation on the interest rates provided by s. 215.84, which applies to obligations of the corporation issued pursuant to this section, and part I of chapter 287, except ss. 287.0582 and 287.0641, do not apply to this section, the corporation, the service contracts entered into pursuant to this section, or debt obligations issued by the corporation as contemplated in this section.
(10) The benefits and earnings of the Florida Department of Transportation Financing Corporation may not inure to the benefit of any private person.
(11) Upon dissolution of the Florida Department of Transportation Financing Corporation, title to all property owned by the corporation shall revert to the state.
(12) The Florida Department of Transportation Financing Corporation may contract with the State Board of Administration to serve as a trustee with respect to debt obligations issued by the corporation as contemplated by this section; to hold, administer, and invest proceeds of such debt obligations and other funds of the corporation; and to perform other services required by the corporation. The State Board of Administration may perform such services and may contract with others to provide all or a part of such services and to recover its and such other costs and expenses thereof.
(13) The department may enter into a service contract in conjunction with the issuance of debt obligations as provided in this section which provides for periodic payments for debt service or other amounts payable with respect to debt obligations, plus any administrative expenses of the Florida Department of Transportation Financing Corporation.
History.—s. 15, ch. 2016-181.

***339.175 Metropolitan planning organization.—**
(1) PURPOSE.—It is the intent of the Legislature to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and through urbanized areas of this state while minimizing transportation-related fuel consumption, air pollution, and greenhouse gas emissions through metropolitan transportation planning processes identified in this section. To accomplish these objectives, metropolitan planning organizations, referred to in this section as M.P.O.'s, shall develop, in cooperation with the state and public transit operators, transportation plans and programs for metropolitan areas. The plans and programs for each metropolitan area must provide for the development and integrated management and operation of transportation systems and facilities, including pedestrian walkways and bicycle transportation facilities that will function as an intermodal transportation system for the metropolitan area, based upon the prevailing principles provided in s. 334.046(1). The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive, to the degree appropriate, based on the complexity of the transportation problems to be addressed. To ensure that the process is integrated with the statewide planning process, M.P.O.'s shall develop plans and

programs that identify transportation facilities that should function as an integrated metropolitan transportation system, giving emphasis to facilities that serve important national, state, and regional transportation functions. For the purposes of this section, those facilities include the facilities on the Strategic Intermodal System designated under s. 339.63 and facilities for which projects have been identified pursuant to s. 339.2819(4).
(2) DESIGNATION.—
(a)1. An M.P.O. shall be designated for each urbanized area of the state; however, this does not require that an individual M.P.O. be designated for each such area. Such designation shall be accomplished by agreement between the Governor and units of general-purpose local government representing at least 75 percent of the population of the urbanized area; however, the unit of general-purpose local government that represents the central city or cities within the M.P.O. jurisdiction, as defined by the United States Bureau of the Census, must be a party to such agreement.
2. To the extent possible, only one M.P.O. shall be designated for each urbanized area or group of contiguous urbanized areas. More than one M.P.O. may be designated within an existing urbanized area only if the Governor and the existing M.P.O. determine that the size and complexity of the existing urbanized area makes the designation of more than one M.P.O. for the area appropriate.
(b) Each M.P.O. designated in a manner prescribed by Title 23 of the United States Code shall be created and operated under the provisions of this section pursuant to an interlocal agreement entered into pursuant to s. 163.01. The signatories to the interlocal agreement shall be the department and the governmental entities designated by the Governor for membership on the M.P.O. Each M.P.O. shall be considered separate from the state or the governing body of a local government that is represented on the governing board of the M.P.O. or that is a signatory to the interlocal agreement creating the M.P.O. and shall have such powers and privileges that are provided under s. 163.01. If there is a conflict between this section and s. 163.01, this section prevails.
(c) The jurisdictional boundaries of an M.P.O. shall be determined by agreement between the Governor and the applicable M.P.O. The boundaries must include at least the metropolitan planning area, which is the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period, and may encompass the entire metropolitan statistical area or the consolidated metropolitan statistical area.
(d) In the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, 42 U.S.C. ss. 7401 et seq., the boundaries of the metropolitan planning area in existence as of the date of enactment of this paragraph shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in this section. If more than one M.P.O. has authority within a metropolitan area or an area that is designated as a nonattainment area, each M.P.O. shall consult with other M.P.O.’s designated for such area and with the state in the coordination of plans and programs required by this section.
(e) The governing body of the M.P.O. shall designate, at a minimum, a chair, vice chair, and agency clerk. The chair and vice chair shall be selected from among the member delegates comprising the governing board. The agency clerk shall be charged with the

responsibility of preparing meeting minutes and maintaining agency records. The clerk shall be a member of the M.P.O. governing board, an employee of the M.P.O., or other natural person.
Each M.P.O. required under this section must be fully operative no later than 6 months following its designation.
(3) VOTING MEMBERSHIP.—
(a) The voting membership of an M.P.O. shall consist of at least 5 but not more than 25 apportioned members, with the exact number determined on an equitable geographic-population ratio basis, based on an agreement among the affected units of general-purpose local government and the Governor, as required by federal regulations. In accordance with 23 U.S.C. s. 134, the Governor may also allow M.P.O. members who represent municipalities to alternate with representatives from other municipalities within the metropolitan planning area which do not have members on the M.P.O. With the exception of instances in which all of the county commissioners in a single-county M.P.O. are members of the M.P.O. governing board, county commissioners shall compose at least one-third of the M.P.O. governing board membership. A multicounty M.P.O. may satisfy this requirement by any combination of county commissioners from each of the counties constituting the M.P.O. Voting members shall be elected officials of general-purpose local governments, one of whom may represent a group of general-purpose local governments through an entity created by an M.P.O. for that purpose. An M.P.O. may include, as part of its apportioned voting members, a member of a statutorily authorized planning board, an official of an agency that operates or administers a major mode of transportation, or an official of Space Florida. As used in this section, the term “elected officials of a general-purpose local government” excludes constitutional officers, including sheriffs, tax collectors, supervisors of elections, property appraisers, clerks of the court, and similar types of officials. County commissioners shall compose not less than 20 percent of the M.P.O. membership if an official of an agency that operates or administers a major mode of transportation has been appointed to an M.P.O.
(b) In metropolitan areas in which authorities or other agencies have been or may be created by law to perform transportation functions and are or will be performing transportation functions that are not under the jurisdiction of a general-purpose local government represented on the M.P.O., such authorities or other agencies may be provided voting membership on the M.P.O. In all other M.P.O.’s in which transportation authorities or agencies are to be represented by elected officials from general-purpose local governments, the M.P.O. shall establish a process by which the collective interests of such authorities or other agencies are expressed and conveyed.
(c) Any other provision of this section to the contrary notwithstanding, a chartered county with over 1 million population may elect to reapportion the membership of an M.P.O. whose jurisdiction is wholly within the county. The charter county may exercise the provisions of this paragraph if:
1. The M.P.O. approves the reapportionment plan by a three-fourths vote of its membership;
2. The M.P.O. and the charter county determine that the reapportionment plan is needed to fulfill specific goals and policies applicable to that metropolitan planning area; and

3. The charter county determines the reapportionment plan otherwise complies with all federal requirements pertaining to M.P.O. membership.
Any charter county that elects to exercise the provisions of this paragraph shall notify the Governor in writing.
(d) Any other provision of this section to the contrary notwithstanding, any county chartered under s. 6(e), Art. VIII of the State Constitution may elect to have its county commission serve as the M.P.O., if the M.P.O. jurisdiction is wholly contained within the county. Any charter county that elects to exercise the provisions of this paragraph shall so notify the Governor in writing. Upon receipt of such notification, the Governor must designate the county commission as the M.P.O. The Governor must appoint four additional voting members to the M.P.O., one of whom must be an elected official representing a municipality within the county, one of whom must be an expressway authority member, one of whom must be a person who does not hold elected public office and who resides in the unincorporated portion of the county, and one of whom must be a school board member.
(4) APPORTIONMENT.—
(a) Each M.P.O. shall review the composition of its membership in conjunction with the decennial census, as prepared by the United States Department of Commerce, Bureau of the Census, and with the agreement of the Governor and the affected general-purpose local government units that constitute the existing M.P.O., reapportion the membership as necessary to comply with subsection (3). At the request of a majority of the affected units of general-purpose local government comprising an M.P.O., the Governor and a majority of units of general-purpose local government serving on an M.P.O. shall cooperatively agree upon and prescribe who may serve as an alternate member and a method for appointing alternate members, who may vote at any M.P.O. meeting that he or she attends in place of a regular member. The method must be set forth as a part of the interlocal agreement describing the M.P.O. membership or in the operating procedures and bylaws of the M.P.O. The governmental entity so designated shall appoint the appropriate number of members to the M.P.O. from eligible officials. Representatives of the department shall serve as nonvoting advisers to the M.P.O. governing board. Additional nonvoting advisers may be appointed by the M.P.O. as deemed necessary; however, to the maximum extent feasible, each M.P.O. shall seek to appoint nonvoting representatives of various multimodal forms of transportation not otherwise represented by voting members of the M.P.O. An M.P.O. shall appoint nonvoting advisers representing major military installations located within the jurisdictional boundaries of the M.P.O. upon the request of the aforesaid major military installations and subject to the agreement of the M.P.O. All nonvoting advisers may attend and participate fully in governing board meetings but may not vote or be members of the governing board.
(b) Except for members who represent municipalities on the basis of alternating with representatives from other municipalities that do not have members on the M.P.O. as provided in paragraph (3)(a), the members of an M.P.O. shall serve 4-year terms. Members who represent municipalities on the basis of alternating with representatives from other municipalities that do not have members on the M.P.O. as provided in paragraph (3)(a) may serve terms of up to 4 years as further provided in the interlocal agreement described in paragraph (2)(b). The membership of a member who is a public

official automatically terminates upon the member's leaving his or her elective or appointive office for any reason, or may be terminated by a majority vote of the total membership of the entity's governing board represented by the member. A vacancy shall be filled by the original appointing entity. A member may be reappointed for one or more additional 4-year terms.
(c) If a governmental entity fails to fill an assigned appointment to an M.P.O. within 60 days after notification by the Governor of its duty to appoint, that appointment shall be made by the Governor from the eligible representatives of that governmental entity.
(5) AUTHORITY AND RESPONSIBILITY.—The authority and responsibility of an M.P.O. is to manage a continuing, cooperative, and comprehensive transportation planning process that, based upon the prevailing principles provided in s. 334.046(1), results in the development of plans and programs which are consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government the boundaries of which are within the metropolitan area of the M.P.O. An M.P.O. shall be the forum for cooperative decisionmaking by officials of the affected governmental entities in the development of the plans and programs required by subsections (6), (7), (8), and (9).
(6) POWERS, DUTIES, AND RESPONSIBILITIES.—The powers, privileges, and authority of an M.P.O. are those specified in this section or incorporated in an interlocal agreement authorized under s. 163.01. Each M.P.O. shall perform all acts required by federal or state laws or rules, now and subsequently applicable, which are necessary to qualify for federal aid. It is the intent of this section that each M.P.O. shall be involved in the planning and programming of transportation facilities, including, but not limited to, airports, intercity and high-speed rail lines, seaports, and intermodal facilities, to the extent permitted by state or federal law.
(a) Each M.P.O. shall, in cooperation with the department, develop:
1. A long-range transportation plan pursuant to the requirements of subsection (7);
2. An annually updated transportation improvement program pursuant to the requirements of subsection (8); and
3. An annual unified planning work program pursuant to the requirements of subsection (9).
(b) In developing the long-range transportation plan and the transportation improvement program required under paragraph (a), each M.P.O. shall provide for consideration of projects and strategies that will:
1. Support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;
2. Increase the safety and security of the transportation system for motorized and nonmotorized users;
3. Increase the accessibility and mobility options available to people and for freight;
4. Protect and enhance the environment, promote energy conservation, and improve quality of life;
5. Enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;
6. Promote efficient system management and operation; and
7. Emphasize the preservation of the existing transportation system.

(c) In order to provide recommendations to the department and local governmental entities regarding transportation plans and programs, each M.P.O. shall:
1. Prepare a congestion management system for the metropolitan area and cooperate with the department in the development of all other transportation management systems required by state or federal law;
2. Assist the department in mapping transportation planning boundaries required by state or federal law;
3. Assist the department in performing its duties relating to access management, functional classification of roads, and data collection;
4. Execute all agreements or certifications necessary to comply with applicable state or federal law;
5. Represent all the jurisdictional areas within the metropolitan area in the formulation of transportation plans and programs required by this section; and
6. Perform all other duties required by state or federal law.
(d) Each M.P.O. shall appoint a technical advisory committee, the members of which shall serve at the pleasure of the M.P.O. The membership of the technical advisory committee must include, whenever possible, planners; engineers; representatives of local aviation authorities, port authorities, and public transit authorities or representatives of aviation departments, seaport departments, and public transit departments of municipal or county governments, as applicable; the school superintendent of each county within the jurisdiction of the M.P.O. or the superintendent's designee; and other appropriate representatives of affected local governments. In addition to any other duties assigned to it by the M.P.O. or by state or federal law, the technical advisory committee is responsible for considering safe access to schools in its review of transportation project priorities, long-range transportation plans, and transportation improvement programs, and shall advise the M.P.O. on such matters. In addition, the technical advisory committee shall coordinate its actions with local school boards and other local programs and organizations within the metropolitan area which participate in school safety activities, such as locally established community traffic safety teams. Local school boards must provide the appropriate M.P.O. with information concerning future school sites and in the coordination of transportation service.
(e)1. Each M.P.O. shall appoint a citizens' advisory committee, the members of which serve at the pleasure of the M.P.O. The membership on the citizens' advisory committee must reflect a broad cross-section of local residents with an interest in the development of an efficient, safe, and cost-effective transportation system. Minorities, the elderly, and the handicapped must be adequately represented.
2. Notwithstanding the provisions of subparagraph 1., an M.P.O. may, with the approval of the department and the applicable federal governmental agency, adopt an alternative program or mechanism to ensure citizen involvement in the transportation planning process.
(f) The department shall allocate to each M.P.O., for the purpose of accomplishing its transportation planning and programming duties, an appropriate amount of federal transportation planning funds.
(g) Each M.P.O. shall have an executive or staff director who reports directly to the M.P.O. governing board for all matters regarding the administration and operation of the

M.P.O. and any additional personnel as deemed necessary. The executive director and any additional personnel may be employed either by an M.P.O. or by another governmental entity, such as a county, city, or regional planning council, that has a staff services agreement signed and in effect with the M.P.O. Each M.P.O. may enter into contracts with local or state agencies, private planning firms, private engineering firms, or other public or private entities to accomplish its transportation planning and programming duties and administrative functions.
(h) In order to enhance their knowledge, effectiveness, and participation in the urbanized area transportation planning process, each M.P.O. shall provide training opportunities and training funds specifically for local elected officials and others who serve on an M.P.O. The training opportunities may be conducted by an individual M.P.O. or through statewide and federal training programs and initiatives that are specifically designed to meet the needs of M.P.O. board members.
(i) The Tampa Bay Area Regional Transportation Authority Metropolitan Planning Organization Chairs ~~A chair's~~ Coordinating Committee is created within the Tampa Bay Area Regional Transportation Authority, composed of the M.P.O.'s serving Citrus, Hernando, Hillsborough, Manatee, Pasco, Pinellas, Polk, and Sarasota Counties. The authority shall provide administrative support and direction to the committee. The committee must, at a minimum:
1. Coordinate transportation projects deemed to be regionally significant by the committee.
2. Review the impact of regionally significant land use decisions on the region.
3. Review all proposed regionally significant transportation projects in the respective transportation improvement programs which affect more than one of the M.P.O.'s represented on the committee.
4. Institute a conflict resolution process to address any conflict that may arise in the planning and programming of such regionally significant projects.
(j)1. The Legislature finds that the state's rapid growth in recent decades has caused many urbanized areas subject to M.P.O. jurisdiction to become contiguous to each other. As a result, various transportation projects may cross from the jurisdiction of one M.P.O. into the jurisdiction of another M.P.O. To more fully accomplish the purposes for which M.P.O.'s have been mandated, M.P.O.'s shall develop coordination mechanisms with one another to expand and improve transportation within the state. The appropriate method of coordination between M.P.O.'s shall vary depending upon the project involved and given local and regional needs. Consequently, it is appropriate to set forth a flexible methodology that can be used by M.P.O.'s to coordinate with other M.P.O.'s and appropriate political subdivisions as circumstances demand.
2. Any M.P.O. may join with any other M.P.O. or any individual political subdivision to coordinate activities or to achieve any federal or state transportation planning or development goals or purposes consistent with federal or state law. When an M.P.O. determines that it is appropriate to join with another M.P.O. or any political subdivision to coordinate activities, the M.P.O. or political subdivision shall enter into an interlocal agreement pursuant to s. 163.01, which, at a minimum, creates a separate legal or administrative entity to coordinate the transportation planning or development activities required to achieve the goal or purpose; provides the purpose for which the entity is created; provides the duration of the agreement and the entity and specifies how the

agreement may be terminated, modified, or rescinded; describes the precise organization of the entity, including who has voting rights on the governing board, whether alternative voting members are provided for, how voting members are appointed, and what the relative voting strength is for each constituent M.P.O. or political subdivision; provides the manner in which the parties to the agreement will provide for the financial support of the entity and payment of costs and expenses of the entity; provides the manner in which funds may be paid to and disbursed from the entity; and provides how members of the entity will resolve disagreements regarding interpretation of the interlocal agreement or disputes relating to the operation of the entity. Such interlocal agreement shall become effective upon its recordation in the official public records of each county in which a member of the entity created by the interlocal agreement has a voting member. This paragraph does not require any M.P.O.'s to merge, combine, or otherwise join together as a single M.P.O.

(7) LONG-RANGE TRANSPORTATION PLAN.—Each M.P.O. must develop a long-range transportation plan that addresses at least a 20-year planning horizon. The plan must include both long-range and short-range strategies and must comply with all other state and federal requirements. The prevailing principles to be considered in the long-range transportation plan are: preserving the existing transportation infrastructure; enhancing Florida's economic competitiveness; and improving travel choices to ensure mobility. The long-range transportation plan must be consistent, to the maximum extent feasible, with future land use elements and the goals, objectives, and policies of the approved local government comprehensive plans of the units of local government located within the jurisdiction of the M.P.O. Each M.P.O. is encouraged to consider strategies that integrate transportation and land use planning to provide for sustainable development and reduce greenhouse gas emissions. The approved long-range transportation plan must be considered by local governments in the development of the transportation elements in local government comprehensive plans and any amendments thereto. The long-range transportation plan must, at a minimum:

(a) Identify transportation facilities, including, but not limited to, major roadways, airports, seaports, spaceports, commuter rail systems, transit systems, and intermodal or multimodal terminals that will function as an integrated metropolitan transportation system. The long-range transportation plan must give emphasis to those transportation facilities that serve national, statewide, or regional functions, and must consider the goals and objectives identified in the Florida Transportation Plan as provided in s. 339.155. If a project is located within the boundaries of more than one M.P.O., the M.P.O.'s must coordinate plans regarding the project in the long-range transportation plan.

(b) Include a financial plan that demonstrates how the plan can be implemented, indicating resources from public and private sources which are reasonably expected to be available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted long-range transportation plan if reasonable additional resources beyond those identified in the financial plan were available. For the purpose of developing the long-range transportation plan, the M.P.O. and the department shall cooperatively develop estimates of funds that will be available to support the plan implementation. Innovative

financing techniques may be used to fund needed projects and programs. Such techniques may include the assessment of tolls, the use of value capture financing, or the use of value pricing.
(c) Assess capital investment and other measures necessary to:
1. Ensure the preservation of the existing metropolitan transportation system including requirements for the operation, resurfacing, restoration, and rehabilitation of major roadways and requirements for the operation, maintenance, modernization, and rehabilitation of public transportation facilities; and
2. Make the most efficient use of existing transportation facilities to relieve vehicular congestion, improve safety, and maximize the mobility of people and goods. Such efforts must include, but are not limited to, consideration of infrastructure and technological improvements necessary to accommodate advances in vehicle technology, such as autonomous technology and other developments.
(d) Indicate, as appropriate, proposed transportation enhancement activities, including, but not limited to, pedestrian and bicycle facilities, scenic easements, landscaping, historic preservation, mitigation of water pollution due to highway runoff, and control of outdoor advertising.
(e) In addition to the requirements of paragraphs (a)-(d), in metropolitan areas that are classified as nonattainment areas for ozone or carbon monoxide, the M.P.O. must coordinate the development of the long-range transportation plan with the State Implementation Plan developed pursuant to the requirements of the federal Clean Air Act.
In the development of its long-range transportation plan, each M.P.O. must provide the public, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the long-range transportation plan. The long-range transportation plan must be approved by the M.P.O.
(8) TRANSPORTATION IMPROVEMENT PROGRAM.—Each M.P.O. shall, in cooperation with the state and affected public transportation operators, develop a transportation improvement program for the area within the jurisdiction of the M.P.O. In the development of the transportation improvement program, each M.P.O. must provide the public, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the proposed transportation improvement program.
(a) Each M.P.O. is responsible for developing, annually, a list of project priorities and a transportation improvement program. The prevailing principles to be considered by each M.P.O. when developing a list of project priorities and a transportation improvement program are: preserving the existing transportation infrastructure; enhancing Florida's economic competitiveness; and improving travel choices to ensure mobility. The transportation improvement program will be used to initiate federally aided transportation facilities and improvements as well as other transportation facilities and improvements including transit, rail, aviation, spaceport, and port facilities to be funded from the State Transportation Trust Fund within its metropolitan area in accordance with

existing and subsequent federal and state laws and rules and regulations related thereto. The transportation improvement program shall be consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government whose boundaries are within the metropolitan area of the M.P.O. and include those projects programmed pursuant to s. 339.2819(4).
(b) Each M.P.O. annually shall prepare a list of project priorities and shall submit the list to the appropriate district of the department by October 1 of each year; however, the department and a metropolitan planning organization may, in writing, agree to vary this submittal date. Where more than one M.P.O. exists in an urbanized area, the M.P.O.'s shall coordinate in the development of regionally significant project priorities. The list of project priorities must be formally reviewed by the technical and citizens' advisory committees, and approved by the M.P.O., before it is transmitted to the district. The approved list of project priorities must be used by the district in developing the district work program and must be used by the M.P.O. in developing its transportation improvement program. The annual list of project priorities must be based upon project selection criteria that, at a minimum, consider the following:
1. The approved M.P.O. long-range transportation plan;
2. The Strategic Intermodal System Plan developed under s. 339.64.
3. The priorities developed pursuant to s. 339.2819(4).
4. The results of the transportation management systems; and
5. The M.P.O.'s public-involvement procedures.
(c) The transportation improvement program must, at a minimum:
1. Include projects and project phases to be funded with state or federal funds within the time period of the transportation improvement program and which are recommended for advancement during the next fiscal year and 4 subsequent fiscal years. Such projects and project phases must be consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government located within the jurisdiction of the M.P.O. For informational purposes, the transportation improvement program shall also include a list of projects to be funded from local or private revenues.
2. Include projects within the metropolitan area which are proposed for funding under 23 U.S.C. s. 134 of the Federal Transit Act and which are consistent with the long-range transportation plan developed under subsection (7).
3. Provide a financial plan that demonstrates how the transportation improvement program can be implemented; indicates the resources, both public and private, that are reasonably expected to be available to accomplish the program; identifies any innovative financing techniques that may be used to fund needed projects and programs; and may include, for illustrative purposes, additional projects that would be included in the approved transportation improvement program if reasonable additional resources beyond those identified in the financial plan were available. Innovative financing techniques may include the assessment of tolls, the use of value capture financing, or the use of value pricing. The transportation improvement program may include a project or project phase only if full funding can reasonably be anticipated to be available for the project or project phase within the time period contemplated for completion of the project or project phase.

4. Group projects and project phases of similar urgency and anticipated staging into appropriate staging periods.
5. Indicate how the transportation improvement program relates to the long-range transportation plan developed under subsection (7), including providing examples of specific projects or project phases that further the goals and policies of the long-range transportation plan.
6. Indicate whether any project or project phase is inconsistent with an approved comprehensive plan of a unit of local government located within the jurisdiction of the M.P.O. If a project is inconsistent with an affected comprehensive plan, the M.P.O. must provide justification for including the project in the transportation improvement program.
7. Indicate how the improvements are consistent, to the maximum extent feasible, with affected seaport, airport, and spaceport master plans and with public transit development plans of the units of local government located within the jurisdiction of the M.P.O. If a project is located within the boundaries of more than one M.P.O., the M.P.O.'s must coordinate plans regarding the project in the transportation improvement program.
(d) Projects included in the transportation improvement program and that have advanced to the design stage of preliminary engineering may be removed from or rescheduled in a subsequent transportation improvement program only by the joint action of the M.P.O. and the department. Except when recommended in writing by the district secretary for good cause, any project removed from or rescheduled in a subsequent transportation improvement program shall not be rescheduled by the M.P.O. in that subsequent program earlier than the 5th year of such program.
(e) During the development of the transportation improvement program, the M.P.O. shall, in cooperation with the department and any affected public transit operation, provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.
(f) The adopted annual transportation improvement program for M.P.O.'s in nonattainment or maintenance areas must be submitted to the district secretary and the Department of Economic Opportunity at least 90 days before the submission of the state transportation improvement program by the department to the appropriate federal agencies. The annual transportation improvement program for M.P.O.'s in attainment areas must be submitted to the district secretary and the Department of Economic Opportunity at least 45 days before the department submits the state transportation improvement program to the appropriate federal agencies; however, the department, the Department of Economic Opportunity, and a metropolitan planning organization may, in writing, agree to vary this submittal date. The Governor or the Governor's designee shall review and approve each transportation improvement program and any amendments thereto.
(g) The Department of Economic Opportunity shall review the annual transportation improvement program of each M.P.O. for consistency with the approved local government comprehensive plans of the units of local government whose boundaries are within the metropolitan area of each M.P.O. and shall identify those projects that are

inconsistent with such comprehensive plans. The Department of Economic Opportunity shall notify an M.P.O. of any transportation projects contained in its transportation improvement program which are inconsistent with the approved local government comprehensive plans of the units of local government whose boundaries are within the metropolitan area of the M.P.O.
(h) The M.P.O. shall annually publish or otherwise make available for public review the annual listing of projects for which federal funds have been obligated in the preceding year. Project monitoring systems must be maintained by those agencies responsible for obligating federal funds and made accessible to the M.P.O.'s.
(9) UNIFIED PLANNING WORK PROGRAM.—Each M.P.O. shall develop, in cooperation with the department and public transportation providers, a unified planning work program that lists all planning tasks to be undertaken during the program year. The unified planning work program must provide a complete description of each planning task and an estimated budget therefor and must comply with applicable state and federal law.
(10) AGREEMENTS.—
(a) Each M.P.O. shall execute the following written agreements, which shall be reviewed, and updated as necessary, every 5 years:
1. An agreement with the department clearly establishing the cooperative relationship essential to accomplish the transportation planning requirements of state and federal law.
2. An agreement with the metropolitan and regional intergovernmental coordination and review agencies serving the metropolitan areas, specifying the means by which activities will be coordinated and how transportation planning and programming will be part of the comprehensive planned development of the area.
3. An agreement with operators of public transportation systems, including transit systems, commuter rail systems, airports, seaports, and spaceports, describing the means by which activities will be coordinated and specifying how public transit, commuter rail, aviation, seaport, and aerospace planning and programming will be part of the comprehensive planned development of the metropolitan area.
(b) An M.P.O. may execute other agreements required by state or federal law or as necessary to properly accomplish its functions.
(11) METROPOLITAN PLANNING ORGANIZATION ADVISORY COUNCIL.—
(a) A Metropolitan Planning Organization Advisory Council is created to augment, and not supplant, the role of the individual M.P.O.'s in the cooperative transportation planning process described in this section.
(b) The council shall consist of one representative from each M.P.O. and shall elect a chairperson annually from its number. Each M.P.O. shall also elect an alternate representative from each M.P.O. to vote in the absence of the representative. Members of the council do not receive any compensation for their services, but may be reimbursed from funds made available to council members for travel and per diem expenses incurred in the performance of their council duties as provided in s. 112.061.
(c) The powers and duties of the Metropolitan Planning Organization Advisory Council are to:
1. Enter into contracts with individuals, private corporations, and public agencies.

2. Acquire, own, operate, maintain, sell, or lease personal property essential for the conduct of business.
3. Accept funds, grants, assistance, gifts, or bequests from private, local, state, or federal sources.
4. Establish bylaws by action of its governing board providing procedural rules to guide its proceedings and consideration of matters before the council, or, alternatively, adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring powers or duties upon it.
5. Assist M.P.O.'s in carrying out the urbanized area transportation planning process by serving as the principal forum for collective policy discussion pursuant to law.
6. Serve as a clearinghouse for review and comment by M.P.O.'s on the Florida Transportation Plan and on other issues required to comply with federal or state law in carrying out the urbanized area transportation and systematic planning processes instituted pursuant to s. 339.155.
7. Employ an executive director and such other staff as necessary to perform adequately the functions of the council, within budgetary limitations. The executive director and staff are exempt from part II of chapter 110 and serve at the direction and control of the council. The council is assigned to the Office of the Secretary of the Department of Transportation for fiscal and accountability purposes, but it shall otherwise function independently of the control and direction of the department.
8. Adopt an agency strategic plan that prioritizes steps the agency will take to carry out its mission within the context of the state comprehensive plan and any other statutory mandates and directives.
(12) APPLICATION OF FEDERAL LAW.—Upon notification by an agency of the Federal Government that any provision of this section conflicts with federal laws or regulations, such federal laws or regulations will take precedence to the extent of the conflict until such conflict is resolved. The department or an M.P.O. may take any necessary action to comply with such federal laws and regulations or to continue to remain eligible to receive federal funds.
(13) VOTING REQUIREMENTS.—Each long-range transportation plan required pursuant to subsection (7), each annually updated Transportation Improvement Program required under subsection (8), and each amendment that affects projects in the first 3 years of such plans and programs must be approved by each M.P.O. on a recorded roll call vote, or hand-counted vote, of a majority of the membership present.
History.—s. 1, ch. 79-219; s. 1, ch. 82-9; s. 219, ch. 84-309; s. 3, ch. 84-332; s. 30, ch. 85-55; ss. 1, 2, ch. 87-61; ss. 1, 2, ch. 88-86; s. 1, ch. 88-163; s. 6, ch. 89-301; s. 79, ch. 90-136; s. 4, ch. 92-152; s. 60, ch. 93-164; s. 502, ch. 95-148; s. 54, ch. 95-257; s. 53, ch. 96-323; s. 25, ch. 97-280; s. 70, ch. 98-200; s. 9, ch. 99-256; ss. 33, 103, ch. 99-385; s. 20, ch. 2000-266; s. 23, ch. 2002-183; s. 8, ch. 2003-286; s. 4, ch. 2004-366; s. 6, ch. 2005-281; s. 22, ch. 2005-290; s. 40, ch. 2007-196; s. 70, ch. 2008-4; s. 30, ch. 2008-227; s. 240, ch. 2011-142; s. 55, ch. 2012-174; s. 17, ch. 2014-223; s. 17, ch. 2016-181; s. 44, ch. 2016-239.
Note.—Former s. 334.215.

339.241 Florida Junkyard Control Law.—
(1) SHORT TITLE.—This section shall be known as the "Florida Junkyard Control Law."
(2) DEFINITIONS.—Wherever used or referred to in this section, unless a different meaning clearly appears from the context, the term:

(a) “Areas zoned for industrial use” means all areas zoned for industrial use by governmental entities within the state or an unzoned industrial area approved by the department. Such areas must be based upon the existence of at least one industrial activity other than the junkyard or scrap metal processing plant.
(b) “Automobile graveyard” means any establishment or place of business which is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.
(c) “Distance from edge of right-of-way” means the distance presently defined in 23 U.S.C. s. 136(g).
(d) “Federal-aid primary highway” means any highway within that portion of the State Highway System as included and maintained under chapter 335, including extensions of such system within municipalities, which has been approved by the Secretary of Transportation pursuant to 23 U.S.C. s. 103(b).
(e) “Fence” means an enclosure so constructed or planted and maintained as to obscure the junkyard from ordinary view to those persons passing upon the highways in this state.
(f) “Interstate highway” means the system presently defined in 23 U.S.C. s. 103(e).
(g) “Junk,” “junkyard,” and “scrap metal processing facility” mean the same as defined in 23 U.S.C. s. 136.
(3) RESTRICTIONS AS TO LOCATION.—No junk, junkyard, automobile graveyard, or scrap metal processing facility shall be operated or maintained within 1,000 feet of the nearest edge of the right-of-way of any interstate or federal-aid primary highway, except:
(a) A junkyard which is screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the main-traveled way of the highway or which is otherwise removed from sight.
(b) A junkyard or scrap metal processing facility which is located in an area zoned for industrial use.
(c) A junkyard or scrap metal processing facility which is not visible from the main-traveled way of any interstate or federal-aid primary highway.
Any junkyard which was in existence on December 8, 1971, which the department determines cannot be screened because of topography and elevation is not required under this section to be removed, relocated, or disposed of until federal funds are available.
(4) REQUIREMENTS AS TO FENCES; EXPENDITURE OF FUNDS.—
(a) A fence constructed under the provisions of this section shall be kept in good order and repair, and any advertisement on the fence shall be regulated by applicable state law.
(b) The department is authorized to spend such funds as are necessary to obtain federal-aid funds for the purposes described in this subsection.
(5) ENFORCEMENT.—It is the function and duty of the department to administer and enforce the provisions of this section. The department or any public official may apply to the circuit court or another court of competent jurisdiction of the county in which the junkyard or scrap metal processing facility may be located for an injunction to abate such nuisance.

(6) PENALTY.—Any person who violates any provision of this section is subject to a fine of not less than $50 or more than $200. Each day during any portion of which such violation occurs constitutes a continuing separate offense.

History.—ss. 1, 2, 3, 4, 5, 6, ch. 71-338; ss. 1, 2, 3, 4, 5, 6, 7, ch. 71-972; s. 221, ch. 84-309; s. 105, ch. 99-385.

Chapter 373
Water Resources
Enforceable Policies

Any additions are underlined and any deletions are struck-through.

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*Sections 373.044, .103, .1135, .171, .246, .308, .4143, .4144, .459, .472, .535, .536, .548 .59, .5905, .701, and .703, F.S., are not considered enforceable policies for federal consistency purposes.

**Sections 373.037, .0465, and .813 are not proposed as enforceable policies for federal consistency purposes

Chapter 373--Water Resources

373.019 Definitions.—
When appearing in this chapter or in any rule, regulation, or order adopted pursuant thereto, the term:
(1) “Alternative water supplies” means salt water; brackish surface and groundwater; surface water captured predominately during wet-weather flows; sources made available through the addition of new storage capacity for surface or groundwater, water that has been reclaimed after one or more public supply, municipal, industrial, commercial, or agricultural uses; the downstream augmentation of water bodies with reclaimed water; stormwater; and any other water supply source that is designated as nontraditional for a water supply planning region in the applicable regional water supply plan.
(2) “Capital costs” means planning, design, engineering, and project construction costs.
(3) “Coastal waters” means waters of the Atlantic Ocean or the Gulf of Mexico within the jurisdiction of the state.
(4) “Department” means the Department of Environmental Protection or its successor agency or agencies.
(5) “District water management plan” means the regional water resource plan developed by a governing board under s. 373.036.
(6) “Domestic use” means the use of water for the individual personal household purposes of drinking, bathing, cooking, or sanitation. All other uses shall not be considered domestic.
(7) “Florida water plan” means the state-level water resource plan developed by the department under s. 373.036.
(8) “Governing board” means the governing board of a water management district.
(9) “Groundwater” means water beneath the surface of the ground, whether or not flowing through known and definite channels.
(10) “Impoundment” means any lake, reservoir, pond, or other containment of surface water occupying a bed or depression in the earth’s surface and having a discernible shoreline.
(11) “Independent scientific peer review” means the review of scientific data, theories, and methodologies by a panel of independent, recognized experts in the fields of hydrology, hydrogeology, limnology, and other scientific disciplines relevant to the matters being reviewed under s. 373.042.
(12) “Multijurisdictional water supply entity” means two or more water utilities or local governments that have organized into a larger entity, or entered into an interlocal agreement or contract, for the purpose of more efficiently pursuing water supply development or alternative water supply development projects listed pursuant to a regional water supply plan.
(13) “Nonregulated use” means any use of water which is exempted from regulation by the provisions of this chapter.
(14) “Other watercourse” means any canal, ditch, or other artificial watercourse in which water usually flows in a defined bed or channel. It is not essential that the flowing be uniform or uninterrupted.

(15) “Person” means any and all persons, natural or artificial, including any individual, firm, association, organization, partnership, business trust, corporation, company, the United States of America, and the state and all political subdivisions, regions, districts, municipalities, and public agencies thereof. The enumeration herein is not intended to be exclusive or exhaustive.
(16) “Reasonable-beneficial use” means the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest.
(17) “Reclaimed water” means water that has received at least secondary treatment and basic disinfection and is reused after flowing out of a domestic wastewater treatment facility. Reclaimed water is not subject to regulation pursuant to s. 373.175 or part II of this chapter until it has been discharged into waters as defined in s. 403.031(13).
(18) “Reclaimed water distribution system” means a network of pipes, pumping facilities, storage facilities, and appurtenances designed to convey and distribute reclaimed water from one or more domestic wastewater treatment facilities to one or more users of reclaimed water.
(19) “Regional water supply plan” means a detailed water supply plan developed by a governing board under s. 373.709.
(20) “Stream” means any river, creek, slough, or natural watercourse in which water usually flows in a defined bed or channel. It is not essential that the flowing be uniform or uninterrupted. The fact that some part of the bed or channel has been dredged or improved does not prevent the watercourse from being a stream.
(21) “Surface water” means water upon the surface of the earth, whether contained in bounds created naturally or artificially or diffused. Water from natural springs shall be classified as surface water when it exits from the spring onto the earth’s surface.
(22) “Water” or “waters in the state” means any and all water on or beneath the surface of the ground or in the atmosphere, including natural or artificial watercourses, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground, as well as all coastal waters within the jurisdiction of the state.
(23) “Water management district” means any flood control, resource management, or water management district operating under the authority of this chapter.
(24) “Water resource development” means the formulation and implementation of regional water resource management strategies, including the collection and evaluation of surface water and groundwater data; structural and nonstructural programs to protect and manage water resources; the development of regional water resource implementation programs; the construction, operation, and maintenance of major public works facilities to provide for flood control, surface and underground water storage, and groundwater recharge augmentation; and related technical assistance to local governments, ~~and to~~ government-owned and privately owned water utilities<u>, and self-suppliers to the extent assistance to self-suppliers promotes the policies as set forth in s. 373.016</u>.
(25) “Water resource implementation rule” means the rule authorized by s. 373.036, which sets forth goals, objectives, and guidance for the development and review of programs, rules, and plans relating to water resources, based on statutory policies and directives. The waters of the state are among its most basic resources. Such waters

should be managed to conserve and protect water resources and to realize the full beneficial use of these resources.
(26) “Water supply development” means the planning, design, construction, operation, and maintenance of public or private facilities for water collection, production, treatment, transmission, or distribution for sale, resale, or end use.
(27) For the sole purpose of serving as the basis for the unified statewide methodology adopted pursuant to s. 373.421(1), as amended, “wetlands” means those areas that are inundated or saturated by surface water or groundwater at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands generally are classified as hydric or alluvial, or possess characteristics that are associated with reducing soil conditions. The prevalent vegetation in wetlands generally consists of facultative or obligate hydrophytic macrophytes that are typically adapted to areas having soil conditions described above. These species, due to morphological, physiological, or reproductive adaptations, have the ability to grow, reproduce, or persist in aquatic environments or anaerobic soil conditions. Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory dominated by saw palmetto. Upon legislative ratification of the methodology adopted pursuant to s. 373.421(1), as amended, the limitation contained herein regarding the purpose of this definition shall cease to be effective.
(28) “Works of the district” means those projects and works, including, but not limited to, structures, impoundments, wells, streams, and other watercourses, together with the appurtenant facilities and accompanying lands, which have been officially adopted by the governing board of the district as works of the district.
History.—s. 3, part I, ch. 72-299; s. 37, ch. 79-65; s. 1, ch. 80-259; s. 5, ch. 82-101; s. 6, ch. 89-279; s. 21, ch. 93-213; s. 15, ch. 94-122; s. 251, ch. 94-356; s. 1, ch. 96-339; s. 1, ch. 96-370; s. 2, ch. 97-160; s. 1, ch. 2005-291; s. 10, ch. 2010-205; s. 1, ch. 2012-150; s. 2, ch. 2016-1.

373.036 Florida water plan; district water management plans.—
(1) FLORIDA WATER PLAN.—In cooperation with the water management districts, regional water supply authorities, and others, the department shall develop the Florida water plan. The Florida water plan shall include, but not be limited to:
(a) The programs and activities of the department related to water supply, water quality, flood protection and floodplain management, and natural systems.
(b) The water quality standards of the department.
(c) The district water management plans.
(d) Goals, objectives, and guidance for the development and review of programs, rules, and plans relating to water resources, based on statutory policies and directives. The state water policy rule, renamed the water resource implementation rule pursuant to s. 373.019(25), shall serve as this part of the plan. Amendments or additions to this part of the Florida water plan shall be adopted by the department as part of the water resource implementation rule. In accordance with s. 373.114, the department shall review rules of the water management districts for consistency with this rule. Amendments to the water resource implementation rule must be adopted by the secretary of the department and

be submitted to the President of the Senate and the Speaker of the House of Representatives within 7 days after publication in the Florida Administrative Register. Amendments shall not become effective until the conclusion of the next regular session of the Legislature following their adoption.
(2) DISTRICT WATER MANAGEMENT PLANS.—
(a) Each governing board shall develop a district water management plan for water resources within its region, which plan addresses water supply, water quality, flood protection and floodplain management, and natural systems. The district water management plan shall be based on at least a 20-year planning period, shall be developed and revised in cooperation with other agencies, regional water supply authorities, units of government, and interested parties, and shall be updated at least once every 5 years. The governing board shall hold a public hearing at least 30 days in advance of completing the development or revision of the district water management plan.
(b) The district water management plan shall include, but not be limited to:
1. The scientific methodologies for establishing minimum flows and levels under s. 373.042, and all established minimum flows and levels.
2. Identification of one or more water supply planning regions that singly or together encompass the entire district.
3. Technical data and information prepared under s. 373.711.
4. A districtwide water supply assessment, which determines for each water supply planning region:
a. Existing legal uses, reasonably anticipated future needs, and existing and reasonably anticipated sources of water and conservation efforts; and
b. Whether existing and reasonably anticipated sources of water and conservation efforts are adequate to supply water for all existing legal uses and reasonably anticipated future needs and to sustain the water resources and related natural systems.
5. Any completed regional water supply plans.
(c) If necessary for implementation, the governing board shall adopt by rule or order relevant portions of the district water management plan, to the extent of its statutory authority.
(d) In the formulation of the district water management plan, the governing board shall give due consideration to:
1. The attainment of maximum reasonable-beneficial use of water resources.
2. The maximum economic development of the water resources consistent with other uses.
3. The management of water resources for such purposes as environmental protection, drainage, flood control, and water storage.
4. The quantity of water available for application to a reasonable-beneficial use.
5. The prevention of wasteful, uneconomical, impractical, or unreasonable uses of water resources.
6. Presently exercised domestic use and permit rights.
7. The preservation and enhancement of the water quality of the state.
8. The state water resources policy as expressed by this chapter.

(e) At its option, a governing board may substitute an annual strategic plan for the requirement to develop a district water management plan and the district water management plan annual report required by subparagraph (7)(b)1., provided that nothing herein affects any other provision or requirement of law concerning the completion of the regional water supply plan and the strategic plan meets the following minimum requirements:
1. The strategic plan establishes the water management district's strategic priorities for at least a future 5-year period.
2. The strategic plan identifies the goals, strategies, success indicators, funding sources, deliverables, and milestones to accomplish the strategic priorities.
3. The strategic plan development process includes at least one publicly noticed meeting to allow public participation in its development.
4. The strategic plan includes separately, as an addendum, an annual work plan report on the implementation of the strategic plan for the previous fiscal year, addressing success indicators, deliverables, and milestones.
(3) The department and governing board shall give careful consideration to the requirements of public recreation and to the protection and procreation of fish and wildlife. The department or governing board may prohibit or restrict other future uses on certain designated bodies of water which may be inconsistent with these objectives.
(4) The governing board may designate certain uses in connection with a particular source of supply which, because of the nature of the activity or the amount of water required, would constitute an undesirable use for which the governing board may deny a permit.
(5) The governing board may designate certain uses in connection with a particular source of supply which, because of the nature of the activity or the amount of water required, would result in an enhancement or improvement of the water resources of the area. Such uses shall be preferred over other uses in the event of competing applications under the permitting systems authorized by this chapter.
(6) The department, in cooperation with the Executive Office of the Governor, or its successor agency, may add to the Florida water plan any other information, directions, or objectives it deems necessary or desirable for the guidance of the governing boards or other agencies in the administration and enforcement of this chapter.
(7) CONSOLIDATED WATER MANAGEMENT DISTRICT ANNUAL REPORT.—
(a) By March 1, 2006, and annually thereafter, each water management district shall prepare and submit to the department, the Governor, the President of the Senate, and the Speaker of the House of Representatives a consolidated water management district annual report on the management of water resources. In addition, copies must be provided by the water management districts to the chairs of all legislative committees having substantive or fiscal jurisdiction over the districts and the governing board of each county in the district having jurisdiction or deriving any funds for operations of the district. Copies of the consolidated annual report must be made available to the public, either in printed or electronic format.
(b) The consolidated annual report shall contain the following elements, as appropriate to that water management district:
1. A district water management plan annual report or the annual work plan report allowed in subparagraph (2)(e)4.

2. The department-approved minimum flows and minimum water levels annual priority list and schedule required by s. 373.042(3) ~~s. 373.042(2)~~.
3. The annual 5-year capital improvements plan required by s. 373.536(6)(a)3.
4. The alternative water supplies annual report required by s. 373.707(8)(n).
5. The final annual 5-year water resource development work program required by s. 373.536(6)(a)4.
6. The Florida Forever Water Management District Work Plan annual report required by s. 373.199(7).
7. The mitigation donation annual report required by s. 373.414(1)(b)2.
8. Information on all projects related to water quality or water quantity as part of a 5-year work program, including:
a. A list of all specific projects identified to implement a basin management action plan or a recovery or prevention strategy;
b. A priority ranking for each listed project for which state funding through the water resources development work program is requested, which must be made available to the public for comment at least 30 days before submission of the consolidated annual report;
c. The estimated cost for each listed project;
d. The estimated completion date for each listed project;
e. The source and amount of financial assistance to be made available by the department, a water management district, or other entity for each listed project; and
f. A quantitative estimate of each listed project's benefit to the watershed, water body, or water segment in which it is located.
9. A grade for each watershed, water body, or water segment in which a project listed under subparagraph 8. is located representing the level of impairment and violations of adopted minimum flow or minimum water levels. The grading system must reflect the severity of the impairment of the watershed, water body, or water segment.
(c) Each of the elements listed in paragraph (b) is to be addressed in a separate chapter or section within the consolidated annual report, although information common to more than one of these elements may be consolidated as deemed appropriate by the individual water management district.
(d) Each water management district may include in the consolidated annual report such additional information on the status or management of water resources within the district as it deems appropriate.
(e) In addition to the elements specified in paragraph (b), the South Florida Water Management District shall include in the consolidated annual report the following elements:
1. The Lake Okeechobee Protection Program annual progress report required by s. 373.4595(6).
2. The Everglades annual progress reports specified in s. 373.4592(4)(d)5., (13), and (14).
3. The Everglades restoration annual report required by s. 373.470(7).
4. The Everglades Trust Fund annual expenditure report required by s. 373.45926(3).
History.—s. 6, part I, ch. 72-299; ss. 2, 3, ch. 73-190; s. 122, ch. 79-190; s. 3, ch. 97-160; s. 7, ch. 98-88; s. 164, ch. 99-13; s. 4, ch. 2005-36; s. 38, ch. 2006-1; s. 11, ch. 2010-205; s. 24, ch. 2011-4; s. 32, ch. 2011-34; s. 4, ch. 2012-150; s. 33, ch. 2013-14; s. 73, ch. 2014-17; s. 3, ch. 2016-1.

373.037 Pilot program for alternative water supply development in restricted allocation areas.—

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

(a) "Central Florida Water Initiative Area" means all of Orange, Osceola, Polk, and Seminole Counties, and southern Lake County, as designated by the Central Florida Water Initiative Guiding Document of January 30, 2015.

(b) "Lower East Coast Regional Water Supply Planning Area" means the areas withdrawing surface and groundwater from Water Conservation Areas 1, 2A, 2B, 3A, and 3B, Grassy Waters Preserve/Water Catchment Area, Pal Mar, J.W. Corbett Wildlife Management Area, Loxahatchee Slough, Loxahatchee River, Riverbend Park, Dupuis Reserve, Jonathan Dickinson State Park, Kitching Creek, Moonshine Creek, Cypress Creek, Hobe Grove Ditch, the Holey Land and Rotenberger Wildlife Management Areas, and the freshwater portions of the Everglades National Park, as designated by the South Florida Water Management District.

(c) "Restricted allocation area" means an area within a water supply planning region of the Southwest Florida Water Management District, the South Florida Water Management District, or the St. Johns River Water Management District where the governing board of the water management district has determined that existing sources of water are not adequate to supply water for all existing and future reasonable-beneficial uses and to sustain the water resources and related natural systems for the planning period pursuant to ss. 373.036 and 373.709 and where the governing board of the water management district has applied allocation restrictions with regard to the use of specific sources of water. For the purposes of this section, the term includes the Central Florida Water Initiative Area, the Lower East Coast Regional Water Supply Planning Area, the Southern Water Use Caution Area, and the Upper East Coast Regional Water Supply Planning Area.

(d) "Southern Water Use Caution Area" means all of Desoto, Hardee, Manatee, and Sarasota Counties and parts of Charlotte, Highlands, Hillsborough, and Polk Counties, as designated by the Southwest Florida Water Management District.

(e) "Upper East Coast Regional Water Supply Planning Area" means the areas withdrawing surface and groundwater from the Central and Southern Florida canals or the Floridan Aquifer, as designated by the South Florida Water Management District.

(2) The Legislature finds that:

(a) Local governments, regional water supply authorities, and government-owned and privately owned water utilities face significant challenges in securing funds for implementing large-scale alternative water supply projects in certain restricted allocation areas due to a variety of factors, such as the magnitude of the water resource challenges, the large number of water users, the difficulty of developing multijurisdictional solutions across district, county, or municipal boundaries, and the expense of developing large-scale alternative water supply projects identified in the regional water supply plans pursuant to s. 373.709.

(b) These factors make it necessary to provide other options for the Southwest Florida Water Management District, the South Florida Water Management District, and the St. Johns River Water Management District to be able to take the lead in developing and

implementing one alternative water supply project within a restricted allocation area as a pilot alternative water supply development project.
(c) Each pilot project must provide water supply and environmental benefits. Consideration should be given to projects that provide reductions in damaging discharges to tide or that are part of a recovery or prevention strategy for minimum flows and minimum water levels.
(3) The water management districts specified in paragraph (2)(b) may, at their sole discretion, designate and implement an existing alternative water supply project that is identified in each district's regional water supply plan as its one pilot project or amend their respective regional water supply plans to add a new alternative water supply project as their district pilot project. A pilot project designation made pursuant to this section should be made no later than July 1, 2017, and is not subject to the rulemaking requirements of chapter 120 or subject to legal challenge pursuant to ss. 120.569 and 120.57. A water management district may designate an alternative water supply project located within another water management district if the project is located in a restricted allocation area designated by the other water management district and a substantial quantity of water provided by the alternative water supply project will be used within the boundaries of the water management district that designated the alternative water supply project.
(4) In addition to the other powers granted and duties imposed under this chapter, if a district specified in paragraph (2)(b) elects to implement a pilot project pursuant to this section, its governing board has the following powers and is subject to the following restrictions in implementing the pilot project:
(a) The governing board may not develop and implement a pilot project on privately owned land without the voluntary consent of the landowner, which consent may be evidenced by deed, easement, license, contract, or other written legal instrument executed by the landowner after July 1, 2016.
(b) The governing board may not engage in local water supply distribution or sell water to the pilot project participants.
(c) The governing board may join with one or more other water management districts and counties, municipalities, special districts, publicly owned or privately owned water utilities, multijurisdictional water supply entities, regional water supply authorities, self-suppliers, or other entities for the purpose of carrying out its powers, and may contract with any such other entities to finance or otherwise implement acquisitions, construction, and operation and maintenance, if such contracts are consistent with the public interest and based upon independent cost estimates, including comparisons with other alternative water supply projects. The contracts may provide for contributions to be made by each party to the contract for the division and apportionment of resulting costs, including operations and maintenance, benefits, services, and products. The contracts may contain other covenants and agreements necessary and appropriate to accomplish their purposes.
(5) A water management district may provide up to 50 percent of funding assistance for a pilot project.
(6) If a water management district specified in paragraph (2)(b) elects to implement a pilot project, it shall submit a report to the Governor, the President of the Senate, and

the Speaker of the House of Representatives by July 1, 2020, on the effectiveness of its pilot project. The report must include all of the following information:
(a) A description of the alternative water supply project selected as a pilot project, including the quantity of water the project has produced or is expected to produce and the consumptive users who are expected to use the water produced by the pilot project to meet their existing and future reasonable-beneficial uses.
(b) Progress made in developing and implementing the pilot project in comparison to the development and implementation of other alternative water supply projects in the restricted allocation area.
(c) The capital and operating costs to be expended by the water management district in implementing the pilot project in comparison to other alternative water supply projects being developed and implemented in the restricted allocation area.
(d) The source of funds to be used by the water management district in developing and implementing the pilot project.
(e) The benefits to the district's water resources and natural systems from implementation of the pilot project.
(f) A recommendation as to whether the traditional role of water management districts regarding the development and implementation of alternative water supply projects, as specified in ss. 373.705 and 373.707, should be revised and, if so, identification of the statutory changes necessary to expand the scope of the pilot program.
History.—s. 4, ch. 2016-1.

373.042 Minimum flows and minimum water levels.—
(1) Within each section, or within the water management district as a whole, the department or the governing board shall establish the following:
(a) Minimum flow for all surface watercourses in the area. The minimum flow for a given watercourse is ~~shall be~~ the limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area.
(b) Minimum water level. The minimum water level is ~~shall be~~ the level of groundwater in an aquifer and the level of surface water at which further withdrawals would be significantly harmful to the water resources or ecology of the area.
The minimum flow and minimum water level shall be calculated by the department and the governing board using the best information available. When appropriate, minimum flows and minimum water levels may be calculated to reflect seasonal variations. The department and the governing board shall ~~also~~ consider, and at their discretion may provide for, the protection of nonconsumptive uses in the establishment of minimum flows and minimum water levels.
(2)(a) If a minimum flow or minimum water level has not been adopted for an Outstanding Florida Spring, a water management district or the department shall use the emergency rulemaking authority provided in paragraph (c) to adopt a minimum flow or minimum water level no later than July 1, 2017, except for the Northwest Florida Water Management District, which shall use such authority to adopt minimum flows and minimum water levels for Outstanding Florida Springs no later than July 1, 2026.
(b) For Outstanding Florida Springs identified on a water management district's priority list developed pursuant to subsection (3) which have the potential to be affected by withdrawals in an adjacent district, the adjacent district or districts and the department

shall collaboratively develop and implement a recovery or prevention strategy for an Outstanding Florida Spring not meeting an adopted minimum flow or minimum water level.

(c) The Legislature finds as provided in s. 373.801(3)(b) that the adoption of minimum flows and minimum water levels or recovery or prevention strategies for Outstanding Florida Springs requires immediate action. The department and the districts are authorized, and all conditions are deemed to be met, to use emergency rulemaking provisions pursuant to s. 120.54(4) to adopt minimum flows and minimum water levels pursuant to this subsection and to adopt recovery or prevention strategies concurrently with a minimum flow or minimum water level pursuant to s. 373.805(2). The emergency rules shall remain in effect during the pendency of procedures to adopt rules addressing the subject of the emergency rules.

(d) As used in this subsection, the term “Outstanding Florida Spring” has the same meaning as in s. 373.802.

(3)~~(2)~~ By November 15, 1997, and annually thereafter, each water management district shall submit to the department for review and approval a priority list and schedule for the establishment of minimum flows and minimum water levels for surface watercourses, aquifers, and surface waters within the district. The priority list and schedule shall identify those listed water bodies for which the district will voluntarily undertake independent scientific peer review; any reservations proposed by the district to be established pursuant to s. 373.223(4); and those listed water bodies that have the potential to be affected by withdrawals in an adjacent district for which the department’s adoption of a reservation pursuant to s. 373.223(4) or a minimum flow or minimum water level pursuant to subsection (1) may be appropriate. By March 1, 2006, and annually thereafter, each water management district shall include its approved priority list and schedule in the consolidated annual report required by s. 373.036(7). The priority list shall be based upon the importance of the waters to the state or region and the existence of or potential for significant harm to the water resources or ecology of the state or region, and shall include those waters which are experiencing or may reasonably be expected to experience adverse impacts. Each water management district’s priority list and schedule shall include all first magnitude springs, and all second magnitude springs within state or federally owned lands purchased for conservation purposes. The specific schedule for establishment of spring minimum flows and minimum water levels shall be commensurate with the existing or potential threat to spring flow from consumptive uses. Springs within the Suwannee River Water Management District, or second magnitude springs in other areas of the state, need not be included on the priority list if the water management district submits a report to the Department of Environmental Protection demonstrating that adverse impacts are not now occurring nor are reasonably expected to occur from consumptive uses during the next 20 years. The priority list and schedule is not subject to any proceeding pursuant to chapter 120. Except as provided in subsection (4)~~(3)~~, the development of a priority list and compliance with the schedule for the establishment of minimum flows and minimum water levels pursuant to this subsection satisfies the requirements of subsection (1).

(4)~~(3)~~ Minimum flows or minimum water levels for priority waters in the counties of Hillsborough, Pasco, and Pinellas shall be established by October 1, 1997. Where a minimum flow or minimum water level for the priority waters within those counties has

not been established by the applicable deadline, the secretary of the department shall, if requested by the governing body of any local government within whose jurisdiction the affected waters are located, establish the minimum flow or minimum water level in accordance with the procedures established by this section. The department's reasonable costs in establishing a minimum flow or minimum water level shall, upon request of the secretary, be reimbursed by the district.

(5)~~(4)~~ A water management district shall provide the department with technical information and staff support for the development of a reservation, minimum flow or minimum water level, or recovery or prevention strategy to be adopted by the department by rule. A water management district shall apply any reservation, minimum flow or minimum water level, or recovery or prevention strategy adopted by the department by rule without the district's adoption by rule of such reservation, minimum flow or minimum water level, or recovery or prevention strategy.

(6)~~(5)~~(a) Upon written request to the department or governing board by a substantially affected person, or by decision of the department or governing board, before ~~prior to~~ the establishment of a minimum flow or minimum water level and before ~~prior to~~ the filing of any petition for administrative hearing related to the minimum flow or minimum water level, all scientific or technical data, methodologies, and models, including all scientific and technical assumptions employed in each model, used to establish a minimum flow or minimum water level shall be subject to independent scientific peer review. Independent scientific peer review means review by a panel of independent, recognized experts in the fields of hydrology, hydrogeology, limnology, biology, and other scientific disciplines, to the extent relevant to the establishment of the minimum flow or minimum water level.

(b) If independent scientific peer review is requested, it shall be initiated at an appropriate point agreed upon by the department or governing board and the person or persons requesting the peer review. If no agreement is reached, the department or governing board shall determine the appropriate point at which to initiate peer review. The members of the peer review panel shall be selected within 60 days of the point of initiation by agreement of the department or governing board and the person or persons requesting the peer review. If the panel is not selected within the 60-day period, the time limitation may be waived upon the agreement of all parties. If no waiver occurs, the department or governing board may proceed to select the peer review panel. The cost of the peer review shall be borne equally by the district and each party requesting the peer review, to the extent economically feasible. The panel shall submit a final report to the governing board within 120 days after its selection unless the deadline is waived by agreement of all parties. Initiation of peer review pursuant to this paragraph shall toll any applicable deadline under chapter 120 or other law or district rule regarding permitting, rulemaking, or administrative hearings, until 60 days following submittal of the final report. Any such deadlines shall also be tolled for 60 days following withdrawal of the request or following agreement of the parties that peer review will no longer be pursued. The department or the governing board shall give significant weight to the final report of the peer review panel when establishing the minimum flow or minimum water level.

(c) If the final data, methodologies, and models, including all scientific and technical assumptions employed in each model upon which a minimum flow or level is based,

have undergone peer review pursuant to this subsection, by request or by decision of the department or governing board, no further peer review shall be required with respect to that minimum flow or minimum water level.
(d) No minimum flow or minimum water level adopted by rule or formally noticed for adoption on or before May 2, 1997, shall be subject to the peer review provided for in this subsection.
(7)~~(6)~~ If a petition for administrative hearing is filed under chapter 120 challenging the establishment of a minimum flow or minimum water level, the report of an independent scientific peer review conducted under subsection [1](5)~~(4)~~ is admissible as evidence in the final hearing, and the administrative law judge must render the order within 120 days after the filing of the petition. The time limit for rendering the order shall not be extended except by agreement of all the parties. To the extent that the parties agree to the findings of the peer review, they may stipulate that those findings be incorporated as findings of fact in the final order.
(8) The rules adopted pursuant to this section are not subject to s. 120.541(3).
History.—s. 6, part I, ch. 72-299; s. 2, ch. 73-190; s. 2, ch. 96-339; s. 5, ch. 97-160; s. 52, ch. 2002-1; s. 1, ch. 2002-15; s. 6, ch. 2005-36; s. 1, ch. 2013-229; s. 5, ch. 2016-1.
[1]Note.—Subsection (5) relates to provision of technical information and staff support and rulemaking; subsection (6) references independent scientific peer review.
Note.—Former s. 373.036(7).

373.0421 Establishment and implementation of minimum flows and minimum water levels.—
(1) ESTABLISHMENT.—
(a) Considerations.—When establishing minimum flows and minimum water levels pursuant to s. 373.042, the department or governing board shall consider changes and structural alterations to watersheds, surface waters, and aquifers and the effects such changes or alterations have had, and the constraints such changes or alterations have placed, on the hydrology of an affected watershed, surface water, or aquifer, provided that nothing in this paragraph shall allow significant harm as provided by s. 373.042(1) caused by withdrawals.
(b) Exclusions.—
1. The Legislature recognizes that certain water bodies no longer serve their historical hydrologic functions. The Legislature also recognizes that recovery of these water bodies to historical hydrologic conditions may not be economically or technically feasible, and that such recovery effort could cause adverse environmental or hydrologic impacts. Accordingly, the department or governing board may determine that setting a minimum flow or minimum water level for such a water body based on its historical condition is not appropriate.
2. The department or the governing board is not required to establish minimum flows or minimum water levels pursuant to s. 373.042 for surface water bodies less than 25 acres in area, unless the water body or bodies, individually or cumulatively, have significant economic, environmental, or hydrologic value.
3. The department or the governing board shall not set minimum flows or minimum water levels pursuant to s. 373.042 for surface water bodies constructed before ~~prior to~~ the requirement for a permit, or pursuant to an exemption, a permit, or a reclamation plan which regulates the size, depth, or function of the surface water body under the

provisions of this chapter, chapter 378, or chapter 403, unless the constructed surface water body is of significant hydrologic value or is an essential element of the water resources of the area.
The exclusions of this paragraph shall not apply to the Everglades Protection Area, as defined in s. 373.4592(2)(i).
(2) If, at the time a minimum flow or minimum water level is initially established for a water body pursuant to s. 373.042 or is revised, the existing flow or water level in the ~~a~~ water body is below, or is projected to fall within 20 years below, the applicable minimum flow or minimum water level ~~established pursuant to s. 373.042~~, the department or governing board, as part of the regional water supply plan described in s. 373.709, shall concurrently adopt or modify and ~~expeditiously~~ implement a recovery or prevention strategy. If a minimum flow or minimum water level has been established for a water body pursuant to s. 373.042, and the existing flow or water level in the water body falls below, or is projected to fall within 20 years below, the applicable minimum flow or minimum water level, the department or governing board shall expeditiously adopt a recovery or prevention strategy. A recovery or prevention strategy shall include ~~which includes~~ the development of additional water supplies and other actions, consistent with the authority granted by this chapter, to:
(a) Achieve recovery to the established minimum flow or minimum water level as soon as practicable; or
(b) Prevent the existing flow or water level from falling below the established minimum flow or minimum water level.
The recovery or prevention strategy must ~~shall~~ include a phased-in approach ~~phasing~~ or a timetable which will allow for the provision of sufficient water supplies for all existing and projected reasonable-beneficial uses, including development of additional water supplies and implementation of conservation and other efficiency measures concurrent with and, to the maximum extent practical, ~~and~~ to offset~~,~~ reductions in permitted withdrawals, consistent with ~~the provisions of~~ this chapter. The recovery or prevention strategy may not depend solely on water shortage restrictions declared pursuant to s. 373.175 or s. 373.246.
(3) To ensure that sufficient water is available for all existing and future reasonable-beneficial uses and the natural systems, the applicable regional water supply plan prepared pursuant to s. 373.709 shall be amended to include any water supply development project or water resource development project identified in a recovery or prevention strategy. Such amendment shall be approved concurrently with relevant portions of the recovery or prevention strategy.
(4) The water management district shall notify the department if an application for a water use permit is denied based upon the impact that the use will have on an adopted minimum flow or minimum water level. Upon receipt of such notice, the department shall, as soon as practicable and in cooperation with the water management district, conduct a review of the applicable regional water supply plan prepared pursuant to s. 373.709. Such review shall include an assessment by the department of the adequacy of the plan in addressing the legislative intent of s. 373.705(2)(a) which provides that sufficient water be available for all existing and future reasonable-beneficial uses and natural systems and that the adverse effects of competition for water supplies be avoided. If the department determines, based upon this review, that the regional water

supply plan does not adequately address the legislative intent of s. 373.705(2)(a), the water management district shall immediately initiate an update of the plan consistent with s. 373.709.
(5)~~(3)~~ The provisions of this section are supplemental to any other specific requirements or authority provided by law. Minimum flows and minimum water levels shall be reevaluated periodically and revised as needed.
History.—s. 6, ch. 97-160; s. 36, ch. 2004-5; s. 13, ch. 2010-205; s. 6, ch. 2016-1.

373.0465 Central Florida Water Initiative.—
(1) The Legislature finds that:
(a) Historically, the Floridan Aquifer system has supplied the vast majority of the water used in the Central Florida Coordination Area.
(b) Because the boundaries of the St. Johns River Water Management District, the South Florida Water Management District, and the Southwest Florida Water Management District meet within the Central Florida Coordination Area, the three districts and the Department of Environmental Protection have worked cooperatively to determine that the Floridan Aquifer system is locally approaching the sustainable limits of use and are exploring the need to develop sources of water to meet the long-term water needs of the area.
(c) The Central Florida Water Initiative is a collaborative process involving the Department of Environmental Protection, the St. Johns River Water Management District, the South Florida Water Management District, the Southwest Florida Water Management District, the Department of Agriculture and Consumer Services, regional public water supply utilities, and other stakeholders. As set forth in the Central Florida Water Initiative Guiding Document of January 30, 2015, the initiative has developed an initial framework for a unified process to address the current and long-term water supply needs of Central Florida without causing harm to the water resources and associated natural systems.
(d) Developing water sources as an alternative to continued reliance on the Floridan Aquifer will benefit existing and future water users and natural systems within and beyond the boundaries of the Central Florida Water Initiative.
(2)(a) As used in this section, the term “Central Florida Water Initiative Area” means all of Orange, Osceola, Polk, and Seminole Counties, and southern Lake County, as designated by the Central Florida Water Initiative Guiding Document of January 30, 2015.
(b) The department, the St. Johns River Water Management District, the South Florida Water Management District, the Southwest Florida Water Management District, and the Department of Agriculture and Consumer Services shall:
1. Provide for a continuation of the collaborative process in the Central Florida Water Initiative Area among the state agencies, affected water management districts, regional public water supply utilities, and other stakeholders;
2. Build upon the guiding principles and goals set forth in the Central Florida Water Initiative Guiding Document of January 30, 2015, and the work that has already been accomplished by the Central Florida Water Initiative participants;
3. Develop and implement, as set forth in the Central Florida Water Initiative Guiding Document of January 30, 2015, a single multidistrict regional water supply plan,

including any needed recovery or prevention strategies and a list of water supply development projects or water resource projects; and
4. Provide for a single hydrologic planning model to assess the availability of groundwater in the Central Florida Water Initiative Area.
(c) In developing the water supply planning program consistent with the goals set forth in this subsection, the department, the St. Johns River Water Management District, the South Florida Water Management District, the Southwest Florida Water Management District, and the Department of Agriculture and Consumer Services shall:
1. Consider limitations on groundwater use together with opportunities for new, increased, or redistributed groundwater uses that are consistent with the conditions established under s. 373.223;
2. Establish a coordinated process for the identification of water resources requiring new or revised conditions. Any new or revised condition must be consistent with s. 373.223;
3. Consider existing recovery or prevention strategies;
4. Include a list of water supply options sufficient to meet the water needs of all existing and future reasonable-beneficial uses consistent with the conditions established under s. 373.223; and
5. Identify, as necessary, which of the water supply sources are preferred water supply sources pursuant to s. 373.2234.
(d) The department, in consultation with the St. Johns River Water Management District, the South Florida Water Management District, the Southwest Florida Water Management District, and the Department of Agriculture and Consumer Services, shall adopt uniform rules for application within the Central Florida Water Initiative Area that include:
1. A single, uniform definition of the term “harmful to the water resources” consistent with the term’s usage in s. 373.219;
2. A single method for calculating residential per capita water use;
3. A single process for permit reviews;
4. A single, consistent process, as appropriate, to set minimum flows and minimum water levels and water reservations;
5. A goal for residential per capita water use for each consumptive use permit; and
6. An annual conservation goal for each consumptive use permit consistent with the regional water supply plan.
The uniform rules must include existing recovery strategies within the Central Florida Water Initiative Area adopted before July 1, 2016. The department may grant variances to the uniform rules if there are unique circumstances or hydrogeological factors that make application of the uniform rules unrealistic or impractical.
(e)The department shall initiate rulemaking for the uniform rules by December 31, 2016. The department’s uniform rules shall be applied by the water management districts only within the Central Florida Water Initiative Area. Upon adoption of the rules, the water management districts shall implement the rules without further rulemaking pursuant to s. 120.54. The rules adopted by the department pursuant to this section are considered the rules of the water management districts.
(f) Water management district planning programs developed pursuant to this subsection shall be approved or adopted as required under this chapter. However, such planning

programs may not serve to modify planning programs in areas of the affected districts that are not within the Central Florida Water Initiative Area, but may include interregional projects located outside the Central Florida Water Initiative Area which are consistent with planning and regulatory programs in the areas in which they are located. History.—s. 7, ch. 2016-1.

373.089 Sale or exchange of lands, or interests or rights in lands.—
The governing board of the district may sell lands, or interests or rights in lands, to which the district has acquired title or to which it may hereafter acquire title in the following manner:
(1) Any lands, or interests or rights in lands, determined by the governing board to be surplus may be sold by the district, at any time, for the highest price obtainable; however, in no case shall the selling price be less than the appraised value of the lands, or interests or rights in lands, as determined by a certified appraisal obtained within 360 ~~120~~ days before the effective date of a contract for sale.
(2) All sales of land, or interests or rights in land, shall be for cash or upon terms and security to be approved by the governing board, but a deed therefor shall not be executed and delivered until full payment is made.
(3) Before selling any surplus land, or interests or rights in land, ~~it shall be the duty of~~ the district shall publish ~~to cause~~ a notice of intention to sell ~~to be published~~ in a newspaper published in the county in which the land, or interests or rights in the land, is situated once each week for 3 successive weeks, ~~(~~three insertions being sufficient.~~),~~ The first publication of the required notice must occur at least ~~which shall not be less than~~ 30 days, but not ~~nor~~ more than 360 ~~45~~ days, before ~~prior to~~ any sale and must include~~, which notice shall set forth~~ a description of lands, or interests or rights in lands, to be offered for sale.
(4) The governing board of a district may exchange lands, or interests or rights in lands, owned by, or lands, or interests or rights in lands, for which title is otherwise vested in, the district for other lands, or interests or rights in lands, within the state owned by any person. The governing board shall fix the terms and conditions of any such exchange and may pay or receive any sum of money that the board considers necessary to equalize the values of exchanged properties. Land, or interests or rights in land, acquired under former s. 373.59, Florida Statutes 2014, may be exchanged only for lands, or interests or rights in lands, that otherwise meet the requirements of that section for acquisition.
(5) In any county having a population of 75,000 or fewer, or a county having a population of 100,000 or fewer that is contiguous to a county having a population of 75,000 or fewer, in which more than 50 percent of the lands within the county boundary are federal lands and lands titled in the name of the state, a state agency, a water management district, or a local government, those lands titled in the name of a water management district which are not essential or necessary to meet conservation purposes may, upon request of a public or private entity, be made available for purchase through the surplusing process in this section. Priority consideration must be given to buyers, public or private, who are willing to return the property to productive use so long as the property can be reentered onto the county ad valorem tax roll.

Property acquired with matching funds from a local government shall not be made available for purchase without the consent of the local government.
(6) Any lands the title to which is vested in the governing board of a water management district may be surplused pursuant to the procedures set forth in this section and s. 373.056 and the following:
(a) For those lands designated as acquired for conservation purposes, the governing board shall make a determination that the lands are no longer needed for conservation purposes and may dispose of them by a two-thirds vote.
(b) For all other lands, the governing board shall make a determination that such lands are no longer needed and may dispose of them by majority vote.
(c) For the purposes of this subsection, all lands for which title has vested in the governing board prior to July 1, 1999, shall be deemed to have been acquired for conservation purposes.
(d) For any lands acquired on or after July 1, 1999, for which title is vested in the governing board, the governing board shall determine which parcels shall be designated as having been acquired for conservation purposes.
(7) Notwithstanding other provisions of this section, the governing board shall first offer title to lands acquired in whole or in part with Florida Forever funds which are determined to be no longer needed for conservation purposes to the Board of Trustees of the Internal Improvement Trust Fund unless the disposition of those lands is for the following purposes:
(a) Linear facilities, including electric transmission and distribution facilities, telecommunication transmission and distribution facilities, pipeline transmission and distribution facilities, public transportation corridors, and related appurtenances.
(b) The disposition of the fee interest in the land where a conservation easement is retained by the district to fulfill the conservation objectives for which the land was acquired.
(c) An exchange of the land for other lands that meet or exceed the conservation objectives for which the original land was acquired in accordance with subsection (4).
(d) To be used by a governmental entity for a public purpose.
(e) The portion of an overall purchase deemed surplus at the time of the acquisition.
(8)(a) If a parcel of land is no longer essential or necessary for conservation purposes and is valued at $25,000 or less as determined by a certified appraisal obtained within 360 days before the effective date of a contract for the sale, the governing board may determine that the parcel of land is surplus. The notice of intention to sell must be published as required under subsection (3), one time only. The governing board shall send the notice of intention to sell the parcel to adjacent property owners by certified mail and publish the notice on its website.
(b) Fourteen days after publication of such notice, the district may sell the parcel to an adjacent property owner or, if there are two or more owners of adjacent property, accept sealed bids and sell the parcel to the highest bidder or reject all offers.
(c) Thirty days after publication of such notice, the district shall accept sealed bids and may sell the parcel to the highest bidder or reject all offers.
If ~~In the event~~ the Board of Trustees of the Internal Improvement Trust Fund declines to accept title to the lands offered under this section, the land may be disposed of by the district under the provisions of this section.

History.—s. 4, ch. 29790, 1955; s. 25, ch. 73-190; s. 1, ch. 82-46; s. 9, ch. 82-101; s. 2, ch. 85-347; s. 25, ch. 88-242; ss. 1, 2, ch. 89-279; ss. 11, 12, ch. 90-217; s. 2, ch. 91-288; s. 4, ch. 94-212; s. 5, ch. 94-240; s. 32, ch. 99-247; s. 10, ch. 2003-394; s. 15, ch. 2008-229; s. 35, ch. 2015-229; s. 26, ch. 2016-233.
Note.—Former s. 378.48.

373.139 Acquisition of real property.—
(1) The Legislature declares it to be necessary for the public health and welfare that water and water-related resources be conserved and protected. The acquisition of real property for this objective shall constitute a public purpose for which public funds may be expended.
(2) The governing board of the district is empowered and authorized to acquire in fee or less than fee title to real property, easements and other interests or rights therein, by purchase, gift, devise, lease, eminent domain, or otherwise for flood control, water storage, water management, conservation and protection of water resources, aquifer recharge, water resource and water supply development, and preservation of wetlands, streams, and lakes. Eminent domain powers may be used only for acquiring real property for flood control and water storage or for curing title defects or encumbrances to real property owned by the district or to be acquired by the district from a willing seller.
(3) The initial 5-year work plan and any subsequent modifications or additions thereto shall be adopted by each water management district after a public hearing. Each water management district shall provide at least 14 days' advance notice of the hearing date and shall separately notify each county commission within which a proposed work plan project or project modification or addition is located of the hearing date.
(a) Appraisal reports, offers, and counteroffers are confidential and exempt from ~~the provisions of~~ s. 119.07(1) until an option contract is executed or, if no option contract is executed, until 30 days before a contract or agreement for purchase is considered for approval by the governing board. However, each district may, at its discretion, disclose appraisal reports to private landowners during negotiations for acquisitions using alternatives to fee simple techniques, if the district determines that disclosure of such reports will bring the proposed acquisition to closure. If ~~In the event that~~ negotiation is terminated by the district, the appraisal report, offers, and counteroffers shall become available pursuant to s. 119.07(1). Notwithstanding ~~the provisions of~~ this section and s. 253.025 ~~259.041~~, a district and the Division of State Lands may share and disclose appraisal reports, appraisal information, offers, and counteroffers when joint acquisition of property is contemplated. A district and the Division of State Lands shall maintain the confidentiality of such appraisal reports, appraisal information, offers, and counteroffers in conformance with this section and s. 253.025 ~~253.041~~, except in those cases in which a district and the division have exercised discretion to disclose such information. A district may disclose appraisal information, offers, and counteroffers to a third party who has entered into a contractual agreement with the district to work with or on the behalf of or to assist the district in connection with land acquisitions. The third party shall maintain the confidentiality of such information in conformance with this section. In addition, a district may use, as its own, appraisals obtained by a third party provided the appraiser is selected from the district's list of approved appraisers and the appraisal is reviewed and approved by the district.

(b) The Secretary of Environmental Protection shall release moneys from the appropriate account or trust fund to a district for preacquisition costs within 30 days after receipt of a resolution adopted by the district's governing board which identifies and justifies any such preacquisition costs necessary for the purchase of any lands listed in the district's 5-year work plan. The district shall return to the department any funds not used for the purposes stated in the resolution, and the department shall deposit the unused funds into the appropriate account or trust fund.
(c) The Secretary of Environmental Protection shall release acquisition moneys from the appropriate account or trust fund to a district following receipt of a resolution adopted by the governing board identifying the lands being acquired and certifying that such acquisition is consistent with the 5-year work plan of acquisition and other provisions of this section. The governing board also shall provide to the Secretary of Environmental Protection a copy of all certified appraisals used to determine the value of the land to be purchased. Each parcel to be acquired must have at least one appraisal. Two appraisals are required when the estimated value of the parcel exceeds $1 million. However, when both appraisals exceed $1 million and differ significantly, a third appraisal may be obtained. If the purchase price is greater than the appraisal price, the governing board shall submit written justification for the increased price. The Secretary of Environmental Protection may withhold moneys for any purchase that is not consistent with the 5-year plan or the intent of this section or that is in excess of appraised value. The governing board may appeal any denial to the Land and Water Adjudicatory Commission pursuant to s. 373.114.
(4) The governing board of the district may purchase tax certificates or tax deeds issued in accordance with chapter 197 relating to property eligible for purchase under this section.
(5) This section shall not limit the exercise of similar powers delegated by statute to any state or local governmental agency or other person.
(6) A district may dispose of land acquired under this section pursuant to s. 373.056 or s. 373.089. However, no such disposition of land shall be made if it would have the effect of causing all or any portion of the interest on any revenue bonds issued pursuant to s. 259.101 or s. 259.105 to fund the acquisition programs detailed in this section to lose the exclusion from gross income for purposes of federal income taxation. Revenue derived from such disposition may not be used for any purpose except the purchase of other lands meeting the criteria specified in this section or payment of debt service on revenue bonds or notes issued under s. 373.584.
(7) The districts have the authority to promulgate rules that include the specific process by which land is acquired; the selection and retention of outside appraisers, surveyors, and acquisition agents; and public notification. Rules adopted pursuant to this subsection shall be submitted to the President of the Senate and the Speaker of the House of Representatives, for review by the Legislature, no later than 30 days prior to the 2001 Regular Session and shall become effective only after legislative review. In its review, the Legislature may reject, modify, or take no action relative to such rules. The districts shall conform such rules to changes made by the Legislature, or, if no action was taken by the Legislature, such rules shall become effective.
History.—s. 26, part I, ch. 72-299; s. 1, ch. 72-318; s. 3, ch. 85-347; s. 7, ch. 86-294; s. 4, ch. 89-117; s. 5, ch. 91-288; s. 6, ch. 94-240; s. 16, ch. 96-389; s. 173, ch. 96-406; s. 12, ch. 97-

160; s. 13, ch. 97-164; s. 33, ch. 99-247; s. 13, ch. 2000-170; s. 13, ch. 2001-256; s. 11, ch. 2003-394; s. 38, ch. 2016-233.

373.1501 South Florida Water Management District as local sponsor.—
(1) As used in this section and s. 373.026(8), the term:
(a) "C-111 Project" means the project identified in the Central and Southern Florida Flood Control Project, Real Estate Design Memorandum, Canal 111, South Miami-Dade County, Florida.
(b) "Department" means the Department of Environmental Protection.
(c) "District" means the South Florida Water Management District.
(d) "Kissimmee River Restoration Project" means the project identified in the Project Cooperation Agreement between the United States Department of the Army and the South Florida Water Management District dated March 22, 1994.
(e) "Pal-Mar Project" means the Pal-Mar (West Jupiter Wetlands) lands identified in the Save Our Rivers 2000 Land Acquisition and Management Plan approved by the South Florida Water Management District on September 9, 1999 (Resolution 99-94).
(f) "Project" means the Central and Southern Florida Project.
(g) "Project component" means any structural or operational change, resulting from the restudy, to the Central and Southern Florida Project as it existed and was operated as of January 1, 1999.
(h) "Restudy" means the Comprehensive Review Study of the Central and Southern Florida Project, for which federal participation was authorized by the federal Water Resources Development Acts of 1992 and 1996 together with related Congressional resolutions and for which participation by the South Florida Water Management District is authorized by this section. The term includes all actions undertaken pursuant to the aforementioned authorizations which will result in recommendations for modifications or additions to the Central and Southern Florida Project.
(i) "Southern Corkscrew Regional Ecosystem Watershed Project" means the area described in the Critical Restoration Project Contract C-9906 Southern Corkscrew Regional Ecosystem Watershed Project Addition/Imperial River Flowway and approved by the South Florida Water Management District on August 12, 1999.
(j) "Water Preserve Areas" means those areas located only within Palm Beach and Broward counties that are designated as Water Preserve Areas, as approved by the South Florida Water Management District Governing Board on September 11, 1997, and shall also include all of those lands within Cell II of the East Coast Buffer in Broward County as delineated in the boundary survey prepared by Stoner and Associates, Inc., dated January 31, 2000, SWFWMD #10953.
(k) "Ten Mile Creek Project" means the Ten Mile Creek Water Preserve Area identified in the Central and Southern Florida Ecosystem Critical Project Letter Report dated April 13, 1998.
(2) The Legislature finds that the restudy is important for restoring the Everglades ecosystem and sustaining the environment, economy, and social well-being of South Florida. It is the intent of the Legislature to facilitate and support the restudy through a process concurrent with Federal Government review and Congressional authorization. Nothing in this section is intended in any way to limit federal agencies or Congress in the exercise of their duties and responsibilities. It is further the intent of the Legislature that all project components be implemented through the appropriate processes of this

chapter and be consistent with the balanced policies and purposes of this chapter, specifically s. 373.016.
(3) The Legislature declares that the Kissimmee River Project, the Ten Mile Creek Project, the Water Preserve Areas, the Southern Corkscrew Regional Ecosystem Watershed Project, the Pal-Mar Project, and the C-111 Project are in the public interest, for a public purpose, and necessary for the public health and welfare. The governing board of the district is empowered and authorized to acquire fee title or easement by eminent domain for the limited purposes of implementing the Kissimmee River Project, the Ten Mile Creek Project, the Water Preserve Areas, the Southern Corkscrew Regional Ecosystem Watershed Project, the Pal-Mar Project, and the C-111 Project. Any acquisition of real property, including by eminent domain, for those objectives constitutes a public purpose for which it is in the public interest to expend public funds. Notwithstanding any provision of law to the contrary, such properties shall not be removed from the district's plan of acquisition, and the use of state funds for these properties is authorized. In the absence of willing sellers, any land necessary for implementing the projects in this subsection shall be acquired in accordance with state condemnation law pursuant to chapters 73 and 74.
(4) The district is authorized to act as local sponsor of the project for those project features within the district as provided in this subsection and subject to the oversight of the department as further provided in s. 373.026. The district shall exercise the authority of the state to allocate quantities of water within its jurisdiction, including the water supply in relation to the project, and be responsible for allocating water and assigning priorities among the other water uses served by the project pursuant to state law. The district may:
(a) Act as local sponsor for all project features previously authorized by Congress.;
(b) Continue data gathering, analysis, research, and design of project components, participate in preconstruction engineering and design documents for project components, and further refine the Comprehensive Plan of the restudy as a guide and framework for identifying other project components.;
(c) Construct pilot projects that will assist in determining the feasibility of technology included in the Comprehensive Plan of the restudy.; and
(d) Act as local sponsor for project components.
(5) In its role as local sponsor for the project, the district shall comply with its responsibilities under this chapter and implement project components through appropriate provisions of this chapter. In the development of project components, the district shall:
(a) Analyze and evaluate all needs to be met in a comprehensive manner and consider all applicable water resource issues, including water supply, water quality, flood protection, threatened and endangered species, and other natural system and habitat needs;
(b) Determine with reasonable certainty that all project components are feasible based upon standard engineering practices and technologies and are the most efficient and cost-effective of feasible alternatives or combination of alternatives, consistent with restudy purposes, implementation of project components, and operation of the project;

(c) Determine with reasonable certainty that all project components are consistent with applicable law and regulations, and can be permitted and operated as proposed. For purposes of such determination:
1. The district shall convene a preapplication conference with all state and federal agencies with applicable regulatory jurisdiction;
2. State agencies with applicable regulatory jurisdiction shall participate in the preapplication conference and provide information necessary for the district's determination; and
3. The district shall request that federal agencies with applicable regulatory jurisdiction participate in the preapplication conference and provide information necessary for the district's determination;
(d) Consistent with this chapter, the purposes for the restudy provided in the Water Resources Development Act of 1996, and other applicable federal law, provide reasonable assurances that the quantity of water available to existing legal users shall not be diminished by implementation of project components so as to adversely impact existing legal users, that existing levels of service for flood protection will not be diminished outside the geographic area of the project component, and that water management practices will continue to adapt to meet the needs of the restored natural environment.
(e) Ensure that implementation of project components is coordinated with existing utilities and public infrastructure and that impacts to and relocation of existing utility or public infrastructure are minimized.
(6) The department and the district shall expeditiously pursue implementation of project modifications previously authorized by Congress or the Legislature, including the Everglades Construction Project. Project components should complement and should not delay project modifications previously authorized.
(7) When developing or implementing water control plans or regulation schedules required for the operation of the project, the district shall provide recommendations to the United States Army Corps of Engineers which are consistent with all district programs and plans.
(8)~~(7)~~ Notwithstanding any provision of this section, nothing herein shall be construed to modify or supplant the authority of the district or the department to prevent harm to the water resources as provided in this chapter.
(9)~~(8)~~ Final agency action with regard to any project component subject to s. 373.026(8)(b) shall be taken by the department. Actions taken by the district pursuant to subsection (5) shall not be considered final agency action. Any petition for formal proceedings filed pursuant to ss. 120.569 and 120.57 shall require a hearing under the summary hearing provisions of s. 120.574, which shall be mandatory. The final hearing under this section shall be held within 30 days after receipt of the petition by the Division of Administrative Hearings.
History.—s. 1, ch. 99-143; s. 15, ch. 2000-170; s. 81, ch. 2008-4; s. 8, ch. 2016-1.

373.219 Permits required.—
(1) The governing board or the department may require such permits for consumptive use of water and may impose such reasonable conditions as are necessary to assure that such use is consistent with the overall objectives of the district or department and is

not harmful to the water resources of the area. However, no permit shall be required for domestic consumption of water by individual users.
(2) In the event that any person shall file a complaint with the governing board or the department that any other person is making a diversion, withdrawal, impoundment, or consumptive use of water not expressly exempted under the provisions of this chapter and without a permit to do so, the governing board or the department shall cause an investigation to be made, and if the facts stated in the complaint are verified the governing board or the department shall order the discontinuance of the use.
(3) For Outstanding Florida Springs, the department shall adopt uniform rules for issuing permits which prevent groundwater withdrawals that are harmful to the water resources and adopt by rule a uniform definition of the term “harmful to the water resources” to provide water management districts with minimum standards necessary to be consistent with the overall water policy of the state. This subsection does not prohibit a water management district from adopting a definition that is more protective of the water resources consistent with local or regional conditions and objectives.
History.—s. 2, part II, ch. 72-299; s. 9, ch. 73-190; s. 9, ch. 2016-1.

373.223 Conditions for a permit.—
(1) To obtain a permit pursuant to the provisions of this chapter, the applicant must establish that the proposed use of water:
(a) Is a reasonable-beneficial use as defined in s. 373.019;
(b) Will not interfere with any presently existing legal use of water; and
(c) Is consistent with the public interest.
(2) The governing board or the department may authorize the holder of a use permit to transport and use ground or surface water beyond overlying land, across county boundaries, or outside the watershed from which it is taken if the governing board or department determines that such transport and use is consistent with the public interest, and no local government shall adopt or enforce any law, ordinance, rule, regulation, or order to the contrary.
(3) Except for the transport and use of water supplied by the Central and Southern Florida Flood Control Project, and anywhere in the state when the transport and use of water is supplied exclusively for bottled water as defined in s. 500.03(1)(d), any water use permit applications pending as of April 1, 1998, with the Northwest Florida Water Management District and self-suppliers of water for which the proposed water source and area of use or application are located on contiguous private properties, when evaluating whether a potential transport and use of ground or surface water across county boundaries is consistent with the public interest, pursuant to paragraph (1)(c), the governing board or department shall consider:
(a) The proximity of the proposed water source to the area of use or application.
(b) All impoundments, streams, groundwater sources, or watercourses that are geographically closer to the area of use or application than the proposed source, and that are technically and economically feasible for the proposed transport and use.
(c) All economically and technically feasible alternatives to the proposed source, including, but not limited to, desalination, conservation, reuse of nonpotable reclaimed water and stormwater, and aquifer storage and recovery.

(d) The potential environmental impacts that may result from the transport and use of water from the proposed source, and the potential environmental impacts that may result from use of the other water sources identified in paragraphs (b) and (c).
(e) Whether existing and reasonably anticipated sources of water and conservation efforts are adequate to supply water for existing legal uses and reasonably anticipated future needs of the water supply planning region in which the proposed water source is located.
(f) Consultations with local governments affected by the proposed transport and use.
(g) The value of the existing capital investment in water-related infrastructure made by the applicant.
Where districtwide water supply assessments and regional water supply plans have been prepared pursuant to ss. 373.036 and 373.709, the governing board or the department shall use the applicable plans and assessments as the basis for its consideration of the applicable factors in this subsection.
(4) The governing board or the department, by regulation, may reserve from use by permit applicants, water in such locations and quantities, and for such seasons of the year, as in its judgment may be required for the protection of fish and wildlife or the public health and safety. Such reservations shall be subject to periodic review and revision in the light of changed conditions. However, all presently existing legal uses of water shall be protected so long as such use is not contrary to the public interest.
(5) In evaluating an application for consumptive use of water which proposes the use of an alternative water supply project as described in the regional water supply plan and provides reasonable assurances of the applicant's capability to design, construct, operate, and maintain the project, the governing board or department shall presume that the alternative water supply use is consistent with the public interest under paragraph (1)(c). However, where the governing board identifies the need for a multijurisdictional water supply entity or regional water supply authority to develop the alternative water supply project pursuant to s. 373.709(2)(a)2., the presumption shall be accorded only to that use proposed by such entity or authority. This subsection does not affect evaluation of the use pursuant to the provisions of paragraphs (1)(a) and (b), subsections (2) and (3), and ss. 373.2295 and 373.233.
(6) A new consumptive use permit, or the renewal or modification of a consumptive use permit, that authorizes groundwater withdrawals of 100,000 gallons or more per day from a well with an inside diameter of 8 inches or more shall be monitored for water usage at intervals using methods determined by the applicable water management district, and the results of such monitoring shall be reported to the applicable water management district at least annually. The water management districts may adopt rules to implement this subsection. In lieu of the requirements of this subsection, a water management district may enforce rules that govern water usage monitoring in effect on July 1, 2016, or may adopt rules that are more stringent than this subsection.
History.—s. 3, part II, ch. 72-299; s. 10, ch. 73-190; s. 10, ch. 76-243; s. 35, ch. 85-81; s. 4, ch. 98-88; s. 6, ch. 2005-291; s. 15, ch. 2010-205; s. 31, ch. 2015-2; s. 10, ch. 2016-1.

373.2234 Preferred water supply sources.—
(1) The governing board of a water management district is authorized to adopt rules that identify preferred water supply sources for consumptive uses for which there is sufficient data to establish that a preferred source will provide a substantial new water supply to

meet the existing and projected reasonable-beneficial uses of a water supply planning region identified pursuant to s. 373.709(1), while sustaining existing water resources and natural systems. At a minimum, such rules must contain a description of the preferred water supply source and an assessment of the water the preferred source is projected to produce.
(2)(a) If an applicant proposes to use a preferred water supply source, that applicant's proposed water use is subject to s. 373.223(1), except that the proposed use of a preferred water supply source must be considered by a water management district when determining whether a permit applicant's proposed use of water is consistent with the public interest pursuant to s. 373.223(1)(c).
(b) The governing board of a water management district shall consider the identification of preferred water supply sources for water users for whom access to or development of new water supplies is not technically or financially feasible. Identification of preferred water supply sources for such water users must be consistent with s. 373.016.
(c) A consumptive use permit issued for the use of a preferred water supply source must be granted, when requested by the applicant, for at least a 20-year period and may be subject to the compliance reporting provisions of s. 373.236(4).
(3)(a) ~~Nothing in~~ This section does not: ~~shall be construed to~~
1. Exempt the use of preferred water supply sources from ~~the provisions of~~ ss. 373.016(4) and 373.223(2) and (3); ~~or be construed to~~
2. Provide that permits issued for the use of a nonpreferred water supply source must be issued for a duration of less than 20 years or that the use of a nonpreferred water supply source is not consistent with the public interest; or~~.~~
3. ~~Additionally, nothing in this section shall be interpreted to~~ Require the use of a preferred water supply source or to restrict or prohibit the use of a nonpreferred water supply source.
(b) Rules adopted by the governing board of a water management district to implement this section shall specify that the use of a preferred water supply source is not required and that the use of a nonpreferred water supply source is not restricted or prohibited.
History.—s. 4, ch. 2004-381; s. 6, ch. 2006-255; s. 16, ch. 2010-205; s. 11, ch. 2016-1.

373.227 Water conservation; legislative findings and intent; objectives; comprehensive statewide water conservation program requirements.—
(1) The Legislature recognizes that the proper conservation of water is an important means of achieving the economical and efficient utilization of water necessary, in part, to constitute a reasonable-beneficial use. The overall water conservation goal of the state is to prevent and reduce wasteful, uneconomical, impractical, or unreasonable use of water resources. The Legislature finds that the social, economic, and cultural conditions of the state relating to the use of public water supply vary by service area and that public water supply utilities must have the flexibility to tailor water conservation measures to best suit their individual circumstances. The Legislature encourages the use of efficient, effective, and affordable water conservation measures. Where water is provided by a public water supply utility, the Legislature intends that a variety of conservation measures be made available and used to encourage efficient water use. To achieve these conservation objectives, the state should emphasize goal-based, accountable, tailored, and measurable water conservation programs for public water

supply. For purposes of this section, the term “public water supply utility” includes both publicly owned and privately owned public water supply utilities that sell potable water on a retail basis to end users.
(2) To implement the findings in subsection (1), the department, in cooperation with the water management districts and other stakeholders, shall develop a comprehensive statewide water conservation program for public water supply. The program should:
(a) Encourage utilities to implement water conservation programs that are economically efficient, effective, affordable, and appropriate;
(b) Allow no reduction in, and increase where possible, utility-specific water conservation effectiveness over current programs;
(c) Be goal-based, accountable, measurable, and implemented collaboratively with water suppliers, water users, and water management agencies;
(d) Include cost and benefit data on individual water conservation practices to assist in tailoring practices to be effective for the unique characteristics of particular utility service areas, focusing upon cost-effective measures;
(e) Use standardized public water supply conservation definitions and standardized quantitative and qualitative performance measures for an overall system of assessing and benchmarking the effectiveness of water conservation programs and practices;
(f) Create a clearinghouse or inventory for water conservation programs and practices available to public water supply utilities which will provide an integrated statewide database for the collection, evaluation, and dissemination of quantitative and qualitative information on public water supply conservation programs and practices and their effectiveness. The clearinghouse or inventory should have technical assistance capabilities to aid in the design, refinement, and implementation of water conservation programs and practices. The clearinghouse or inventory shall also provide for continual assessment of the effectiveness of water conservation programs and practices;
(g) Develop a standardized water conservation planning process for utilities; and
(h) Develop and maintain a Florida-specific water conservation guidance document containing a menu of affordable and effective water conservation practices to assist public water supply utilities in the design and implementation of goal-based, utility-specific water conservation plans tailored for their individual service areas as provided in subsection (4).
(3) Regarding the use of water conservation or drought rate structures as a conservation practice, a water management district shall afford a public water supply utility wide latitude in selecting a rate structure and shall limit its review to whether the utility has provided reasonable assurance that the rate structure contains a schedule of rates designed to promote efficient use of water by providing economic incentives. A water management district shall not fix or revise rates.
(4) As part of an application for a consumptive use permit, a public water supply utility may propose a goal-based water conservation plan that is tailored to its individual circumstances. Progress towards goals must be measurable. If the utility provides reasonable assurance that the plan will achieve effective water conservation at least as well as the water conservation requirements adopted by the appropriate water management district and is otherwise consistent with s. 373.223, the district must approve the plan which shall satisfy water conservation requirements imposed as a condition of obtaining a consumptive use permit. The conservation measures included

in an approved goal-based water conservation plan may be reviewed periodically and updated as needed to ensure efficient water use for the duration of the permit. If the plan fails to meet the water conservation goal or goals by the timeframes specified in the permit, the public water supply utility shall revise the plan to address the deficiency or employ the water conservation requirements that would otherwise apply in the absence of an approved goal-based plan.
(5) To incentivize water conservation, if actual water use is less than permitted water use due to documented implementation of water conservation measures beyond those required in a consumptive use permit, including, but not limited to, those measures identified in best management practices pursuant to s. 570.93, the permitted allocation may not be modified solely due to such water conservation during the term of the permit. To promote water conservation and the implementation of measures that produce significant water savings beyond those required in a consumptive use permit, each water management district shall adopt rules providing water conservation incentives, which may include limited permit extensions.
(6) For consumptive use permits for agricultural irrigation, if actual water use is less than permitted water use due to weather events, crop diseases, nursery stock availability, market conditions, or changes in crop type, a district may not, as a result, reduce permitted allocation amounts during the term of the permit.
(7)~~(5)~~ The department or a water management district may adopt rules pursuant to ss. 120.536(1) and 120.54 to carry out the purposes of this section.
History.—s. 8, ch. 2004-381; s. 58, ch. 2013-15; s. 12, ch. 2016-1.

373.233 Competing applications.—
(1) If two or more applications that otherwise comply with the provisions of this part are pending for a quantity of water that is inadequate for both or all, or that for any other reason are in conflict, and the water management district or department has deemed the applications complete, the water management district or the department has the right to approve or modify the application that best serves the public interest.
(2)(a) If ~~In the event that~~ two or more competing applications qualify equally under ~~the provisions of~~ subsection (1), the governing board or the department shall give preference to a renewal application over an initial application.
(b) If two or more competing applications qualify equally under subsection (1) and none of the competing applications is a renewal application, the governing board or the department shall give preference to the application for the use where the source is nearest to the area of use or application consistent with s. 373.016(4)(a).
History.—s. 6, part II, ch. 72-299; s. 9, ch. 2013-92; s. 13, ch. 2016-1.

373.236 Duration of permits; compliance reports.—
(1) Permits shall be granted for a period of 20 years, if requested for that period of time, if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit; otherwise, permits may be issued for shorter durations which reflect the period for which such reasonable assurances can be provided. The governing board or the department may base the duration of permits on a reasonable system of classification according to source of supply or type of use, or both.

(2) The Legislature finds that some agricultural landowners remain unaware of their ability to request a 20-year consumptive use permit under subsection (1) for initial permits or for renewals. Therefore, the water management districts shall inform agricultural applicants of this option in the application form.
(3) The governing board or the department may authorize a permit of duration of up to 50 years in the case of a municipality or other governmental body or of a public works or public service corporation where such a period is required to provide for the retirement of bonds for the construction of waterworks and waste disposal facilities.
(4) Where necessary to maintain reasonable assurance that the conditions for issuance of a 20-year permit can continue to be met, the governing board or department, in addition to any conditions required pursuant to s. 373.219, may require a compliance report by the permittee every 10 years during the term of a permit. The Suwannee River Water Management District may require a compliance report by the permittee every 5 years through July 1, 2015, and thereafter every 10 years during the term of the permit. This report shall contain sufficient data to maintain reasonable assurance that the initial conditions for permit issuance are met. Following review of this report, the governing board or the department may modify the permit to ensure that the use meets the conditions for issuance. Permit modifications pursuant to this subsection shall not be subject to competing applications, provided there is no increase in the permitted allocation or permit duration, and no change in source, except for changes in source requested by the district. In order to promote the sustainability of natural systems through the diversification of water supplies through the development of seawater desalination plants, a water management district may not reduce an existing permitted allocation of water during the permit term as a result of planned future construction of, or additional water becoming available from, a new seawater desalination plant that does not receive funding from a water management district. Except as expressly provided in this subsection, this subsection does not alter the existing authority of a water management district to modify a consumptive use permit pursuant to this chapter.
(5)(a) A permit approved for the development of alternative water supplies shall be granted for a term of at least 20 years if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit. However, if the permittee issues bonds for the construction of the project, upon request of the permittee before the expiration of the permit, the permit shall be extended for such additional time as is required for the retirement of bonds, not including any refunding or refinancing of such bonds, if the governing board determines that the use will continue to meet the conditions for the issuance of the permit. The permit is subject to compliance reports under subsection (4).
(b)1. A permit approved on or after July 1, 2013, for the development of alternative water supplies shall be granted for a term of at least 30 years if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit. If, within 7 years after a permit is granted, the permittee issues bonds to finance the project, completes construction of the project, and requests an extension of the permit duration, the permit shall be extended to expire upon the retirement of such bonds or 30 years after the date that construction of the project is complete, whichever occurs later. However, a permit’s duration may not be extended by more than 7 years beyond the permit’s original expiration date.

2. A permit issued under this paragraph is subject to compliance reports under subsection (4). If the permittee demonstrates that bonds issued to finance the project are outstanding, the quantity of alternative water allocated in the permit may not be reduced during a compliance report review unless a reduction is needed to address harm to water resources or to existing legal uses present when the permit was issued. A reduction required by an applicable water shortage order applies to a permit issued under this paragraph.
3. A permit issued under this paragraph may not authorize the use of nonbrackish groundwater supplies or nonalternative water supplies.
(c) An entity that wishes to develop alternative water supplies may apply for a permit under paragraph (a) or paragraph (b).
(6)(a) The Legislature finds that the need for alternative water supply development projects to meet anticipated public water supply demands of the state is so important that it is essential to encourage participation in and contribution to these projects by private-rural-land owners who characteristically have relatively modest near-term water demands but substantially increasing demands after the 20-year planning period in s. 373.709. Therefore, where such landowners make extraordinary contributions of lands or construction funding to enable the expeditious implementation of such projects, water management districts and the department may grant permits for such projects for a period of up to 50 years to municipalities, counties, special districts, regional water supply authorities, multijurisdictional water supply entities, and publicly or privately owned utilities, with the exception of any publicly or privately owned utilities created for or by a private landowner after April 1, 2008, which have entered into an agreement with the private landowner for the purpose of more efficiently pursuing alternative public water supply development projects identified in a district's regional water supply plan and meeting water demands of both the applicant and the landowner.
(b) A permit under paragraph (a) may be granted only for that period for which there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met. Such a permit shall require a compliance report by the permittee every 5 years during the term of the permit. The report shall contain sufficient data to maintain reasonable assurance that the conditions for permit issuance applicable at the time of district review of the compliance report are met. After review of this report, the governing board or the department may modify the permit to ensure that the use meets the conditions for issuance. This subsection does not limit the existing authority of the department or the governing board to modify or revoke a consumptive use permit.
(7) A permit approved for a renewable energy generating facility or the cultivation of agricultural products on lands consisting of 1,000 acres or more for use in the production of renewable energy, as defined in s. 366.91(2)(d), shall be granted for a term of at least 25 years at the applicant's request based on the anticipated life of the facility if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit; otherwise, a permit may be issued for a shorter duration that reflects the longest period for which such reasonable assurances are provided. Such a permit is subject to compliance reports under subsection (4).
(8) A water management district may issue a permit to an applicant, as set forth in s. 163.3245(13), for the same period of time as the applicant's approved master

development order if the master development order was issued under s. 380.06(21) by a county which, at the time the order was issued, was designated as a rural area of opportunity under s. 288.0656, was not located in an area encompassed by a regional water supply plan as set forth in s. 373.709(1), and was not located within the basin management action plan of a first magnitude spring. In reviewing the permit application and determining the permit duration, the water management district shall apply s. 163.3245(4)(b).

History.—s. 7, part II, ch. 72-299; s. 13, ch. 97-160; s. 7, ch. 2005-291; s. 7, ch. 2006-255; s. 10, ch. 2009-243; s. 70, ch. 2010-5; ss. 18, 55, ch. 2010-205; s. 10, ch. 2013-92; s. 1, ch. 2013-169; s. 17, ch. 2015-30; s. 37, ch. 2016-10.

~~**373.245 Violations of permit conditions.—**~~

~~Holders of consumptive use permits who violate conditions of such permits shall be liable to abutting consumptive use permitholders for damages caused by such permit violations. No cause of action shall accrue under this section until the complainant has first applied for and then been denied relief by the water management district for the permit violations complained of. The provisions of this section are supplemental, and nothing in this section is intended to preclude the use of any other existing cause of action, remedy, or procedure.~~

~~History.—s. 10, ch. 82-101.~~

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

(1) Every person who wishes to engage in business as a water well contractor shall obtain from the water management district a license to conduct such business. Licensure under this part by a water management district shall be the only water well contractor license required for the construction, repair, or abandonment of water wells in the state or any political subdivision thereof.

(2) Each person desiring to be licensed as a water well contractor shall apply to take the licensure examination. Application shall be made to the water management district in which the applicant resides or in which his or her principal place of business is located. A resident of another state shall apply to the water management district in which most of the business of the applicant will take place. Application shall be made on forms provided by the water management district.

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

(a) Is at least 18 years of age.

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

1. Evidence of the length of time the applicant has been engaged in the business of the construction, repair, or abandonment of water wells as a major activity, as attested to by a letter from a water well contractor or ~~and~~ a letter from a water well inspector employed by a governmental agency.

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

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

b. The location, primary use, and approximate depth and diameter of each well that the applicant has constructed, repaired, or abandoned.
c. The approximate date the construction, repair, or abandonment of each well was completed.
(c) Has completed the application form and remitted a nonrefundable application fee.
(4) The department shall prepare an examination which shall test an applicant's knowledge of rules and regulations adopted under this part; ability to construct, repair, and abandon a well; and ability to supervise, direct, manage, and control the contracting activities of a water well contracting business. The department shall provide each water management district and representatives of the water well contracting industry with meaningful opportunity to participate in the development of the examination.
(5) The water management district shall issue a water well contracting license to any applicant who receives a passing grade on the examination, has paid the initial application fee, takes and completes, to the satisfaction of the department, a minimum of 12 hours of approved coursework, and has complied with the requirements of this section. A passing grade on the examination shall be as established by the department by rule. A license issued by any water management district shall be valid in every water management district in the state.
(6) An employee of a political subdivision or of a governmental entity engaged in water well drilling shall be licensed pursuant to this part but shall be exempt from paying fees required pursuant to this part.
(7) When a water management district has probable cause to believe that any person not licensed as a water well contractor has violated any provision of this part or any statute that relates to the construction, repair, or abandonment of water wells, or any rule adopted pursuant thereto, the water management district may issue and deliver to such person a notice to cease and desist from such violation. In addition, the water management district may issue and deliver a notice to cease and desist to any person who aids and abets the unlicensed construction, repair, or abandonment of a water well by employing an unlicensed person. For the purpose of enforcing a cease and desist order, a water management district may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any provision of such order.
(8) The department shall adopt rules which specifically provide for uniformity among all water management districts for the application process and qualifications for licensure, providing each water management district and representatives of the water well contracting industry with meaningful opportunity to participate in the development of the rules as they are drafted. The rules shall be adopted by each water management district.
(9) Each piece of drilling equipment owned, leased, or operated by a water well contractor shall have the water well contractor's license number prominently displayed thereon.
(10) Water well contractors licensed under this section may install, repair, and modify pumps and tanks in accordance with the Florida Building Code, Plumbing; Section 612—Wells pumps and tanks used for private potable water systems. In addition, licensed water well contractors may install pumps, tanks, and water conditioning equipment for all water systems.

(11) A licensed well water contractor may facilitate the performance of additional work by an appropriately licensed contractor which is incidental to the construction, repair, or abandonment of a water well. For purposes of this subsection, incidental work is limited to the electrical connection of a pump, connecting a well to a residential dwelling, constructing a pump house or pump vault of 100 square feet or less, constructing a nonstructural well slab of 100 square feet or less, constructing fencing, and landscaping. This part does not authorize a licensed water well contractor to perform any services or work for which a license under chapter 489 is required.
History.—s. 7, part III, ch. 72-299; s. 114, ch. 77-104; s. 14, ch. 78-95; s. 77, ch. 83-310; s. 1, ch. 84-94; ss. 12, 23, 24, ch. 88-242; s. 4, ch. 91-429; s. 602, ch. 95-148; s. 4, ch. 2001-186; s. 16, ch. 2001-270; s. 1, ch. 2006-87; s. 9, ch. 2009-243; s. 13, ch. 2013-92; s. 2, ch. 2014-154; s. 2, ch. 2016-130.

373.4137 Mitigation requirements for specified transportation projects.—
(1) The Legislature finds that environmental mitigation for the impact of transportation projects proposed by the Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 can be more effectively achieved by regional, long-range mitigation planning rather than on a project-by-project basis. It is the intent of the Legislature that mitigation to offset the adverse effects of these transportation projects be funded by the Department of Transportation and be carried out by the use of mitigation banks and any other mitigation options that satisfy state and federal requirements in a manner that promotes efficiency, timeliness in project delivery, and cost-effectiveness.
(2) Environmental impact inventories for transportation projects proposed by the Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 shall be developed as follows:
(a) By July 1 of each year, the Department of Transportation, or a transportation authority established pursuant to chapter 348 or chapter 349 which chooses to participate in the program, shall submit to the water management districts a list of its projects in the adopted work program and an environmental impact inventory of habitat impacts and the anticipated mitigation needed to offset impacts as described in paragraph (b). The environmental impact inventory must be based on the rules adopted pursuant to this part, s. 404 of the Clean Water Act, 33 U.S.C. s. 1344, and the Department of Transportation's plan of construction for transportation projects in the next 3 years of the tentative work program. The Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 may also include in its environmental impact inventory the habitat impacts and the anticipated amount of mitigation needed for any future transportation project. The Department of Transportation and each transportation authority established pursuant to chapter 348 or chapter 349 may fund any mitigation activities for future projects using current year funds.
(b) The environmental impact inventory must include a description of habitat impacts, including location, acreage, and type; the anticipated mitigation needed based on the functional loss as determined through the uniform mitigation assessment method adopted by the Department of Environmental Protection by rule pursuant to s. 373.414(18); identification of the proposed mitigation option; state water quality classification of impacted wetlands and other surface waters; any other state or regional

designations for these habitats; and a list of threatened species, endangered species, and species of special concern affected by the proposed project.
(c) Before projects are identified for inclusion in a water management district mitigation plan as described in subsection (4), the Department of Transportation must consider using credits from a permitted mitigation bank. The Department of Transportation must consider the availability of suitable and sufficient mitigation bank credits within the transportation project's area, the ability to satisfy commitments to regulatory and resource agencies, the availability of suitable and sufficient mitigation purchased or developed under this section, the ability to complete suitable existing water management district or Department of Environmental Protection mitigation sites initiated with Department of Transportation mitigation funds, and the ability to satisfy state and federal requirements, including long-term maintenance and liability.
(3)(a) To implement the mitigation option identified in the environmental impact inventory described in subsection (2), the Department of Transportation may purchase credits for current and future use directly from a mitigation bank, purchase mitigation services through the water management districts or the Department of Environmental Protection, conduct its own mitigation, or use other mitigation options that meet state and federal requirements. Funding for the identified mitigation option as described in the environmental impact inventory must be included in the Department of Transportation's work program developed pursuant to s. 339.135. The amount programmed each year by the Department of Transportation and participating transportation authorities established pursuant to chapter 348 or chapter 349 must correspond to an estimated cost to mitigate for the functional loss identified in the environmental impact inventory described in subsection (2).
(b) Each transportation authority established pursuant to chapter 348 or chapter 349 which chooses to participate in this program shall create an escrow account within its financial structure and deposit funds in the account to pay for the environmental mitigation phase of projects budgeted for the current fiscal year. The escrow account shall be maintained by the authority for the benefit of the water management districts. Any interest earnings from the escrow account must remain with the authority.
(c) For mitigation implemented by the water management district or the Department of Environmental Protection, as appropriate, the amount paid each year must be based on mitigation services provided by the water management districts or the Department of Environmental Protection pursuant to an approved water management district mitigation plan, as described in subsection (4). The water management districts or the Department of Environmental Protection, as appropriate, may request payment no sooner than 30 days before the date the funds are needed to pay for activities associated with development or implementation of permitted mitigation that meets the requirements of this part, 33 U.S.C. s. 1344, and 33 C.F.R. part 332, in the approved water management district mitigation plan described in subsection (4) for the current fiscal year. The projected amount of mitigation shall be reconciled each quarter with the actual amount of mitigation needed for projects as permitted, including permit modifications, pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344. The subject year's programming of funds shall be adjusted to reflect the mitigation as permitted. If the water management district excludes a project from an approved water management district mitigation plan, if the water management district

cannot timely permit a mitigation site to offset the impacts of a Department of Transportation project identified in the environmental impact inventory, or if the proposed mitigation does not meet state and federal requirements, the Department of Transportation may use the associated funds for the purchase of mitigation bank credits or any other mitigation option that satisfies state and federal requirements. Upon final payment for mitigation of a transportation project as permitted, the obligation of the Department of Transportation or the participating transportation authority is satisfied, and the water management district or the Department of Environmental Protection, as appropriate, has continuing responsibility for the mitigation project.

(d) Beginning with the March 2015 water management district mitigation plans, each water management district or the Department of Environmental Protection, as appropriate, shall invoice the Department of Transportation for mitigation services to offset only the impacts of a Department of Transportation project identified in the environmental impact inventory, including planning, design, construction, maintenance and monitoring, and other costs necessary to meet the requirements of this section, 33 U.S.C. s. 1344, and 33 C.F.R. part 332. If the water management district identifies the use of mitigation bank credits to offset a Department of Transportation impact, the water management district shall exclude that purchase from the mitigation plan, and the Department of Transportation shall purchase the bank credits.

(e) For mitigation activities occurring on existing water management district or Department of Environmental Protection mitigation sites initiated with Department of Transportation mitigation funds before July 1, 2013, the water management district or the Department of Environmental Protection, as appropriate, shall invoice the Department of Transportation or a participating transportation authority at a cost per acre of $75,000 multiplied by the projected acres of impact as identified in the environmental impact inventory. The cost per acre must be adjusted by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30, compared to the base year average, which is the average for the 12-month period ending September 30, 1996. When implementing the mitigation activities necessary to offset the permitted impacts as provided in the approved mitigation plan, the water management district shall maintain records of the costs incurred in implementing the mitigation. The records must include, but are not limited to, costs for planning, land acquisition, design, construction, staff support, long-term maintenance and monitoring of the mitigation site, and other costs necessary to meet the requirements of 33 U.S.C. s. 1344 and 33 C.F.R. part 332.

~~(f) For purposes of preparing and implementing the mitigation plans to be adopted by the water management districts on or before March 1, 2014, for impacts based on the July 1, 2013, environmental impact inventory, the funds identified in the Department of Transportation's work program or participating transportation authorities' escrow accounts must correspond to a cost per acre of $75,000 multiplied by the projected acres of impact as identified in the environmental impact inventory. The cost per acre must be adjusted by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30, compared to the base year average, which is the average for the 12-month period ending September 30, 1996. Payment under this paragraph is~~

~~limited to mitigation activities that are identified in the first year of the 2013 mitigation plan and for which the transportation project is permitted and are in the Department of Transportation's adopted work program, or equivalent for a transportation authority. When implementing the mitigation activities necessary to offset the permitted impacts as provided in the approved mitigation plan, the water management district shall maintain records of the costs incurred in implementing the mitigation. The records must include, but are not limited to, costs for planning, land acquisition, design, construction, staff support, long-term maintenance and monitoring of the mitigation site, and other costs necessary to meet the requirements of 33 U.S.C. s. 1344 and 33 C.F.R. part 332. To the extent moneys paid to a water management district by the Department of Transportation or a participating transportation authority are greater than the amount spent by the water management districts in implementing the mitigation to offset the permitted impacts, these funds must be refunded to the Department of Transportation or participating transportation authority. This paragraph expires June 30, 2015.~~

(4) Before March 1 of each year, each water management district shall develop a mitigation plan to offset only the impacts of transportation projects in the environmental impact inventory for which a water management district is implementing mitigation that meets the requirements of this section, 33 U.S.C. s. 1344, and 33 C.F.R. part 332. The water management district mitigation plan must be developed in consultation with the Department of Environmental Protection, the United States Army Corps of Engineers, the Department of Transportation, participating transportation authorities established pursuant to chapter 348 or chapter 349, other appropriate federal, state, and local governments, and other interested parties, including entities operating mitigation banks. In developing such plans, the water management districts shall use sound ecosystem management practices to address significant water resource needs and consider activities of the Department of Environmental Protection and the water management districts, such as surface water improvement and management (SWIM) projects and lands identified for potential acquisition for preservation, restoration, or enhancement, and the control of invasive and exotic plants in wetlands and other surface waters, to the extent that the activities comply with the mitigation requirements adopted under this part, 33 U.S.C. s. 1344, and 33 C.F.R. part 332. The water management district mitigation plan must identify each site where the water management district will mitigate for a transportation project. For each mitigation site, the water management district shall provide the scope of the mitigation services; provide the functional gain as determined through the uniform mitigation assessment method adopted by the Department of Environmental Protection by rule pursuant to s. 373.414(18); describe how the mitigation offsets the impacts of each transportation project as permitted; and provide a schedule for the mitigation services. The water management districts shall maintain records of costs incurred and payments received for providing these services. Records must include, but are not limited to, planning, land acquisition, design, construction, staff support, long-term maintenance and monitoring of the mitigation site, and other costs necessary to meet the requirements of 33 U.S.C. s. 1344 and 33 C.F.R. part 332. To the extent moneys paid to a water management district by the Department of Transportation or a participating transportation authority are greater than the amount spent by the water management districts in providing the mitigation services to offset the permitted transportation project impacts, these moneys must be refunded to the

Department of Transportation or participating transportation authority. The mitigation plan shall be submitted to the water management district governing board or its designee for review and approval. At least 14 days before approval by the governing board, the water management district shall provide a copy of the draft mitigation plan to the Department of Environmental Protection and any person who has requested a copy. Subsequent to the governing board approval, the mitigation plan shall be submitted to the Department of Environmental Protection for approval. The plan may not be implemented until it is submitted to, and approved in part or in its entirety by, the Department of Environmental Protection.

(a) Specific projects may be excluded from the mitigation plan, in whole or in part, and are not subject to this section upon the election of the Department of Transportation, a transportation authority if applicable, or the appropriate water management district. The Department of Transportation or a participating transportation authority may not exclude a transportation project from the mitigation plan if mitigation is scheduled for implementation by the water management district in the current fiscal year unless the transportation project is removed from the Department of Transportation's work program or transportation authority funding plan, the mitigation cannot be timely permitted to offset the impacts of a Department of Transportation project identified in the environmental impact inventory, or the proposed mitigation does not meet state and federal requirements. If a project is removed from the work program or the mitigation plan, costs spent by the water management district before removal are eligible for reimbursement by the Department of Transportation or participating transportation authority.

(b) When determining which projects to include in or exclude from the mitigation plan, the Department of Transportation shall investigate using credits from a permitted mitigation bank before those projects are submitted for inclusion in a water management district mitigation plan. The Department of Transportation shall exclude a project from the mitigation plan if the investigation undertaken pursuant to this paragraph results in the conclusion that the use of credits from a permitted mitigation bank promotes efficiency, timeliness in project delivery, cost-effectiveness, and transfer of liability for success and long-term maintenance.

(5) The water management district shall ensure that mitigation requirements pursuant to 33 U.S.C. s. 1344 and 33 C.F.R. part 332 are met for the impacts identified in the environmental impact inventory for which the water management district will implement mitigation described in subsection (2), by implementation of the approved mitigation plan described in subsection (4) to the extent funding is provided by the Department of Transportation, or a transportation authority established pursuant to chapter 348 or chapter 349, if applicable. In developing and implementing the mitigation plan, the water management district shall comply with federal permitting requirements pursuant to 33 U.S.C. s. 1344 and 33 C.F.R. part 332. During the federal permitting process, the water management district may deviate from the approved mitigation plan in order to comply with federal permitting requirements upon notice and coordination with the Department of Transportation or participating transportation authority.

(6) The water management district mitigation plans shall be updated annually to reflect the most current Department of Transportation work program and project list of a transportation authority established pursuant to chapter 348 or chapter 349, if

applicable, and may be amended throughout the year to anticipate schedule changes or additional projects that may arise. Before amending the mitigation plan to include new projects, the Department of Transportation must consider mitigation banks and other available mitigation options that meet state and federal requirements. Each update and amendment of the mitigation plan shall be submitted to the governing board of the water management district or its designee for approval. However, such approval shall not apply to a deviation as described in subsection (5).
(7) Upon approval by the governing board of the water management district and the Department of Environmental Protection, the mitigation plan shall satisfy the mitigation requirements under this part for impacts specifically identified in the environmental impact inventory described in subsection (2) and any other mitigation requirements imposed by local, regional, and state agencies for these same impacts. The approval of the governing board of the water management district and the Department of Environmental Protection authorizes the activities proposed in the mitigation plan, and no other state, regional, or local permit or approval is necessary.
(8) This section does not eliminate the need for the Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 to comply with the requirement to implement practicable design modifications, including realignment of transportation projects, to reduce or eliminate the impacts of its transportation projects on wetlands and other surface waters as required by rules adopted pursuant to this part, or to diminish the authority under this part to regulate other impacts, including water quantity or water quality impacts, or impacts regulated under this part which are not identified in the environmental impact inventory described in subsection (2).
History.—s. 1, ch. 96-238; s. 36, ch. 99-385; s. 1, ch. 2000-261; s. 93, ch. 2002-20; s. 39, ch. 2004-269; s. 30, ch. 2005-71; s. 12, ch. 2005-281; s. 1, ch. 2009-11; s. 3, ch. 2012-174; s. 22, ch. 2014-223; s. 5, ch. 2016-11.

373.4149 Miami-Dade County Lake Belt Plan.—
(1) The Legislature hereby accepts and adopts the recommendations contained in the Phase I Lake Belt Report and Plan, dated February 1997 and hereby accepts the Phase II Plan, submitted on February 9, 2001, to the Legislature by the Miami-Dade County Lake Belt Plan Implementation Committee. These plans shall collectively be known as the Miami-Dade County Lake Belt Plan. This plan was developed to enhance the water supply for Miami-Dade County and the Everglades, including appropriate wellfield protection measures; to maximize efficient recovery of limestone while promoting the social and economic welfare of the community and protecting the environment; and to educate various groups and the general public of the benefits of the plan.
(2)(a) The Legislature recognizes that deposits of limestone and sand suitable for production of construction aggregates, cement, and road base materials are located in limited areas of the state.
(b) The Legislature recognizes that the deposit of limestone available in South Florida is limited due to urbanization to the east and the Everglades to the west.
(3) The Miami-Dade County Lake Belt Area is that area bounded by the Ronald Reagan Turnpike to the east, the Miami-Dade-Broward County line to the north, Krome Avenue to the west and Tamiami Trail to the south together with the land south of Tamiami Trail

in sections 5, 6, 7, 8, 17, and 18, Township 54 South, Range 39 East, sections 24, 25, and 36, Township 54 South, Range 38 East, less those portions of section 3, Township 52 South, Range 39 East south of Krome Avenue and west of U.S. Highway 27, and less sections 35 and 36 and the east one-half of sections 24 and 25, Township 53 South, Range 39 East and Government Lots 1 and 2, lying between Townships 53 and 54 South, Range 39 East and those portions of sections 1 and 2, Township 54 South, Range 39 East, lying north of Tamiami Trail.

(4) The identification of the Miami-Dade County Lake Belt Area shall not preempt local land use jurisdiction, planning, or regulatory authority in regard to the use of land by private land owners. When amending local comprehensive plans, or implementing zoning regulations, development regulations, or other local regulations, Miami-Dade County shall strongly consider limestone mining activities and ancillary operations, such as lake excavation, including use of explosives, rock processing, cement, concrete and asphalt products manufacturing, and ancillary activities, within the rock mining supported and allowable areas of the Miami-Dade County Lake Belt Plan adopted by subsection (1); provided, however, that limerock mining activities are consistent with wellfield protection. Rezonings, amendments to local zoning and subdivision regulations, and amendments to local comprehensive plans concerning properties that are located within 1 mile of the Miami-Dade County Lake Belt Area shall be compatible with limestone mining activities. No rezonings, variances, amendments to local zoning and subdivision regulations which would result in an increase in residential density, or amendments to local comprehensive plans for any residential purpose may be approved for any property located in sections 35 and 36 and the east one-half of sections 24 and 25, Township 53 South, Range 39 East until such time as there is no active mining within 2 miles of the property. This section does not preclude residential development that complies with current regulations.

(5) The secretary of the Department of Environmental Protection, the executive director of the Department of Economic Opportunity, the secretary of the Department of Transportation, the Commissioner of Agriculture, the executive director of the Fish and Wildlife Conservation Commission, and the executive director of the South Florida Water Management District may enter into agreements with landowners, developers, businesses, industries, individuals, and governmental agencies as necessary to effectuate the Miami-Dade County Lake Belt Plan and the provisions of this section.

(6)(a) All agencies of the state shall review the status of their landholdings within the boundaries of the Miami-Dade County Lake Belt. Those lands for which no present or future use is identified must be made available, together with other suitable lands, to the Department of Environmental Protection for its use in carrying out the objectives of this act.

(b) It is the intent of the Legislature that lands provided to the Department of Environmental Protection be used for land exchanges to further the objectives of this act.

History.—s. 21, ch. 92-132; s. 5, ch. 94-122; s. 1010, ch. 95-148; s. 10, ch. 97-222; s. 1, ch. 99-298; s. 22, ch. 2000-197; ss. 1, 2, ch. 2000-285; s. 3, ch. 2001-172; s. 1, ch. 2006-13; s. 249, ch. 2011-142; s. 1, ch. 2015-141; s. 38, ch. 2016-10.

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

(1) The Legislature finds that the impact of mining within the rock mining supported and allowable areas of the Miami-Dade County Lake Belt Plan adopted by s. 373.4149(1) can best be offset by the implementation of a comprehensive mitigation plan. The Lake Belt Mitigation Plan consists of those provisions contained in subsections (2)-(8). The per-ton mitigation fee assessed on limestone sold from the Miami-Dade County Lake Belt Area and sections 10, 11, 13, 14, Township 52 South, Range 39 East, and sections 24, 25, 35, and 36, Township 53 South, Range 39 East, shall be used for acquiring environmentally sensitive lands and for restoration, monitoring, maintenance, and other environmental purposes. It is the intent of the Legislature that the per-ton mitigation fee not be a revenue source for purposes other than enumerated in this section. Further, the Legislature finds that the public benefit of a sustainable supply of limestone construction materials for public and private projects requires a coordinated approach to permitting activities on wetlands within Miami-Dade County in order to provide the certainty necessary to encourage substantial and continued investment in the limestone processing plant and equipment required to efficiently extract the limestone resource. It is the intent of the Legislature that the Lake Belt Mitigation Plan satisfy all local, state, and federal requirements for mining activity within the rock mining supported and allowable areas.
(2) To provide for the mitigation of wetland resources lost to mining activities within the Miami-Dade County Lake Belt Plan, effective October 1, 1999, a mitigation fee is imposed on each ton of limerock and sand extracted by any person who engages in the business of extracting limerock or sand from within the Miami-Dade County Lake Belt Area and the east one-half of sections 24 and 25 and all of sections 35 and 36, Township 53 South, Range 39 East. The mitigation fee is imposed for each ton of limerock and sand sold from within the properties where the fee applies in raw, processed, or manufactured form, including, but not limited to, sized aggregate, asphalt, cement, concrete, and other limerock and concrete products. The mitigation fee imposed by this subsection for each ton of limerock and sand sold shall be 25 cents per ton, beginning on January 1, 2016; 15 cents per ton beginning on January 1, 2017; and 5 cents per ton beginning on January 1, 2018, and thereafter. To pay for seepage mitigation projects, including groundwater and surface water management structures designed to improve wetland habitat and approved by the Lake Belt Mitigation Committee, and to upgrade a water treatment plant that treats water coming from the Northwest Wellfield in Miami-Dade County, a water treatment plant upgrade fee is imposed within the same Lake Belt Area subject to the mitigation fee and upon the same kind of mined limerock and sand subject to the mitigation fee. The water treatment plant upgrade fee imposed by this section for each ton of limerock and sand sold shall be 6 cents per ton, and the collection of this fee shall cease once the total amount of proceeds collected for this fee reaches the amount of the actual moneys necessary to design and construct the water treatment plant upgrade, as determined in an open, public solicitation process. The water treatment plant upgrade fee imposed by this section expires July 1, 2018. Any limerock or sand that is used within the mine from which the limerock or sand is extracted is exempt from the fees. The amount of the mitigation fee and the water treatment plant upgrade fee imposed under this section must be stated separately on the invoice provided to the purchaser of the limerock or sand product from the limerock or sand miner, or its subsidiary or affiliate, for which the

fee or fees apply. The limerock or sand miner, or its subsidiary or affiliate, who sells the limerock or sand product shall collect the mitigation fee and the water treatment plant upgrade fee and forward the proceeds of the fees to the Department of Revenue on or before the 20th day of the month following the calendar month in which the sale occurs. The proceeds of a fee imposed by this section include all funds collected and received by the Department of Revenue relating to the fee, including interest and penalties on a delinquent fee. The amount deducted for administrative costs may not exceed 3 percent of the total revenues collected under this section and may equal only those administrative costs reasonably attributable to the fee.

(3) The mitigation fee and the water treatment plant upgrade fee imposed by this section must be reported to the Department of Revenue. Payment of the mitigation and the water treatment plant upgrade fees must be accompanied by a form prescribed by the Department of Revenue.

(a) The proceeds of the mitigation fee, less administrative costs, must be transferred by the Department of Revenue to the South Florida Water Management District and deposited into the Lake Belt Mitigation Trust Fund.

(b) The proceeds of the water treatment plant upgrade fee, less administrative costs and less 2 cents per ton transferred pursuant to paragraph (c), must be transferred by the Department of Revenue to a trust fund established by Miami-Dade County, for the sole purpose authorized by paragraph (6)(a).

(c) Until December 1, 2016, or until funding for the study is complete, whichever comes earlier, 2 cents per ton, not to exceed $300,000, shall be transferred by the Department of Revenue to the State Fire Marshal to be used to fund the study required under s. 552.30 to review the established statewide ground vibration limits for construction materials mining activities and to review any legitimate claims paid for damages caused by such mining activities. Any amount not used to fund the study shall be transferred to the trust fund established by Miami-Dade County, for the sole purpose authorized by paragraph (6)(a).

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

(b) In administering this section, the Department of Revenue may employ persons and incur expenses for which funds are appropriated by the Legislature. The Department of Revenue shall adopt rules and prescribe and publish forms necessary to administer this section. The Department of Revenue shall establish audit procedures and may assess delinquent fees.

(5) Each January 1, beginning January 1, 2010, through December 31, 2011, the per-ton mitigation fee shall be increased by 2.1 percentage points, plus a cost growth index. The cost growth index shall be the percentage change in the weighted average of the Employment Cost Index for All Civilian Workers (ecu 10001I), issued by the United

States Department of Labor for the most recent 12-month period ending on September 30, and the percentage change in the Producer Price Index for All Commodities (WPU 00000000), issued by the United States Department of Labor for the most recent 12-month period ending on September 30, compared to the weighted average of these indices for the previous year. The weighted average shall be calculated as 0.6 times the percentage change in the Employment Cost Index for All Civilian Workers (ecu 10001I), plus 0.4 times the percentage change in the Producer Price Index for All Commodities (WPU 00000000). If either index is discontinued, it shall be replaced by its successor index, as identified by the United States Department of Labor.

(6)(a) The proceeds of the mitigation fee must be used to conduct mitigation activities that are appropriate to offset the loss of the value and functions of wetlands as a result of mining activities and to conduct water quality monitoring to ensure the protection of water resources within the Lake Belt Area. Such mitigation may include the purchase, enhancement, restoration, and management of wetlands and uplands in the Everglades watershed, the purchase of mitigation credit from a permitted mitigation bank, and any structural modifications to the existing drainage system to enhance the hydrology of the Miami-Dade County Lake Belt Area or the Everglades watershed. Funds may also be used to reimburse other funding sources, including the Save Our Rivers Land Acquisition Program, the Internal Improvement Trust Fund, the South Florida Water Management District, and Miami-Dade County, for the purchase of lands that were acquired in areas appropriate for mitigation due to rock mining and to reimburse governmental agencies that exchanged land under s. 373.4149 for mitigation due to rock mining. The proceeds of the water treatment plant upgrade fee deposited into the Lake Belt Mitigation Trust Fund shall be used solely to pay for seepage mitigation projects, including groundwater or surface water management structures designed to improve wetland habitat and approved by the Lake Belt Mitigation Committee. The proceeds of the water treatment plant upgrade fee which are transmitted to a trust fund established by Miami-Dade County shall be used to upgrade a water treatment plant that treats water coming from the Northwest Wellfield in Miami-Dade County. As used in this section, the terms “upgrade a water treatment plant” or “treatment plant upgrade” mean those works necessary to treat or filter a surface water source or supply or both.

(b) Expenditures of the mitigation fee must be approved by an interagency committee consisting of representatives from each of the following: the Miami-Dade County Department of Environmental Resource Management, the Department of Environmental Protection, the South Florida Water Management District, and the Fish and Wildlife Conservation Commission. In addition, the limerock mining industry shall select a representative to serve as a nonvoting member of the interagency committee. At the discretion of the committee, additional members may be added to represent federal regulatory, environmental, and fish and wildlife agencies.

(7) Payment of the mitigation fee imposed by this section satisfies the mitigation requirements imposed under ss. 373.403-373.439 and any applicable county ordinance for loss of the value and functions from mining of the wetlands identified as rock mining supported and allowable areas of the Miami-Dade County Lake Belt Plan adopted by s. 373.4149(1). In addition, it is the intent of the Legislature that the payment of the mitigation fee imposed by this section satisfy all federal mitigation requirements for the wetlands mined.

(8)(a) The interagency committee established in this section shall annually prepare and submit to the governing board of the South Florida Water Management District a report evaluating the mitigation costs and revenues generated by the mitigation fee.
(b) No sooner than January 31, 2010, and no more frequently than every 2 years thereafter, the interagency committee shall submit to the Legislature a report recommending any needed adjustments to the mitigation fee, including the annual escalator provided for in subsection (5), to ensure that the revenue generated reflects the actual costs of the mitigation.
(9)(a) The Legislature finds that more than 1,000 water samples from quarry lakes and groundwater sources near the Northwest Wellfield have been analyzed without a single detection of pathogens. The Legislature further finds that the best available science indicates that there is no connection between the quarry lakes in the Miami-Dade County Lake Belt and any potential need to upgrade the water treatment plant that receives water from the Northwest Wellfield for pathogen removal and none is expected in the future.
(b) To assist the Legislature in determining whether a portion of the limestone mining fee should be dedicated to a treatment plant upgrade through July 1, 2018, pursuant to subsection (2), Miami-Dade County shall:
1. By January 15, 2016, submit to the President of the Senate and the Speaker of the House of Representatives a detailed accounting of the Lake Belt fees collected through June 30, 2015, and all expenditures of those fees; and
2. By January 15, 2017, submit to the President of the Senate and the Speaker of the House of Representatives a detailed report on all pathogen data collection and analyses related to the Northwest Wellfield and the planning and engineering studies undertaken to upgrade any water treatment plant to provide treatment for pathogens in water from the Northwest Wellfield.
History.—s. 2, ch. 99-298; s. 23, ch. 2000-197; s. 2, ch. 2006-13; s. 32, ch. 2010-205; s. 36, ch. 2010-225; s. 1, ch. 2012-107; s. 2, ch. 2015-141; s. 39, ch. 2016-10.

373.4591 Improvements on private agricultural lands.—
(1) The Legislature encourages public-private partnerships to accomplish water storage, groundwater recharge, and water quality improvements on private agricultural lands. Priority consideration shall be given to public-private partnerships that:
(a) Store or treat water on private lands for purposes of enhancing hydrologic improvement, improving water quality, or assisting in water supply;
(b) Provide critical groundwater recharge; or
(c) Provide for changes in land use to activities that minimize nutrient loads and maximize water conservation.
(2)(a) When an agreement is entered into between the department, a water management district, or the Department of Agriculture and Consumer Services and a private landowner to establish ~~such~~ a public-private partnership that may create or impact wetlands or other surface waters, a baseline condition determining the extent of wetlands and other surface waters on the property shall be established and documented in the agreement before improvements are constructed.

(b) When an agreement is entered into between the Department of Agriculture and Consumer Services and a private landowner to implement best management practices pursuant to s. 403.067(7)(c), a baseline condition determining the extent of wetlands and other surface water on the property may be established at the option and expense of the private landowner and documented in the agreement before improvements are constructed. The Department of Agriculture and Consumer Services shall submit the landowner's proposed baseline condition documentation to the lead agency for review and approval, and the agency shall use its best efforts to complete the review within 45 days.
(3) The Department of Agriculture and Consumer Services, the department, and the water management districts shall provide a process for reviewing these requests in the timeframe specified. The determination of a baseline condition shall be conducted using the methods set forth in the rules adopted pursuant to s. 373.421. The baseline condition documented in an agreement shall be considered the extent of wetlands and other surface waters on the property for the purpose of regulation under this chapter for the duration of the agreement and after its expiration.
History.—s. 1, ch. 2012-187; s. 7, ch. 2014-150; s. 14, ch. 2016-1.

373.4595 Northern Everglades and Estuaries Protection Program.—
(1) FINDINGS AND INTENT.—
(a) The Legislature finds that the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed are critical water resources of the state, providing many economic, natural habitat, and biodiversity functions benefiting the public interest, including agricultural, public, and environmental water supply; flood control; fishing; navigation and recreation; and habitat to endangered and threatened species and other flora and fauna.
(b) The Legislature finds that changes in land uses, the construction of the Central and Southern Florida Project, and the loss of surface water storage have resulted in adverse changes to the hydrology and water quality of Lake Okeechobee and the Caloosahatchee and St. Lucie Rivers and their estuaries.
(c) The Legislature finds that improvement to the hydrology, water quality, and associated aquatic habitats within the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed, is essential to the protection of the greater Everglades ecosystem.
(d) The Legislature also finds that it is imperative for the state, local governments, and agricultural and environmental communities to commit to restoring and protecting the surface water resources of the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed, and that a watershed-based approach to address these issues must be developed and implemented immediately.
(e) The Legislature finds that phosphorus loads from the Lake Okeechobee watershed have contributed to excessive phosphorus levels throughout the Lake Okeechobee watershed and downstream receiving waters and that a reduction in levels of phosphorus will benefit the ecology of these systems. The excessive levels of phosphorus have also resulted in an accumulation of phosphorus in the sediments of Lake Okeechobee. If not removed, internal phosphorus loads from the sediments are expected to delay responses of the lake to external phosphorus reductions.

(f) The Legislature finds that the Lake Okeechobee phosphorus loads set forth in the total maximum daily loads established in accordance with s. 403.067 represent an appropriate basis for restoration of the Lake Okeechobee watershed.
(g) The Legislature finds that, in addition to phosphorus, other pollutants are contributing to water quality problems in the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed, and that the total maximum daily load requirements of s. 403.067 provide a means of identifying and addressing these problems.
(h) The Legislature finds that the expeditious implementation of the Lake Okeechobee Watershed Protection Program, the Caloosahatchee River Watershed Protection Program, ~~Plan~~ and the St. Lucie River Watershed Protection Program ~~Plans~~ is needed to improve the quality, quantity, timing, and distribution of water in the northern Everglades ecosystem and that this section, in conjunction with s. 403.067, including the implementation of the plans developed and approved pursuant to subsections (3) and (4), and any related basin management action plan developed and implemented pursuant to s. 403.067(7)(a), provide a reasonable means of achieving the total maximum daily load requirements and achieving and maintaining compliance with state water quality standards.
(i) The Legislature finds that the implementation of the programs contained in this section is for the benefit of the public health, safety, and welfare and is in the public interest.
(j) The Legislature finds that sufficient research has been conducted and sufficient plans developed to immediately expand and accelerate programs to address the hydrology and water quality in the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed.
(k) The Legislature finds that a continuing source of funding is needed to effectively implement the programs developed and approved under this section which are needed to address the hydrology and water quality problems within the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed.
(l) It is the intent of the Legislature to protect and restore surface water resources and achieve and maintain compliance with water quality standards in the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed, and downstream receiving waters, through the phased, comprehensive, and innovative protection program set forth in this section which includes long-term solutions based upon the total maximum daily loads established in accordance with s. 403.067. This program shall be watershed-based, shall provide for consideration of all water quality issues needed to meet the total maximum daily load, and shall include research and monitoring, development and implementation of best management practices, refinement of existing regulations, and structural and nonstructural projects, including public works.
(m) It is the intent of the Legislature that this section be implemented in coordination with the Comprehensive Everglades Restoration Plan project components and other federal programs in order to maximize opportunities for the most efficient and timely expenditures of public funds.
(n) It is the intent of the Legislature that the coordinating agencies encourage and support the development of creative public-private partnerships and programs, including opportunities for water storage and quality improvement on private lands and water

quality credit trading, to facilitate or further the restoration of the surface water resources of the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed, consistent with s. 403.067.
(2) DEFINITIONS.—As used in this section, the term:
(a) “Best management practice” means a practice or combination of practices determined by the coordinating agencies, based on research, field-testing, and expert review, to be the most effective and practicable on-location means, including economic and technological considerations, for improving water quality in agricultural and urban discharges. Best management practices for agricultural discharges shall reflect a balance between water quality improvements and agricultural productivity.
(b) “Biosolids” means the solid, semisolid, or liquid residue generated during the treatment of domestic wastewater in a domestic wastewater treatment facility, formerly known as “domestic wastewater residuals” or “residuals,” and includes products and treated material from biosolids treatment facilities and septage management facilities regulated by the department. The term does not include the treated effluent or reclaimed water from a domestic wastewater treatment facility, solids removed from pump stations and lift stations, screenings and grit removed from the preliminary treatment components of domestic wastewater treatment facilities, or ash generated during the incineration of biosolids.
(c)~~(b)~~ “Caloosahatchee River watershed” means the Caloosahatchee River, its tributaries, its estuary, and the area within Charlotte, Glades, Hendry, and Lee Counties from which surface water flow is directed or drains, naturally or by constructed works, to the river, its tributaries, or its estuary.
(d)~~(c)~~ “Coordinating agencies” means the Department of Agriculture and Consumer Services, the Department of Environmental Protection, and the South Florida Water Management District.
(e)~~(d)~~ “Corps of Engineers” means the United States Army Corps of Engineers.
(f)~~(e)~~ “Department” means the Department of Environmental Protection.
(g)~~(f)~~ “District” means the South Florida Water Management District.
~~(g) “District’s WOD program” means the program implemented pursuant to rules adopted as authorized by this section and ss. 373.016, 373.044, 373.085, 373.086, 373.109, 373.113, 373.118, 373.451, and 373.453, entitled “Works of the District Basin.”~~
(h) “Lake Okeechobee Watershed Construction Project” means the construction project developed pursuant to this section ~~paragraph (3)(b)~~.
(i) “Lake Okeechobee Watershed Protection Plan” means the Lake Okeechobee Watershed Construction Project and the Lake Okeechobee Watershed Research and Water Quality Monitoring Program ~~plan developed pursuant to this section and ss. 373.451-373.459~~.
(j) “Lake Okeechobee watershed” means Lake Okeechobee, its tributaries, and the area within which surface water flow is directed or drains, naturally or by constructed works, to the lake or its tributaries.
~~(k) “Lake Okeechobee Watershed Phosphorus Control Program” means the program developed pursuant to paragraph (3)(c).~~
(k)~~(l)~~ “Northern Everglades” means the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed.

(l)~~(m)~~ “Project component” means any structural or operational change, resulting from the Restudy, to the Central and Southern Florida Project as it existed and was operated as of January 1, 1999.
(m)~~(n)~~ “Restudy” means the Comprehensive Review Study of the Central and Southern Florida Project, for which federal participation was authorized by the Federal Water Resources Development Acts of 1992 and 1996 together with related Congressional resolutions and for which participation by the South Florida Water Management District is authorized by s. 373.1501. The term includes all actions undertaken pursuant to the aforementioned authorizations which will result in recommendations for modifications or additions to the Central and Southern Florida Project.
(n)~~(o)~~ “River Watershed Protection Plans” means the Caloosahatchee River Watershed Protection Plan and the St. Lucie River Watershed Protection Plan developed pursuant to this section.
(o) “Soil amendment” means any substance or mixture of substances sold or offered for sale for soil enriching or corrective purposes, intended or claimed to be effective in promoting or stimulating plant growth, increasing soil or plant productivity, improving the quality of crops, or producing any chemical or physical change in the soil, except amendments, conditioners, additives, and related products that are derived solely from inorganic sources and that contain no recognized plant nutrients.
(p) “St. Lucie River watershed” means the St. Lucie River, its tributaries, its estuary, and the area within Martin, Okeechobee, and St. Lucie Counties from which surface water flow is directed or drains, naturally or by constructed works, to the river, its tributaries, or its estuary.
(q) “Total maximum daily load” means the sum of the individual wasteload allocations for point sources and the load allocations for nonpoint sources and natural background adopted pursuant to s. 403.067. Before ~~Prior to~~ determining individual wasteload allocations and load allocations, the maximum amount of a pollutant that a water body or water segment can assimilate from all sources without exceeding water quality standards must first be calculated.
(3) LAKE OKEECHOBEE WATERSHED PROTECTION PROGRAM.—The Lake Okeechobee Watershed Protection Program shall consist of the Lake Okeechobee Watershed Protection Plan, the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067, the Lake Okeechobee Exotic Species Control Program, and the Lake Okeechobee Internal Phosphorus Management Program. The Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067 shall be the component of the Lake Okeechobee Watershed Protection ~~A protection~~ Program ~~for Lake Okeechobee~~ that achieves phosphorus load reductions for Lake Okeechobee ~~shall be immediately implemented as specified in this subsection~~. The Lake Okeechobee Watershed Protection Program shall address the reduction of phosphorus loading to the lake from both internal and external sources. Phosphorus load reductions shall be achieved through a phased program of implementation. ~~Initial implementation actions shall be technology-based, based upon a consideration of both the availability of appropriate technology and the cost of such technology, and shall include phosphorus reduction measures at both the source and the regional level. The initial phase of phosphorus load reductions shall be based upon the district’s Technical Publication 81-2 and the district’s WOD program, with subsequent phases of phosphorus load~~

~~reductions based upon the total maximum daily loads established in accordance with s. 403.067.~~ In the development and administration of the Lake Okeechobee Watershed Protection Program, the coordinating agencies shall maximize opportunities provided by federal cost-sharing programs and opportunities for partnerships with the private sector.
(a) Lake Okeechobee Watershed Protection Plan.— ~~In order~~ To protect and restore surface water resources, the district, in cooperation with the other coordinating agencies, shall complete a Lake Okeechobee Watershed Protection Plan in accordance with this section and ss. 373.451-373.459. Beginning March 1, 2020, and every 5 years thereafter, the district shall update the Lake Okeechobee Watershed Protection Plan to ensure that it is consistent with the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067. The Lake Okeechobee Watershed Protection Plan shall identify the geographic extent of the watershed, be coordinated with the plans developed pursuant to paragraphs (4)(a) and (c) ~~(b)~~, and include the Lake Okeechobee Watershed Construction Project and the Lake Okeechobee Watershed Research and Water Quality Monitoring Program ~~contain an implementation schedule for subsequent phases of phosphorus load reduction consistent with the total maximum daily loads established in accordance with s. 403.067~~. The plan shall consider and build upon a review and analysis of ~~the following:~~
~~1.~~ the performance of projects constructed during Phase I and Phase II of the Lake Okeechobee Watershed Construction Project, pursuant to subparagraph 1.; ~~paragraph (b).~~
~~2.~~ relevant information resulting from the Lake Okeechobee Basin Management Action Plan ~~Watershed Phosphorus Control Program~~, pursuant to paragraph (b); ~~(c)~~.
~~3.~~ relevant information resulting from the Lake Okeechobee Watershed Research and Water Quality Monitoring Program, pursuant to subparagraph 2.; ~~paragraph (d).~~
~~4.~~ relevant information resulting from the Lake Okeechobee Exotic Species Control Program, pursuant to paragraph (c); and ~~(e)~~.
~~5.~~ relevant information resulting from the Lake Okeechobee Internal Phosphorus Management Program, pursuant to paragraph (d) ~~(f)~~.
1.~~(b)~~ Lake Okeechobee Watershed Construction Project.—To improve the hydrology and water quality of Lake Okeechobee and downstream receiving waters, including the Caloosahatchee and St. Lucie Rivers and their estuaries, the district, in cooperation with the other coordinating agencies, shall design and construct the Lake Okeechobee Watershed Construction Project. The project shall include:
a.~~1.~~ Phase I.—Phase I of the Lake Okeechobee Watershed Construction Project shall consist of a series of project features consistent with the recommendations of the South Florida Ecosystem Restoration Working Group's Lake Okeechobee Action Plan. Priority basins for such projects include S-191, S-154, and Pools D and E in the Lower Kissimmee River. ~~In order~~ To obtain phosphorus load reductions to Lake Okeechobee as soon as possible, the following actions shall be implemented:
(I)~~a.~~ The district shall serve as a full partner with the Corps of Engineers in the design and construction of the Grassy Island Ranch and New Palm Dairy stormwater treatment facilities as components of the Lake Okeechobee Water Retention/Phosphorus Removal Critical Project. The Corps of Engineers shall have the lead in design and construction of these facilities. Should delays be encountered in the implementation of

either of these facilities, the district shall notify the department and recommend corrective actions.
(II)~~b.~~ The district shall obtain permits and complete construction of two of the isolated wetland restoration projects that are part of the Lake Okeechobee Water Retention/Phosphorus Removal Critical Project. The additional isolated wetland projects included in this critical project shall further reduce phosphorus loading to Lake Okeechobee.
(III)~~c.~~ The district shall work with the Corps of Engineers to expedite initiation of the design process for the Taylor Creek/Nubbins Slough Reservoir Assisted Stormwater Treatment Area, a project component of the Comprehensive Everglades Restoration Plan. The district shall propose to the Corps of Engineers that the district take the lead in the design and construction of the Reservoir Assisted Stormwater Treatment Area and receive credit towards the local share of the total cost of the Comprehensive Everglades Restoration Plan.
b.~~2.~~ Phase II technical plan and construction.~~ By February 1, 2008,~~ The district, in cooperation with the other coordinating agencies, shall develop a detailed technical plan for Phase II of the Lake Okeechobee Watershed Construction Project which provides the basis for the Lake Okeechobee Basin Management Action Plan adopted by the department pursuant to s. 403.067. The detailed technical plan shall include measures for the improvement of the quality, quantity, timing, and distribution of water in the northern Everglades ecosystem, including the Lake Okeechobee watershed and the estuaries, and for facilitating the achievement of water quality standards. Use of cost-effective biologically based, hybrid wetland/chemical and other innovative nutrient control technologies shall be incorporated in the plan where appropriate. The detailed technical plan shall also include a Process Development and Engineering component to finalize the detail and design of Phase II projects and identify additional measures needed to increase the certainty that the overall objectives for improving water quality and quantity can be met. Based on information and recommendations from the Process Development and Engineering component, the Phase II detailed technical plan shall be periodically updated. Phase II shall include construction of additional facilities in the priority basins identified in sub-subparagraph a. ~~subparagraph1.~~, as well as facilities for other basins in the Lake Okeechobee watershed. ~~This detailed technical plan will require legislative ratification pursuant to paragraph (i).~~ The technical plan shall:
(I)~~a.~~ Identify Lake Okeechobee Watershed Construction Project facilities designed to contribute to achieving all applicable total maximum daily loads established pursuant to s. 403.067 within the Lake Okeechobee watershed.
(II)~~b.~~ Identify the size and location of all such Lake Okeechobee Watershed Construction Project facilities.
(III)~~c.~~ Provide a construction schedule for all such Lake Okeechobee Watershed Construction Project facilities, including the sequencing and specific timeframe for construction of each Lake Okeechobee Watershed Construction Project facility.
(IV)~~d.~~ Provide a schedule for the acquisition of lands or sufficient interests necessary to achieve the construction schedule.
(V)~~e.~~ Provide a detailed schedule of costs associated with the construction schedule.

(VI)f. Identify, to the maximum extent practicable, impacts on wetlands and state-listed species expected to be associated with construction of such facilities, including potential alternatives to minimize and mitigate such impacts, as appropriate.
(VII)g. Provide for additional measures, including voluntary water storage and quality improvements on private land, to increase water storage and reduce excess water levels in Lake Okeechobee and to reduce excess discharges to the estuaries.
(VIII) The technical plan shall also Develop the appropriate water quantity storage goal to achieve the desired Lake Okeechobee range of lake levels and inflow volumes to the Caloosahatchee and St. Lucie estuaries while meeting the other water-related needs of the region, including water supply and flood protection.
(IX)h. Provide for additional source controls needed to enhance performance of the Lake Okeechobee Watershed Construction Project facilities. Such additional source controls shall be incorporated into the Lake Okeechobee Basin Management Action Plan Watershed Phosphorus Control Program pursuant to paragraph (b)(c).
c.3. Evaluation.—Within 5 years after the adoption of the Lake Okeechobee Basin Management Action Plan pursuant to s. 403.067 and every 5 By January 1, 2004, and every years thereafter, the department district, in cooperation with the other coordinating agencies, shall conduct an evaluation of the Lake Okeechobee Watershed Construction Project and identify any further load reductions necessary to achieve compliance with the all Lake Okeechobee watershed total maximum daily loads established pursuant to s. 403.067. Additionally, The district shall identify modifications to facilities of the Lake Okeechobee Watershed Construction Project as appropriate to meet the total maximum daily loads. Modifications to the Lake Okeechobee Watershed Construction Project resulting from this evaluation shall be incorporated into the Lake Okeechobee Basin Management Action Plan and The evaluation shall be included in the applicable annual progress report submitted pursuant to subsection (6).
d.4. Coordination and review.—To ensure the timely implementation of the Lake Okeechobee Watershed Construction Project, the design of project facilities shall be coordinated with the department and other interested parties, including affected local governments, to the maximum extent practicable. Lake Okeechobee Watershed Construction Project facilities shall be reviewed and commented upon by the department before prior to the execution of a construction contract by the district for that facility.
2. Lake Okeechobee Watershed Research and Water Quality Monitoring Program.—The coordinating agencies shall implement a Lake Okeechobee Watershed Research and Water Quality Monitoring Program. Results from the program shall be used by the department, in cooperation with the other coordinating agencies, to make modifications to the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067, as appropriate. The program shall:
a. Evaluate all available existing water quality data concerning total phosphorus in the Lake Okeechobee watershed, develop a water quality baseline to represent existing conditions for total phosphorus, monitor long-term ecological changes, including water quality for total phosphorus, and measure compliance with water quality standards for total phosphorus, including any applicable total maximum daily load for the Lake Okeechobee watershed as established pursuant to s. 403.067. Beginning March 1, 2020, and every 5 years thereafter, the department shall reevaluate water quality and

quantity data to ensure that the appropriate projects are being designated and incorporated into the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067. The district shall implement a total phosphorus monitoring program at appropriate structures owned or operated by the district and within the Lake Okeechobee watershed.

b. Develop a Lake Okeechobee water quality model that reasonably represents the phosphorus dynamics of Lake Okeechobee and incorporates an uncertainty analysis associated with model predictions.

c. Determine the relative contribution of phosphorus from all identifiable sources and all primary and secondary land uses.

d. Conduct an assessment of the sources of phosphorus from the Upper Kissimmee Chain of Lakes and Lake Istokpoga and their relative contribution to the water quality of Lake Okeechobee. The results of this assessment shall be used by the coordinating agencies as part of the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067 to develop interim measures, best management practices, or regulations, as applicable.

e. Assess current water management practices within the Lake Okeechobee watershed and develop recommendations for structural and operational improvements. Such recommendations shall balance water supply, flood control, estuarine salinity, maintenance of a healthy lake littoral zone, and water quality considerations.

f. Evaluate the feasibility of alternative nutrient reduction technologies, including sediment traps, canal and ditch maintenance, fish production or other aquaculture, bioenergy conversion processes, and algal or other biological treatment technologies and include any alternative nutrient reduction technologies determined to be feasible in the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067.

g. Conduct an assessment of the water volumes and timing from the Lake Okeechobee watershed and their relative contribution to the water level changes in Lake Okeechobee and to the timing and volume of water delivered to the estuaries.

(b)~~(c)~~ Lake Okeechobee Basin Management Action Plan ~~Watershed Phosphorus Control Program~~.~~—~~The Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067 shall be the watershed phosphorus control component for Lake Okeechobee. The Lake Okeechobee Basin Management Action Plan shall be ~~Program is designed to be~~ a multifaceted approach designed to achieve the total maximum daily load ~~reducing phosphorus loads~~ by improving the management of phosphorus sources within the Lake Okeechobee watershed through implementation of regulations and best management practices, continued development and continued implementation of improved best management practices, improvement and restoration of the hydrologic function of natural and managed systems, and use ~~utilization~~ of alternative technologies for nutrient reduction. As provided in s. 403.067(7)(a)6., the Lake Okeechobee Basin Management Action Plan must include milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones shall be conducted every 5 years and shall be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Revisions to the plan shall be made, as appropriate, as a result of each 5-year review. Revisions to the basin management

action plan shall be made by the department in cooperation with the basin stakeholders. Revisions to best management practices or other measures must follow the procedures set forth in s. 403.067(7)(c)4. Revised basin management action plans must be adopted pursuant to s. 403.067(7)(a)5. The department shall develop an implementation schedule establishing 5-year, 10-year, and 15-year measurable milestones and targets to achieve the total maximum daily load no more than 20 years after adoption of the plan. The initial implementation schedule shall be used to provide guidance for planning and funding purposes and is exempt from chapter 120. Upon the first 5-year review, the implementation schedule shall be adopted as part of the plan. If achieving the total maximum daily load within 20 years is not practicable, the implementation schedule must contain an explanation of the constraints that prevent achievement of the total maximum daily load within 20 years, an estimate of the time needed to achieve the total maximum daily load, and additional 5-year measurable milestones, as necessary. The coordinating agencies shall develop an interagency agreement pursuant to ss. 373.046 and 373.406(5) which is consistent with the department taking the lead on water quality protection measures through the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067; the district taking the lead on hydrologic improvements pursuant to paragraph (a); and the Department of Agriculture and Consumer Services taking the lead on agricultural interim measures, best management practices, and other measures adopted pursuant to s. 403.067. The interagency agreement must specify how best management practices for nonagricultural nonpoint sources are developed and how all best management practices are implemented and verified consistent with s. 403.067 and this section and must address measures to be taken by the coordinating agencies during any best management practice reevaluation performed pursuant to subparagraphs 5. and 10. The department shall use best professional judgment in making the initial determination of best management practice effectiveness. The coordinating agencies may develop an intergovernmental agreement with local governments to implement nonagricultural nonpoint source best management practices within their respective geographic boundaries. The coordinating agencies shall facilitate the application of federal programs that offer opportunities for water quality treatment, including preservation, restoration, or creation of wetlands on agricultural lands.

1. Agricultural nonpoint source best management practices, developed in accordance with s. 403.067 and designed to achieve the objectives of the Lake Okeechobee Watershed Protection Program as part of a phased approach of management strategies within the Lake Okeechobee Basin Management Action Plan, shall be implemented on an expedited basis. ~~The coordinating agencies shall develop an interagency agreement pursuant to ss. 373.046 and 373.406(5) that assures the development of best management practices that complement existing regulatory programs and specifies how those best management practices are implemented and verified. The interagency agreement shall address measures to be taken by the coordinating agencies during any best management practice reevaluation performed pursuant to sub-subparagraph d. The department shall use best professional judgment in making the initial determination of best management practice effectiveness.~~

2.~~a.~~ As provided in s. 403.067~~(7)(c)~~, the Department of Agriculture and Consumer Services, in consultation with the department, the district, and affected parties, shall initiate rule development for interim measures, best management practices,

conservation plans, nutrient management plans, or other measures necessary for Lake Okeechobee watershed total maximum daily load reduction. The rule shall include thresholds for requiring conservation and nutrient management plans and criteria for the contents of such plans. Development of agricultural nonpoint source best management practices shall initially focus on those priority basins listed in sub-subparagraph (a)1.a. ~~subparagraph (b)1.~~ The Department of Agriculture and Consumer Services, in consultation with the department, the district, and affected parties, shall conduct an ongoing program for improvement of existing and development of new agricultural nonpoint source interim measures and ~~or~~ best management practices. The Department of Agriculture and Consumer Services shall adopt ~~for the purpose of adoption of~~ such practices by rule. The Department of Agriculture and Consumer Services shall work with the University of Florida ~~Florida's~~ Institute of Food and Agriculture Sciences to review and, where appropriate, develop revised nutrient application rates for all agricultural soil amendments in the watershed.

3.~~b.~~ As provided in s. 403.067, where agricultural nonpoint source best management practices or interim measures have been adopted by rule of the Department of Agriculture and Consumer Services, the owner or operator of an agricultural nonpoint source addressed by such rule shall either implement interim measures or best management practices or demonstrate compliance with state water quality standards addressed by the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067 ~~the district's WOD program~~ by conducting monitoring prescribed by the department or the district. Owners or operators of agricultural nonpoint sources who implement interim measures or best management practices adopted by rule of the Department of Agriculture and Consumer Services shall be subject to ~~the provisions of~~ s. 403.067~~(7)~~. ~~The Department of Agriculture and Consumer Services, in cooperation with the department and the district, shall provide technical and financial assistance for implementation of agricultural best management practices, subject to the availability of funds.~~

4.~~c.~~ The district or department shall conduct monitoring at representative sites to verify the effectiveness of agricultural nonpoint source best management practices.

5.~~d.~~ Where water quality problems are detected for agricultural nonpoint sources despite the appropriate implementation of adopted best management practices, ~~the Department of Agriculture and Consumer Services, in consultation with the other coordinating agencies and affected parties, shall institute~~ a reevaluation of the best management practices shall be conducted pursuant to s. 403.067(7)(c)4. If the reevaluation determines that the best management practices or other measures require modification, the rule shall be revised to require implementation of the modified practice within a reasonable period as specified in the rule ~~and make appropriate changes to the rule adopting best management practices~~.

6.~~2.~~ As provided in s. 403.067, nonagricultural nonpoint source best management practices, developed in accordance with s. 403.067 and designed to achieve the objectives of the Lake Okeechobee Watershed Protection Program as part of a phased approach of management strategies within the Lake Okeechobee Basin Management Action Plan, shall be implemented on an expedited basis. ~~The department and the district shall develop an interagency agreement pursuant to ss. 373.046 and 373.406(5) that assures the development of best management practices that complement existing~~

~~regulatory programs and specifies how those best management practices are implemented and verified. The interagency agreement shall address measures to be taken by the department and the district during any best management practice reevaluation performed pursuant to sub-subparagraph d.~~

7.~~a.~~ The department and the district are directed to work with the University of Florida ~~Florida's~~ Institute of Food and Agricultural Sciences to develop appropriate nutrient application rates for all nonagricultural soil amendments in the watershed. As provided in s. 403.067 ~~s. 403.067(7)(c)~~, the department, in consultation with the district and affected parties, shall develop nonagricultural nonpoint source interim measures, best management practices, or other measures necessary for Lake Okeechobee watershed total maximum daily load reduction. Development of nonagricultural nonpoint source best management practices shall initially focus on those priority basins listed in sub-subparagraph (a)1.a. ~~subparagraph (b)1.~~ The department, the district, and affected parties shall conduct an ongoing program for improvement of existing and development of new interim measures and ~~or~~ best management practices. The department or the district shall adopt such practices by rule ~~The district shall adopt technology-based standards under the district's WOD program for nonagricultural nonpoint sources of phosphorus. Nothing in this sub-subparagraph shall affect the authority of the department or the district to adopt basin-specific criteria under this part to prevent harm to the water resources of the district~~.

8.~~b.~~ Where nonagricultural nonpoint source best management practices or interim measures have been developed by the department and adopted by the district, the owner or operator of a nonagricultural nonpoint source shall implement interim measures or best management practices and be subject to ~~the provisions of~~ s. 403.067~~(7)~~. ~~The department and district shall provide technical and financial assistance for implementation of nonagricultural nonpoint source best management practices, subject to the availability of funds.~~

9.~~c.~~ As provided in s. 403.067, the district or the department shall conduct monitoring at representative sites to verify the effectiveness of nonagricultural nonpoint source best management practices.

10.~~d.~~ Where water quality problems are detected for nonagricultural nonpoint sources despite the appropriate implementation of adopted best management practices, ~~the department and the district shall institute~~ a reevaluation of the best management practices shall be conducted pursuant to s. 403.067(7)(c)4. If the reevaluation determines that the best management practices or other measures require modification, the rule shall be revised to require implementation of the modified practice within a reasonable time period as specified in the rule.

11.~~3. The provisions of~~ Subparagraphs ~~1. and~~ 2. and 7. do ~~may~~ not preclude the department or the district from requiring compliance with water quality standards or with current best management practices requirements set forth in any applicable regulatory program authorized by law for the purpose of protecting water quality. ~~Additionally,~~ Subparagraphs ~~1. and~~ 2. and 7. are applicable only to the extent that they do not conflict with any rules adopted by the department that are necessary to maintain a federally delegated or approved program.

12. The program of agricultural best management practices set forth in the Everglades Program of the district meets the requirements of this paragraph and s. 403.067(7) for

the Lake Okeechobee watershed. An entity in compliance with the best management practices set forth in the Everglades Program of the district may elect to use that permit in lieu of the requirements of this paragraph. The provisions of subparagraph 5. apply to this subparagraph. This subparagraph does not alter any requirement of s. 373.4592.
13. The Department of Agriculture and Consumer Services, in cooperation with the department and the district, shall provide technical and financial assistance for implementation of agricultural best management practices, subject to the availability of funds. The department and district shall provide technical and financial assistance for implementation of nonagricultural nonpoint source best management practices, subject to the availability of funds.
14.~~4.~~ Projects that reduce the phosphorus load originating from domestic wastewater systems within the Lake Okeechobee watershed shall be given funding priority in the department's revolving loan program under s. 403.1835. The department shall coordinate and provide assistance to those local governments seeking financial assistance for such priority projects.
15.~~5.~~ Projects that make use of private lands, or lands held in trust for Indian tribes, to reduce nutrient loadings or concentrations within a basin by one or more of the following methods: restoring the natural hydrology of the basin, restoring wildlife habitat or impacted wetlands, reducing peak flows after storm events, increasing aquifer recharge, or protecting range and timberland from conversion to development, are eligible for grants available under this section from the coordinating agencies. For projects of otherwise equal priority, special funding priority will be given to those projects that make best use of the methods outlined above that involve public-private partnerships or that obtain federal match money. Preference ranking above the special funding priority will be given to projects located in a rural area of opportunity designated by the Governor. Grant applications may be submitted by any person or tribal entity, and eligible projects may include, but are not limited to, the purchase of conservation and flowage easements, hydrologic restoration of wetlands, creating treatment wetlands, development of a management plan for natural resources, and financial support to implement a management plan.
16.~~6.a.~~ The department shall require all entities disposing of domestic wastewater biosolids ~~residuals~~ within the Lake Okeechobee watershed and the remaining areas of Okeechobee, Glades, and Hendry Counties to develop and submit to the department an agricultural use plan that limits applications based upon phosphorus loading consistent with the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067. ~~By July 1, 2005, phosphorus concentrations originating from these application sites may not exceed the limits established in the district's WOD program. After December 31, 2007,~~ The department may not authorize the disposal of domestic wastewater biosolids ~~residuals~~ within the Lake Okeechobee watershed unless the applicant can affirmatively demonstrate that the phosphorus in the biosolids ~~residuals~~ will not add to phosphorus loadings in Lake Okeechobee or its tributaries. This demonstration shall be based on achieving a net balance between phosphorus imports relative to exports on the permitted application site. Exports shall include only phosphorus removed from the Lake Okeechobee watershed through products generated on the permitted application site. This prohibition does not apply to Class AA

biosolids ~~residuals~~ that are marketed and distributed as fertilizer products in accordance with department rule.

17.~~b.~~ Private and government-owned utilities within Monroe, Miami-Dade, Broward, Palm Beach, Martin, St. Lucie, Indian River, Okeechobee, Highlands, Hendry, and Glades Counties that dispose of wastewater biosolids ~~residual~~ sludge from utility operations and septic removal by land spreading in the Lake Okeechobee watershed may use a line item on local sewer rates to cover wastewater biosolids ~~residual~~ treatment and disposal if such disposal and treatment is done by approved alternative treatment methodology at a facility located within the areas designated by the Governor as rural areas of opportunity pursuant to s. 288.0656. This additional line item is an environmental protection disposal fee above the present sewer rate and may not be considered a part of the present sewer rate to customers, notwithstanding provisions to the contrary in chapter 367. The fee shall be established by the county commission or its designated assignee in the county in which the alternative method treatment facility is located. The fee shall be calculated to be no higher than that necessary to recover the facility's prudent cost of providing the service. Upon request by an affected county commission, the Florida Public Service Commission will provide assistance in establishing the fee. Further, for utilities and utility authorities that use the additional line item environmental protection disposal fee, such fee may not be considered a rate increase under the rules of the Public Service Commission and shall be exempt from such rules. Utilities using ~~the provisions of~~ this section may immediately include in their sewer invoicing the new environmental protection disposal fee. Proceeds from this environmental protection disposal fee shall be used for treatment and disposal of wastewater biosolids ~~residuals~~, including any treatment technology that helps reduce the volume of biosolids ~~residuals~~ that require final disposal, but such proceeds may not be used for transportation or shipment costs for disposal or any costs relating to the land application of biosolids ~~residuals~~ in the Lake Okeechobee watershed.

18.~~c.~~ No less frequently than once every 3 years, the Florida Public Service Commission or the county commission through the services of an independent auditor shall perform a financial audit of all facilities receiving compensation from an environmental protection disposal fee. The Florida Public Service Commission or the county commission through the services of an independent auditor shall also perform an audit of the methodology used in establishing the environmental protection disposal fee. The Florida Public Service Commission or the county commission shall, within 120 days after completion of an audit, file the audit report with the President of the Senate and the Speaker of the House of Representatives and shall provide copies to the county commissions of the counties set forth in subparagraph 17. ~~sub-subparagraph b.~~The books and records of any facilities receiving compensation from an environmental protection disposal fee shall be open to the Florida Public Service Commission and the Auditor General for review upon request.

19.~~7.~~ The Department of Health shall require all entities disposing of septage within the Lake Okeechobee watershed to develop and submit to that agency an agricultural use plan that limits applications based upon phosphorus loading consistent with the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067. ~~By July 1, 2005, phosphorus concentrations originating from these applications sites may not exceed the limits established in the district's WOD program.~~

20.~~8.~~ The Department of Agriculture and Consumer Services shall initiate rulemaking requiring entities within the Lake Okeechobee watershed which land-apply animal manure to develop resource management system level conservation plans, according to United States Department of Agriculture criteria, which limit such application. Such rules must ~~may~~ include criteria and thresholds for the requirement to develop a conservation or nutrient management plan, requirements for plan approval, site inspection requirements, and recordkeeping requirements.

21. The district shall revise chapter 40E-61, Florida Administrative Code, to be consistent with this section and s. 403.067; provide for a monitoring program for nonpoint source dischargers required to monitor water quality by s. 403.067; and provide for the results of such monitoring to be reported to the coordinating agencies.

~~9. The district, the department, or the Department of Agriculture and Consumer Services, as appropriate, shall implement those alternative nutrient reduction technologies determined to be feasible pursuant to subparagraph (d)6.~~

~~(d) Lake Okeechobee Watershed Research and Water Quality Monitoring Program.—The district, in cooperation with the other coordinating agencies, shall establish a Lake Okeechobee Watershed Research and Water Quality Monitoring Program that builds upon the district's existing Lake Okeechobee research program. The program shall:~~

~~1. Evaluate all available existing water quality data concerning total phosphorus in the Lake Okeechobee watershed, develop a water quality baseline to represent existing conditions for total phosphorus, monitor longterm ecological changes, including water quality for total phosphorus, and measure compliance with water quality standards for total phosphorus, including any applicable total maximum daily load for the Lake Okeechobee watershed as established pursuant to s. 403.067. Every 3 years, the district shall reevaluate water quality and quantity data to ensure that the appropriate projects are being designated and implemented to meet the water quality and storage goals of the plan. The district shall also implement a total phosphorus monitoring program at appropriate structures owned or operated by the South Florida Water Management District and within the Lake Okeechobee watershed.~~

~~2. Develop a Lake Okeechobee water quality model that reasonably represents phosphorus dynamics of the lake and incorporates an uncertainty analysis associated with model predictions.~~

~~3. Determine the relative contribution of phosphorus from all identifiable sources and all primary and secondary land uses.~~

~~4. Conduct an assessment of the sources of phosphorus from the Upper Kissimmee Chain-of-Lakes and Lake Istokpoga, and their relative contribution to the water quality of Lake Okeechobee. The results of this assessment shall be used by the coordinating agencies to develop interim measures, best management practices, or regulation, as applicable.~~

~~5. Assess current water management practices within the Lake Okeechobee watershed and develop recommendations for structural and operational improvements. Such recommendations shall balance water supply, flood control, estuarine salinity, maintenance of a healthy lake littoral zone, and water quality considerations.~~

~~6. Evaluate the feasibility of alternative nutrient reduction technologies, including sediment traps, canal and ditch maintenance, fish production or other aquaculture, bioenergy conversion processes, and algal or other biological treatment technologies.~~

~~7. Conduct an assessment of the water volumes and timing from the Lake Okeechobee watershed and their relative contribution to the water level changes in Lake Okeechobee and to the timing and volume of water delivered to the estuaries.~~
(c)~~(e)~~ Lake Okeechobee Exotic Species Control Program.—The coordinating agencies shall identify the exotic species that threaten the native flora and fauna within the Lake Okeechobee watershed and develop and implement measures to protect the native flora and fauna.
(d)~~(f)~~ Lake Okeechobee Internal Phosphorus Management Program.—The district, in cooperation with the other coordinating agencies and interested parties, shall evaluate the feasibility of ~~complete a~~ Lake Okeechobee internal phosphorus load removal projects ~~feasibility study~~. The evaluation ~~feasibility study~~ shall be based on technical feasibility, as well as economic considerations, and shall consider ~~address~~ all reasonable methods of phosphorus removal. If projects ~~methods~~ are found to be feasible, the district shall immediately pursue the design, funding, and permitting for implementing such projects ~~methods~~.
(e)~~(g)~~ Lake Okeechobee Watershed Protection Program ~~Plan~~ implementation.—The coordinating agencies shall be jointly responsible for implementing the Lake Okeechobee Watershed Protection Program ~~Plan~~, consistent with the statutory authority and responsibility of each agency. Annual funding priorities shall be jointly established, and the highest priority shall be assigned to programs and projects that address sources that have the highest relative contribution to loading and the greatest potential for reductions needed to meet the total maximum daily loads. In determining funding priorities, the coordinating agencies shall also consider the need for regulatory compliance, the extent to which the program or project is ready to proceed, and the availability of federal matching funds or other nonstate funding, including public-private partnerships. Federal and other nonstate funding shall be maximized to the greatest extent practicable.
(f)~~(h)~~ Priorities and implementation schedules.—The coordinating agencies are authorized and directed to establish priorities and implementation schedules for the achievement of total maximum daily loads, compliance with the requirements of s. 403.067, and compliance with applicable water quality standards within the waters and watersheds subject to this section.
~~(i) Legislative ratification.—The coordinating agencies shall submit the Phase II technical plan developed pursuant to paragraph (b) to the President of the Senate and the Speaker of the House of Representatives prior to the 2008 legislative session for review. If the Legislature takes no action on the plan during the 2008 legislative session, the plan is deemed approved and may be implemented.~~
(4) CALOOSAHATCHEE RIVER WATERSHED PROTECTION PROGRAM AND ST. LUCIE RIVER WATERSHED PROTECTION PROGRAM.—A protection program shall be developed and implemented as specified in this subsection. ~~In order~~ To protect and restore surface water resources, the program shall address the reduction of pollutant loadings, restoration of natural hydrology, and compliance with applicable state water quality standards. The program shall be achieved through a phased program of implementation. In addition, pollutant load reductions based upon adopted total maximum daily loads established in accordance with s. 403.067 shall serve as a program objective. In the development and administration of the program, the

coordinating agencies shall maximize opportunities provided by federal and local government cost-sharing programs and opportunities for partnerships with the private sector and local government. The program ~~plan~~ shall include a goal for salinity envelopes and freshwater inflow targets for the estuaries based upon existing research and documentation. The goal may be revised as new information is available. This goal shall seek to reduce the frequency and duration of undesirable salinity ranges while meeting the other water-related needs of the region, including water supply and flood protection, while recognizing the extent to which water inflows are within the control and jurisdiction of the district.

(a) Caloosahatchee River Watershed Protection Plan.~~—No later than January 1, 2009,~~ The district, in cooperation with the other coordinating agencies, Lee County, and affected counties and municipalities, shall complete a River Watershed Protection Plan in accordance with this subsection. The Caloosahatchee River Watershed Protection Plan shall identify the geographic extent of the watershed, be coordinated as needed with the plans developed pursuant to paragraph (3)(a) and paragraph (c) ~~(b)~~ of this subsection, and ~~contain an implementation schedule for pollutant load reductions consistent with any adopted total maximum daily loads and compliance with applicable state water quality standards. The plan shall~~ include the Caloosahatchee River Watershed Construction Project and the Caloosahatchee River Watershed Research and Water Quality Monitoring Program.~~:~~

1. Caloosahatchee River Watershed Construction Project.—To improve the hydrology, water quality, and aquatic habitats within the watershed, the district shall, no later than January 1, 2012, plan, design, and construct the initial phase of the Watershed Construction Project. In doing so, the district shall:

a. Develop and designate the facilities to be constructed to achieve stated goals and objectives of the Caloosahatchee River Watershed Protection Plan.

b. Conduct scientific studies that are necessary to support the design of the Caloosahatchee River Watershed Construction Project facilities.

c. Identify the size and location of all such facilities.

d. Provide a construction schedule for all such facilities, including the sequencing and specific timeframe for construction of each facility.

e. Provide a schedule for the acquisition of lands or sufficient interests necessary to achieve the construction schedule.

f. Provide a schedule of costs and benefits associated with each construction project and identify funding sources.

g. To ensure timely implementation, coordinate the design, scheduling, and sequencing of project facilities with the coordinating agencies, Lee County, other affected counties and municipalities, and other affected parties.

2. Caloosahatchee River Watershed Research and Water Quality Monitoring Program.—The district, in cooperation with the other coordinating agencies and local governments, shall implement a Caloosahatchee River Watershed Research and Water Quality Monitoring Program that builds upon the district's existing research program and that is sufficient to carry out, comply with, or assess the plans, programs, and other responsibilities created by this subsection. The program shall also conduct an assessment of the water volumes and timing from Lake Okeechobee and the

Caloosahatchee River watershed and their relative contributions to the timing and volume of water delivered to the estuary.

(b)2. Caloosahatchee River Watershed Basin Management Action Plans ~~Pollutant Control Program~~.—The basin management action plans adopted pursuant to s. 403.067 for the Caloosahatchee River watershed shall be the Caloosahatchee River Watershed Pollutant Control Program. The plans shall be ~~is~~ designed to be a multifaceted approach to reducing pollutant loads by improving the management of pollutant sources within the Caloosahatchee River watershed through implementation of regulations and best management practices, development and implementation of improved best management practices, improvement and restoration of the hydrologic function of natural and managed systems, and utilization of alternative technologies for pollutant reduction, such as cost-effective biologically based, hybrid wetland/chemical and other innovative nutrient control technologies. As provided in s. 403.067(7)(a)6., the Caloosahatchee River Watershed Basin Management Action Plans must include milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones shall be conducted every 5 years and shall be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Revisions to the plans shall be made, as appropriate, as a result of each 5-year review. Revisions to the basin management action plans shall be made by the department in cooperation with the basin stakeholders. Revisions to best management practices or other measures must follow the procedures set forth in s. 403.067(7)(c)4. Revised basin management action plans must be adopted pursuant to s. 403.067(7)(a)5. The department shall develop an implementation schedule establishing 5-year, 10-year, and 15-year measurable milestones and targets to achieve the total maximum daily load no more than 20 years after adoption of the plan. The initial implementation schedule shall be used to provide guidance for planning and funding purposes and is exempt from chapter 120. Upon the first 5-year review, the implementation schedule shall be adopted as part of the plans. If achieving the total maximum daily load within 20 years is not practicable, the implementation schedule must contain an explanation of the constraints that prevent achievement of the total maximum daily load within 20 years, an estimate of the time needed to achieve the total maximum daily load, and additional 5-year measurable milestones, as necessary. The coordinating agencies shall facilitate the use ~~utilization~~ of federal programs that offer opportunities for water quality treatment, including preservation, restoration, or creation of wetlands on agricultural lands.

1.~~a.~~ Nonpoint source best management practices consistent with s. 403.067 ~~paragraph (3)(c)~~, designed to achieve the objectives of the Caloosahatchee River Watershed Protection Program, shall be implemented on an expedited basis. The coordinating agencies may develop an intergovernmental agreement with local governments to implement the nonagricultural, nonpoint source best management practices within their respective geographic boundaries.

2.~~b.~~ This subsection does not preclude the department or the district from requiring compliance with water quality standards, adopted total maximum daily loads, or current best management practices requirements set forth in any applicable regulatory program

authorized by law for the purpose of protecting water quality. This subsection applies only to the extent that it does not conflict with any rules adopted by the department or district which are necessary to maintain a federally delegated or approved program.
3.~~c.~~ Projects that make use of private lands, or lands held in trust for Indian tribes, to reduce pollutant loadings or concentrations within a basin, or that reduce the volume of harmful discharges by one or more of the following methods: restoring the natural hydrology of the basin, restoring wildlife habitat or impacted wetlands, reducing peak flows after storm events, or increasing aquifer recharge, are eligible for grants available under this section from the coordinating agencies.
4.~~d.~~ The Caloosahatchee River Watershed Basin Management Action Plans ~~Pollutant Control Program~~ shall require assessment of current water management practices within the watershed and shall require development of recommendations for structural, nonstructural, and operational improvements. Such recommendations shall consider and balance water supply, flood control, estuarine salinity, aquatic habitat, and water quality considerations.
5.~~e. After December 31, 2007,~~ The department may not authorize the disposal of domestic wastewater biosolids ~~residuals~~ within the Caloosahatchee River watershed unless the applicant can affirmatively demonstrate that the nutrients in the biosolids ~~residuals~~ will not add to nutrient loadings in the watershed. This demonstration shall be based on achieving a net balance between nutrient imports relative to exports on the permitted application site. Exports shall include only nutrients removed from the watershed through products generated on the permitted application site. This prohibition does not apply to Class AA biosolids ~~residuals~~ that are marketed and distributed as fertilizer products in accordance with department rule.
6.~~f.~~ The Department of Health shall require all entities disposing of septage within the Caloosahatchee River watershed to develop and submit to that agency an agricultural use plan that limits applications based upon nutrient loading consistent with any basin management action plan adopted pursuant to s. 403.067. ~~By July 1, 2008, nutrient concentrations originating from these application sites may not exceed the limits established in the district's WOD program.~~
7.~~g.~~ The Department of Agriculture and Consumer Services shall require ~~initiate rulemaking requiring~~ entities within the Caloosahatchee River watershed which land-apply animal manure to develop a resource management system level conservation plan, according to United States Department of Agriculture criteria, which limit such application. Such rules shall ~~may~~ include criteria and thresholds for the requirement to develop a conservation or nutrient management plan, requirements for plan approval, site inspection requirements, and recordkeeping requirements.
8. The district shall initiate rulemaking to provide for a monitoring program for nonpoint source dischargers required to monitor water quality pursuant to s. 403.067(7)(b)2.g. or (c)3. The results of such monitoring must be reported to the coordinating agencies.
~~3. Caloosahatchee River Watershed Research and Water Quality Monitoring Program.—The district, in cooperation with the other coordinating agencies and local governments, shall establish a Caloosahatchee River Watershed Research and Water Quality Monitoring Program that builds upon the district's existing research program and that is sufficient to carry out, comply with, or assess the plans, programs, and other responsibilities created by this subsection. The program shall also conduct an~~

~~assessment of the water volumes and timing from the Lake Okeechobee and Caloosahatchee River watersheds and their relative contributions to the timing and volume of water delivered to the estuary.~~

(c)~~(b)~~ St. Lucie River Watershed Protection Plan.— ~~No later than January 1, 2009,~~The district, in cooperation with the other coordinating agencies, Martin County, and affected counties and municipalities shall complete a plan in accordance with this subsection. The St. Lucie River Watershed Protection Plan shall identify the geographic extent of the watershed, be coordinated as needed with the plans developed pursuant to paragraph (3)(a) and paragraph (a) of this subsection, and ~~contain an implementation schedule for pollutant load reductions consistent with any adopted total maximum daily loads and compliance with applicable state water quality standards. The plan shall~~ include the St. Lucie River Watershed Construction Project and St. Lucie River Watershed Research and Water Quality Monitoring Program.~~:~~

1. St. Lucie River Watershed Construction Project.—To improve the hydrology, water quality, and aquatic habitats within the watershed, the district shall, no later than January 1, 2012, plan, design, and construct the initial phase of the Watershed Construction Project. In doing so, the district shall:

a. Develop and designate the facilities to be constructed to achieve stated goals and objectives of the St. Lucie River Watershed Protection Plan.

b. Identify the size and location of all such facilities.

c. Provide a construction schedule for all such facilities, including the sequencing and specific timeframe for construction of each facility.

d. Provide a schedule for the acquisition of lands or sufficient interests necessary to achieve the construction schedule.

e. Provide a schedule of costs and benefits associated with each construction project and identify funding sources.

f. To ensure timely implementation, coordinate the design, scheduling, and sequencing of project facilities with the coordinating agencies, Martin County, St. Lucie County, other interested parties, and other affected local governments.

2. St. Lucie River Watershed Research and Water Quality Monitoring Program.—The district, in cooperation with the other coordinating agencies and local governments, shall establish a St. Lucie River Watershed Research and Water Quality Monitoring Program that builds upon the district's existing research program and that is sufficient to carry out, comply with, or assess the plans, programs, and other responsibilities created by this subsection. The district shall also conduct an assessment of the water volumes and timing from Lake Okeechobee and the St. Lucie River watershed and their relative contributions to the timing and volume of water delivered to the estuary.

(d) St. Lucie River Watershed Basin Management Action Plan ~~Pollutant Control Program~~.—The basin management action plan for the St. Lucie River watershed adopted pursuant to s. 403.067 shall be the St. Lucie River Watershed Pollutant Control Program and shall be ~~is~~ designed to be a multifaceted approach to reducing pollutant loads by improving the management of pollutant sources within the St. Lucie River watershed through implementation of regulations and best management practices, development and implementation of improved best management practices, improvement and restoration of the hydrologic function of natural and managed systems, and use ~~utilization~~ of alternative technologies for pollutant reduction, such as

cost-effective biologically based, hybrid wetland/chemical and other innovative nutrient control technologies. As provided in s. 403.067(7)(a)6., the St. Lucie River Watershed Basin Management Action Plan must include milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones shall be conducted every 5 years and shall be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Revisions to the plan shall be made, as appropriate, as a result of each 5-year review. Revisions to the basin management action plan shall be made by the department in cooperation with the basin stakeholders. Revisions to best management practices or other measures must follow the procedures set forth in s. 403.067(7)(c)4. Revised basin management action plans must be adopted pursuant to s. 403.067(7)(a)5. The department shall develop an implementation schedule establishing 5-year, 10-year, and 15-year measurable milestones and targets to achieve the total maximum daily load no more than 20 years after adoption of the plan. The initial implementation schedule shall be used to provide guidance for planning and funding purposes and is exempt from chapter 120. Upon the first 5-year review, the implementation schedule shall be adopted as part of the plan. If achieving the total maximum daily load within 20 years is not practicable, the implementation schedule must contain an explanation of the constraints that prevent achievement of the total maximum daily load within 20 years, an estimate of the time needed to achieve the total maximum daily load, and additional 5-year measurable milestones, as necessary. The coordinating agencies shall facilitate the use ~~utilization~~ of federal programs that offer opportunities for water quality treatment, including preservation, restoration, or creation of wetlands on agricultural lands.

1.~~a.~~ Nonpoint source best management practices consistent with s. 403.067 ~~paragraph (3)(c)~~, designed to achieve the objectives of the St. Lucie River Watershed Protection Program, shall be implemented on an expedited basis. The coordinating agencies may develop an intergovernmental agreement with local governments to implement the nonagricultural nonpoint source best management practices within their respective geographic boundaries.

2.~~b.~~ This subsection does not preclude the department or the district from requiring compliance with water quality standards, adopted total maximum daily loads, or current best management practices requirements set forth in any applicable regulatory program authorized by law for the purpose of protecting water quality. This subsection applies only to the extent that it does not conflict with any rules adopted by the department or district which are necessary to maintain a federally delegated or approved program.

3.~~c.~~ Projects that make use of private lands, or lands held in trust for Indian tribes, to reduce pollutant loadings or concentrations within a basin, or that reduce the volume of harmful discharges by one or more of the following methods: restoring the natural hydrology of the basin, restoring wildlife habitat or impacted wetlands, reducing peak flows after storm events, or increasing aquifer recharge, are eligible for grants available under this section from the coordinating agencies.

4.~~d.~~ The St. Lucie River Watershed Basin Management Action Plan ~~Pollutant Control Program~~ shall require assessment of current water management practices within the watershed and shall require development of recommendations for structural,

nonstructural, and operational improvements. Such recommendations shall consider and balance water supply, flood control, estuarine salinity, aquatic habitat, and water quality considerations.

5.e. ~~After December 31, 2007,~~ The department may not authorize the disposal of domestic wastewater biosolids ~~residuals~~ within the St. Lucie River watershed unless the applicant can affirmatively demonstrate that the nutrients in the biosolids ~~residuals~~ will not add to nutrient loadings in the watershed. This demonstration shall be based on achieving a net balance between nutrient imports relative to exports on the permitted application site. Exports shall include only nutrients removed from the St. Lucie River watershed through products generated on the permitted application site. This prohibition does not apply to Class AA biosolids ~~residuals~~ that are marketed and distributed as fertilizer products in accordance with department rule.

6.~~f.~~ The Department of Health shall require all entities disposing of septage within the St. Lucie River watershed to develop and submit to that agency an agricultural use plan that limits applications based upon nutrient loading consistent with any basin management action plan adopted pursuant to s. 403.067. ~~By July 1, 2008, nutrient concentrations originating from these application sites may not exceed the limits established in the district's WOD program.~~

7.~~g.~~ The Department of Agriculture and Consumer Services shall initiate rulemaking requiring entities within the St. Lucie River watershed which land-apply animal manure to develop a resource management system level conservation plan, according to United States Department of Agriculture criteria, which limit such application. Such rules shall ~~may~~ include criteria and thresholds for the requirement to develop a conservation or nutrient management plan, requirements for plan approval, site inspection requirements, and recordkeeping requirements.

8. The district shall initiate rulemaking to provide for a monitoring program for nonpoint source dischargers required to monitor water quality pursuant to s. 403.067(7)(b)2.g. or (c)3. The results of such monitoring must be reported to the coordinating agencies.

~~3. St. Lucie River Watershed Research and Water Quality Monitoring Program.—The district, in cooperation with the other coordinating agencies and local governments, shall establish a St. Lucie River Watershed Research and Water Quality Monitoring Program that builds upon the district's existing research program and that is sufficient to carry out, comply with, or assess the plans, programs, and other responsibilities created by this subsection. The program shall also conduct an assessment of the water volumes and timing from the Lake Okeechobee and St. Lucie River watersheds and their relative contributions to the timing and volume of water delivered to the estuary.~~

(e)~~(c)~~ River Watershed Protection Plan implementation.—The coordinating agencies shall be jointly responsible for implementing the River Watershed Protection Plans, consistent with the statutory authority and responsibility of each agency. Annual funding priorities shall be jointly established, and the highest priority shall be assigned to programs and projects that have the greatest potential for achieving the goals and objectives of the plans. In determining funding priorities, the coordinating agencies shall also consider the need for regulatory compliance, the extent to which the program or project is ready to proceed, and the availability of federal or local government matching funds. Federal and other nonstate funding shall be maximized to the greatest extent practicable.

(f)(d) Evaluation.—Beginning By March 1, 2020 2012, and every 5 3 years thereafter, concurrent with the updates of the basin management action plans adopted pursuant to s. 403.067, the department, district in cooperation with the other coordinating agencies, shall conduct an evaluation of any pollutant load reduction goals, as well as any other specific objectives and goals, as stated in the River Watershed Protection Programs Plans. Additionally, The district shall identify modifications to facilities of the River Watershed Construction Projects, as appropriate, or any other elements of the River Watershed Protection Programs Plans. The evaluation shall be included in the annual progress report submitted pursuant to this section.

(g)(e) Priorities and implementation schedules.—The coordinating agencies are authorized and directed to establish priorities and implementation schedules for the achievement of total maximum daily loads, the requirements of s. 403.067, and compliance with applicable water quality standards within the waters and watersheds subject to this section.

(f) Legislative ratification.—The coordinating agencies shall submit the River Watershed Protection Plans developed pursuant to paragraphs (a) and (b) to the President of the Senate and the Speaker of the House of Representatives prior to the 2009 legislative session for review. If the Legislature takes no action on the plan during the 2009 legislative session, the plan is deemed approved and may be implemented.

(5) ADOPTION AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS AND DEVELOPMENT OF BASIN MANAGEMENT ACTION PLANS.—The department is directed to expedite development and adoption of total maximum daily loads for the Caloosahatchee River and estuary. The department is further directed to, no later than December 31, 2008, propose for final agency action total maximum daily loads for nutrients in the tidal portions of the Caloosahatchee River and estuary. The department shall initiate development of basin management action plans for Lake Okeechobee, the Caloosahatchee River watershed and estuary, and the St. Lucie River watershed and estuary as provided in s. 403.067 s.403.067(7)(a) as follows:

(a) Basin management action plans shall be developed as soon as practicable as determined necessary by the department to achieve the total maximum daily loads established for the Lake Okeechobee watershed and the estuaries.

(b) The Phase II technical plan development pursuant to paragraph (3)(a)(3)(b), and the River Watershed Protection Plans developed pursuant to paragraphs (4)(a) and (c)(b), shall provide the basis for basin management action plans developed by the department.

(c) As determined necessary by the department in order to achieve the total maximum daily loads, additional or modified projects or programs that complement those in the legislatively ratified plans may be included during the development of the basin management action plan.

(d) As provided in s. 403.067, management strategies and pollution reduction requirements set forth in a basin management action plan subject to permitting by the department under subsection (7) must be completed pursuant to the schedule set forth in the basin management action plan, as amended. The implementation schedule may extend beyond the 5-year permit term.

(e) As provided in s. 403.067, management strategies and pollution reduction requirements set forth in a basin management action plan for a specific pollutant of

concern are not subject to challenge under chapter 120 at the time they are incorporated, in an identical form, into a department or district issued permit or a permit modification issued in accordance with subsection (7).

~~(d) Development of basin management action plans that implement the provisions of the legislatively ratified plans shall be initiated by the department no later than September 30 of the year in which the applicable plan is ratified. Where a total maximum daily load has not been established at the time of plan ratification, development of basin management action plans shall be initiated no later than 90 days following adoption of the applicable total maximum daily load.~~

(6) ANNUAL PROGRESS REPORT.—Each March 1 the district, in cooperation with the other coordinating agencies, shall report on implementation of this section as part of the consolidated annual report required in s. 373.036(7). The annual report shall include a summary of the conditions of the hydrology, water quality, and aquatic habitat in the northern Everglades based on the results of the Research and Water Quality Monitoring Programs, the status of the Lake Okeechobee Watershed Construction Project, the status of the Caloosahatchee River Watershed Construction Project, and the status of the St. Lucie River Watershed Construction Project. In addition, the report shall contain an annual accounting of the expenditure of funds from the Save Our Everglades Trust Fund. At a minimum, the annual report shall provide detail by program and plan, including specific information concerning the amount and use of funds from federal, state, or local government sources. In detailing the use of these funds, the district shall indicate those designated to meet requirements for matching funds. The district shall prepare the report in cooperation with the other coordinating agencies and affected local governments. The department shall report on the status of the Lake Okeechobee Basin Management Action Plan, the Caloosahatchee River Watershed Basin Management Action Plan, and the St. Lucie River Watershed Basin Management Action Plan. The Department of Agriculture and Consumer Services shall report on the status of the implementation of the agricultural nonpoint source best management practices, including an implementation assurance report summarizing survey responses and response rates, site inspections, and other methods used to verify implementation of and compliance with best management practices in the Lake Okeechobee, Caloosahatchee River, and St. Lucie River watersheds.

(7) LAKE OKEECHOBEE PROTECTION PERMITS.—

(a) The Legislature finds that the Lake Okeechobee Watershed Protection Program will benefit Lake Okeechobee and downstream receiving waters and is in ~~consistent with~~ the public interest. The Lake Okeechobee Watershed Construction Project and structures discharging into or from Lake Okeechobee shall be constructed, operated, and maintained in accordance with this section.

(b) Permits obtained pursuant to this section are in lieu of all other permits under this chapter or chapter 403, except those issued under s. 403.0885, if applicable. ~~No~~ Additional permits are not required for the Lake Okeechobee Watershed Construction Project, or structures discharging into or from Lake Okeechobee, if such project or structures are permitted under this section. Construction activities related to implementation of the Lake Okeechobee Watershed Construction Project may be initiated before ~~prior to~~ final agency action, or notice of intended agency action, on any permit from the department under this section.

(c)1. ~~Within 90 days of completion of the diversion plans set forth in Department Consent Orders 91-0694, 91-0707, 91-0705, and RT50-205564,~~ Owners or operators of existing structures which discharge into or from Lake Okeechobee that were subject to Department Consent Orders 91-0694, 91-0705, 91-0706, 91-0707, and RT50-205564 and that are subject to ~~the provisions of~~ s. 373.4592(4)(a) do not require a permit under this section and shall be governed by permits issued under ~~apply for a permit from the department to operate and maintain such structures. By September 1, 2000, owners or operators of all other existing structures which discharge into or from Lake Okeechobee shall apply for a permit from the department to operate and maintain such structures. The department shall issue one or more such permits for a term of 5 years upon the demonstration of reasonable assurance that schedules and strategies to achieve and maintain compliance with water quality standards have been provided for, to the maximum extent practicable, and that operation of the structures otherwise complies with provisions of~~ ss. 373.413 and 373.416 and the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067.

~~1. Permits issued under this paragraph shall also contain reasonable conditions to ensure that discharges of waters through structures:~~

~~a. Are adequately and accurately monitored;~~

~~b. Will not degrade existing Lake Okeechobee water quality and will result in an overall reduction of phosphorus input into Lake Okeechobee, as set forth in the district's Technical Publication 81-2 and the total maximum daily load established in accordance with s. 403.067, to the maximum extent practicable; and~~

~~c. Do not pose a serious danger to public health, safety, or welfare.~~

2. For the purposes of this paragraph, owners and operators of existing structures which are subject to ~~the provisions of~~ s. 373.4592(4)(a) and which discharge into or from Lake Okeechobee shall be deemed in compliance with this paragraph ~~the term "maximum extent practicable"~~ if they are in full compliance with the conditions of permits under chapter ~~chapters 40E-61 and~~ 40E-63, Florida Administrative Code.

3. By January 1, 2017 ~~2004~~, the district shall submit to the department a complete application for a permit modification to the Lake Okeechobee structure permits to incorporate proposed changes necessary to ensure that discharges through the structures covered by this permit are consistent with the basin management action plan adopted pursuant to ~~achieve state water quality standards, including the total maximum daily load established in accordance with~~ s. 403.067. ~~These changes shall be designed to achieve such compliance with state water quality standards no later than January 1, 2015.~~

(d) The department shall require permits for district regional projects that are part of the Lake Okeechobee Watershed Construction Project ~~facilities~~. However, projects ~~identified in sub-subparagraph (3)(b)1.b.~~ that qualify as exempt pursuant to s. 373.406 do ~~shall~~ not require ~~need~~ permits under this section. Such permits shall be issued for a term of 5 years upon the demonstration of reasonable assurances that:

1. District regional projects that are part of the Lake Okeechobee Watershed Construction Project shall ~~facility, based upon the conceptual design documents and any subsequent detailed design documents developed by the district, will~~ achieve the design objectives for phosphorus required in subparagraph (3)(a)1 ~~paragraph (3)(b)~~.;

2. For water quality standards other than phosphorus, the quality of water discharged from the facility is of equal or better quality than the inflows;
3. Discharges from the facility do not pose a serious danger to public health, safety, or welfare; and
4. Any impacts on wetlands or state-listed species resulting from implementation of that facility of the Lake Okeechobee Construction Project are minimized and mitigated, as appropriate.
(e) At least 60 days before ~~prior to~~ the expiration of any permit issued under this section, the permittee may apply for a renewal thereof for a period of 5 years.
(f) Permits issued under this section may include any standard conditions provided by department rule which are appropriate and consistent with this section.
(g) Permits issued under ~~pursuant to~~ this section may be modified, as appropriate, upon review and approval by the department.
(8) RESTRICTIONS ON WATER DIVERSIONS.—The South Florida Water Management District shall not divert waters to the St. Lucie River, the Indian River estuary, the Caloosahatchee River or its estuary, or the Everglades National Park, in such a way that the state water quality standards are violated, that the nutrients in such diverted waters adversely affect indigenous vegetation communities or wildlife, or that fresh waters diverted to the St. Lucie River or the Caloosahatchee or Indian River estuaries adversely affect the estuarine vegetation or wildlife, unless the receiving waters will biologically benefit by the diversion. However, diversion is permitted when an emergency is declared by the water management district, if the Secretary of Environmental Protection concurs.
(9) PRESERVATION OF PROVISIONS RELATING TO THE EVERGLADES.—Nothing in this section shall be construed to modify any provision of s. 373.4592.
(10) RIGHTS OF SEMINOLE TRIBE OF FLORIDA.—Nothing in this section is intended to diminish or alter the governmental authority and powers of the Seminole Tribe of Florida, or diminish or alter the rights of that tribe, including, but not limited to, rights under the water rights compact among the Seminole Tribe of Florida, the state, and the South Florida Water Management District as enacted by Pub. L. No. 100-228, 101 Stat. 1556, and chapter 87-292, Laws of Florida, and codified in s. 285.165, and rights under any other agreement between the Seminole Tribe of Florida and the state or its agencies. No land of the Seminole Tribe of Florida shall be used for water storage or stormwater treatment without the consent of the tribe.
(11) RELATIONSHIP TO STATE WATER QUALITY STANDARDS.—Nothing in this section shall be construed to modify any existing state water quality standard or to modify the provisions of s. 403.067(6) and (7)(a).
(12) RULES.—The governing board of the district is authorized to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section.
(13) PRESERVATION OF AUTHORITY.—Nothing in this section shall be construed to restrict the authority otherwise granted to agencies pursuant to this chapter and chapter 403, and provisions of this section shall be deemed supplemental to the authority granted to agencies pursuant to this chapter and chapter 403.
History.—s. 6, ch. 87-97; s. 274, ch. 94-356; s. 1011, ch. 95-148; s. 189, ch. 99-245; s. 1, ch. 2000-130; s. 6, ch. 2001-172; s. 1, ch. 2001-193; s. 3, ch. 2002-165; s. 42, ch. 2002-296; s. 1, ch. 2005-29; s. 14, ch. 2005-36; s. 7, ch. 2005-166; s. 14, ch. 2005-291; s. 4, ch. 2007-191; s. 3, ch. 2007-253; s. 87, ch. 2008-4; s. 1, ch. 2013-146; s. 39, ch. 2014-218; s. 15, ch. 2016-1.

373.467 The Harris Chain of Lakes Restoration Council.—
There is created within the St. Johns River Water Management District, with assistance from the Fish and Wildlife Conservation Commission and the Lake County Water Authority, the Harris Chain of Lakes Restoration Council.
(1)(a) The council shall consist of nine voting members which shall include~~:~~ a representative of waterfront property owners, a representative of the sport fishing industry, a person with experience in ~~an~~ environmental science or regulation ~~engineer~~, a person with training in biology or another scientific discipline, ~~a person with training as~~ an attorney, a physician, ~~a person with training as~~ an engineer, and two residents of the county who are ~~do~~ not required to meet any additional ~~of the other~~ qualifications for membership ~~enumerated in this paragraph~~, each to be appointed by the Lake County legislative delegation. The Lake County legislative delegation may waive the qualifications for membership on a case-by-case basis if good cause is shown. A ~~No~~ person serving on the council may not be appointed to a council, board, or commission of any council advisory group agency. The council members shall serve as advisors to the governing board of the St. Johns River Water Management District. The council is subject to ~~the provisions of~~ chapters 119 and 120.
(b) There shall be an advisory group to the council which shall consist of one representative each from the St. Johns River Water Management District, the Department of Environmental Protection, the Department of Transportation, the Fish and Wildlife Conservation Commission, the Lake County Water Authority, the United States Army Corps of Engineers, and the University of Florida, each of whom shall be appointed by his or her respective agency, and each of whom, with the exception of the representatives from the Lake County Water Authority and the University of Florida, shall have had training in biology or another scientific discipline.
(2) Immediately after appointment, the council shall meet and organize by electing a chair, a vice chair, and a secretary, whose terms shall be for 2 years each. Council officers shall not serve consecutive terms. Each council member shall be a voting member.
(3) The council shall meet at the call of its chair, at the request of six of its members, or at the request of the chair of the governing board of the St. Johns River Water Management District. Resignation by a council member, or failure by a council member to attend three consecutive meetings without an excuse approved by the chair, results in a vacancy on the council.
(4) The council shall have the powers and duties to:
(a) Review audits and all data specifically related to lake restoration techniques and sport fish population recovery strategies, including data and strategies for shoreline restoration, sediment control and removal, exotic species management, floating tussock management or removal, navigation, water quality, and fish and wildlife habitat improvement, particularly as they may apply to the Harris Chain of Lakes.
(b) Evaluate whether additional studies are needed.
(c) Explore all possible sources of funding to conduct the restoration activities.
(d) Report to the President of the Senate and the Speaker of the House of Representatives before November 25 of each year on the progress of the Harris Chain of Lakes restoration program and any recommendations for the next fiscal year.

(5) The St. Johns River Water Management District shall provide staff to assist the council in carrying out the provisions of this act.
(6) Members of the council shall receive no compensation for their services, but are entitled to be reimbursed for per diem and travel expenses incurred during execution of their official duties, as provided in s. 112.061. State and federal agencies shall be responsible for the per diem and travel expenses of their respective appointees to the council, and the St. Johns River Water Management District shall be responsible for per diem and travel expenses of other appointees to the council.
History.—s. 1, ch. 2001-246; s. 16, ch. 2016-1.

373.6055 Criminal history checks for certain water management district employees and others.—
(1) A water management district that has structures or facilities identified as critical infrastructure by the Regional Domestic Security Task Force created pursuant to s. 943.0312 shall conduct a fingerprint-based criminal history check for any current or prospective employee and other persons designated pursuant to the water management district's security plan for buildings, facilities, and structures if those persons are allowed regular access to those buildings, facilities, or structures defined in the water management district's security plan as restricted access areas.
(2) A water management district that has structures or facilities that are not identified as critical infrastructure by the Regional Domestic Security Task Force may conduct a fingerprint-based criminal history check for any current or prospective employee and others designated pursuant to the water management district's security plan for buildings, facilities, and structures if those persons are allowed regular access to critical buildings, facilities, or structures defined in the water management district's security plan as restricted access areas.
*(3)(a) The fingerprint-based criminal history check shall be performed on any person described in subsection (1) pursuant to the applicable water management district's security plan for buildings, facilities, and structures. With respect to employees or others with regular access, such checks shall be performed at least once every 5 years or at other more frequent intervals as provided by the water management district's security plan for buildings, facilities, and structures. Each individual subject to the criminal history check shall file a complete set of fingerprints which are taken in a manner required by the Department of Law Enforcement and the water management district security plan. Fingerprints shall be submitted to the Department of Law Enforcement for state processing and to the Federal Bureau of Investigation for federal processing. The results of each fingerprint-based check shall be reported to the requesting water management district. The costs of the checks, consistent with s. 943.053(3), shall be paid by the water management district or other employing entity or by the individual checked.
(b) Each water management district's security plan for buildings, facilities, and structures shall identify criminal convictions or other criminal history factors consistent with paragraph (c) which shall disqualify a person from initial employment or authorization for regular access to buildings, facilities, or structures defined in the water management district's security plan as restricted access areas. Such factors shall be used to disqualify all applicants for employment or others seeking regular access to

buildings, facilities, or structures defined in the water management district's security plan as restricted access areas on or after the effective date of the water management district's security plan for buildings, facilities, and structures, and may be used to disqualify all those employed or authorized for regular access as of that date. Each water management district may establish a procedure to appeal a denial of employment or access based upon procedural inaccuracies or discrepancies regarding criminal history factors established pursuant to this paragraph. A water management district may allow waivers on a temporary basis to meet special or emergency needs of the water management district or its users. Policies, procedures, and criteria for implementation of this subsection shall be included in the water management district's security plan for buildings, facilities, and structures.
(c) In addition to other requirements for employment or access established by any water management district pursuant to its water management district's security plan for buildings, facilities, and structures, each water management district's security plan shall provide that:
1. Any person who has within the past 7 years been convicted, regardless of whether adjudication was withheld, for a forcible felony as defined in s. 776.08; an act of terrorism as defined in s. 775.30; planting of a hoax bomb as provided in s. 790.165; any violation involving the manufacture, possession, sale, delivery, display, use, or attempted or threatened use of a weapon of mass destruction or hoax weapon of mass destruction as provided in s. 790.166; dealing in stolen property; any violation of s. 893.135; any violation involving the sale, manufacturing, delivery, or possession with intent to sell, manufacture, or deliver a controlled substance; burglary; robbery; any felony violation of s. 812.014; any violation of s. 790.07; any crime an element of which includes use or possession of a firearm; any conviction for any similar offenses under the laws of another jurisdiction; or conviction for conspiracy to commit any of the listed offenses may not be qualified for initial employment within or authorized regular access to buildings, facilities, or structures defined in the water management district's security plan as restricted access areas.
2. Any person who has at any time been convicted of any of the offenses listed in subparagraph 1. may not be qualified for initial employment within or authorized regular access to buildings, facilities, or structures defined in the water management district's security plan as restricted access areas unless, after release from incarceration and any supervision imposed as a sentence, the person remained free from a subsequent conviction, regardless of whether adjudication was withheld, for any of the listed offenses for a period of at least 7 years prior to the employment or access date under consideration.
History.—s. 1, ch. 2005-121; s. 6, ch. 2016-78.
*Section (3)(a) was reenacted. There are no changes to the language from 2015.

373.705 Water resource development; water supply development.—
(1) The Legislature finds that:
(a) The proper role of the water management districts in water supply is primarily planning and water resource development, but this does not preclude them from providing assistance with water supply development.
(b) The proper role of local government, regional water supply authorities, and government-owned and privately owned water utilities in water supply is primarily water

supply development, but this does not preclude them from providing assistance with water resource development.
(c) Water resource development and water supply development must receive priority attention, where needed, to increase the availability of sufficient water for all existing and future reasonable-beneficial uses and natural systems.
(2) It is the intent of the Legislature that:
(a) Sufficient water be available for all existing and future reasonable-beneficial uses and the natural systems, and that the adverse effects of competition for water supplies be avoided.
(b) Water management districts take the lead in identifying and implementing water resource development projects, and be responsible for securing necessary funding for regionally significant water resource development projects, including regionally significant projects that prevent or limit adverse water resource impacts, avoid competition among water users, or support the provision of new water supplies in order to meet a minimum flow or minimum water level or to implement a recovery or prevention strategy or water reservation.
(c) Local governments, regional water supply authorities, and government-owned and privately owned water utilities take the lead in securing funds for and implementing water supply development projects. Generally, direct beneficiaries of water supply development projects should pay the costs of the projects from which they benefit, and water supply development projects should continue to be paid for through local funding sources.
(d) Water supply development be conducted in coordination with water management district regional water supply planning and water resource development.
(3)(a) The water management districts shall fund and implement water resource development as defined in s. 373.019. The water management districts are encouraged to implement water resource development as expeditiously as possible in areas subject to regional water supply plans.
(b) Each governing board shall include in its annual budget submittals required under this chapter:
1. The amount of funds for each project in the annual funding plan developed pursuant to s. 373.536(6)(a)4.; and
2. The total amount needed for the fiscal year to implement water resource development projects, as prioritized in its regional water supply plans.
(4)(a) Water supply development projects that are consistent with the relevant regional water supply plans and that meet one or more of the following criteria shall receive priority consideration for state or water management district funding assistance:
1. The project supports establishment of a dependable, sustainable supply of water which is not otherwise financially feasible;
2. The project provides substantial environmental benefits by preventing or limiting adverse water resource impacts, but requires funding assistance to be economically competitive with other options; or
3. The project significantly implements reuse, storage, recharge, or conservation of water in a manner that contributes to the sustainability of regional water sources.

(b) Water supply development projects that meet the criteria in paragraph (a) and that meet one or more of the following additional criteria shall be given first consideration for state or water management district funding assistance:
1. The project brings about replacement of existing sources in order to help implement a minimum flow or minimum water level; ~~or~~
2. The project implements reuse that assists in the elimination of domestic wastewater ocean outfalls as provided in s. 403.086(9); or
3. The project reduces or eliminates the adverse effects of competition between legal users and the natural system.
(5) The water management districts shall promote expanded cost-share criteria for additional conservation practices, such as soil and moisture sensors and other irrigation improvements, water-saving equipment, and water-saving household fixtures, and software technologies that can achieve verifiable water conservation by providing water use information to utility customers.
History.—s. 1, ch. 2010-205; s. 19, ch. 2016-1.

373.707 Alternative water supply development.—
(1) The purpose of this section is to encourage cooperation in the development of water supplies and to provide for alternative water supply development.
(a) Demands on natural supplies of fresh water to meet the needs of a rapidly growing population and the needs of the environment, agriculture, industry, and mining will continue to increase.
(b) There is a need for the development of alternative water supplies for Florida to sustain its economic growth, economic viability, and natural resources.
(c) Cooperative efforts between municipalities, counties, special districts, water management districts, and the Department of Environmental Protection are mandatory in order to meet the water needs of rapidly urbanizing areas in a manner that will supply adequate and dependable supplies of water where needed without resulting in adverse effects upon the areas from which such water is withdrawn. Such efforts should use all practical means of obtaining water, including, but not limited to, withdrawals of surface water and groundwater, reuse, and desalinization, and will necessitate not only cooperation but also well-coordinated activities. Municipalities, counties, and special districts are encouraged to create regional water supply authorities as authorized in s. 373.713 or multijurisdictional water supply entities.
(d) Alternative water supply development must receive priority funding attention to increase the available supplies of water to meet all existing and future reasonable-beneficial uses and to benefit the natural systems.
(e) Cooperation between counties, municipalities, regional water supply authorities, multijurisdictional water supply entities, special districts, and publicly owned and privately owned water utilities in the development of countywide and multicountywide alternative water supply projects will allow for necessary economies of scale and efficiencies to be achieved in order to accelerate the development of new, dependable, and sustainable alternative water supplies.
(f) It is in the public interest that county, municipal, industrial, agricultural, and other public and private water users; the Department of Environmental Protection; and the water management districts cooperate and work together in the development of

alternative water supplies to avoid the adverse effects of competition for limited supplies of water. Public moneys or services provided to private entities for alternative water supply development may constitute public purposes that also are in the public interest.
(2)(a) Sufficient water must be available for all existing and future reasonable-beneficial uses and the natural systems, and the adverse effects of competition for water supplies must be avoided.
(b) Water supply development and alternative water supply development must be conducted in coordination with water management district regional water supply planning.
(c) Funding for the development of alternative water supplies shall be a shared responsibility of water suppliers and users, the State of Florida, and the water management districts, with water suppliers and users having the primary responsibility and the State of Florida and the water management districts being responsible for providing funding assistance.
(3) The primary roles of the water management districts in water resource development as it relates to supporting alternative water supply development are:
(a) The formulation and implementation of regional water resource management strategies that support alternative water supply development;
(b) The collection and evaluation of surface water and groundwater data to be used for a planning level assessment of the feasibility of alternative water supply development projects;
(c) The construction, operation, and maintenance of major public works facilities for flood control, surface and underground water storage, and groundwater recharge augmentation to support alternative water supply development;
(d) Planning for alternative water supply development as provided in regional water supply plans in coordination with local governments, regional water supply authorities, multijurisdictional water supply entities, special districts, and publicly owned and privately owned water utilities and self-suppliers;
(e) The formulation and implementation of structural and nonstructural programs to protect and manage water resources in support of alternative water supply projects; and
(f) The provision of technical and financial assistance to local governments and publicly owned and privately owned water utilities for alternative water supply projects <u>and to self-suppliers for alternative water supply projects to the extent that such assistance to self-suppliers promotes the policies in paragraph (1)(f).</u>
(4) The primary roles of local government, regional water supply authorities, multijurisdictional water supply entities, special districts, and publicly owned and privately owned water utilities in alternative water supply development shall be:
(a) The planning, design, construction, operation, and maintenance of alternative water supply development projects;
(b) The formulation and implementation of alternative water supply development strategies and programs;
(c) The planning, design, construction, operation, and maintenance of facilities to collect, divert, produce, treat, transmit, and distribute water for sale, resale, or end use; and
(d) The coordination of alternative water supply development activities with the appropriate water management district having jurisdiction over the activity.

(5) Nothing in this section shall be construed to preclude the various special districts, municipalities, and counties from continuing to operate existing water production and transmission facilities or to enter into cooperative agreements with other special districts, municipalities, and counties for the purpose of meeting their respective needs for dependable and adequate supplies of water; however, the obtaining of water through such operations shall not be done in a manner that results in adverse effects upon the areas from which such water is withdrawn.
(6)(a) If state ~~The statewide~~ funds are provided through specific appropriation or pursuant to the Water Protection and Sustainability Program, such funds serve to supplement existing water management district or basin board funding for alternative water supply development assistance and should not result in a reduction of such funding. For each project identified in the annual funding plans prepared pursuant to s. 373.536(6)(a)4. ~~Therefore~~, the water management districts shall include in the annual tentative and adopted budget submittals required under this chapter the amount of funds allocated for water resource development that supports alternative water supply development and the funds allocated for alternative water supply projects ~~selected for inclusion in the Water Protection and Sustainability Program~~. It shall be the goal of each water management district and basin boards that the combined funds allocated annually for these purposes be, at a minimum, the equivalent of 100 percent of the state funding provided to the water management district for alternative water supply development. If this goal is not achieved, the water management district shall provide in the budget submittal an explanation of the reasons or constraints that prevent this goal from being met, an explanation of how the goal will be met in future years, and affirmation of match is required during the budget review process as established under s. 373.536(5). The Suwannee River Water Management District and the Northwest Florida Water Management District shall not be required to meet the match requirements of this paragraph; however, they shall try to achieve the match requirement to the greatest extent practicable.
(b) State funds from the Water Protection and Sustainability Program created in s. 403.890 shall be made available for financial assistance for the project construction costs of alternative water supply development projects selected by a water management district governing board for inclusion in the program.
(7) The water management district shall implement its responsibilities as expeditiously as possible in areas subject to regional water supply plans. Each district's governing board shall include in its annual budget the amount needed for the fiscal year to assist in implementing alternative water supply development projects.
(8)(a) The water management districts and the state shall share a percentage of revenues with water providers and users, including local governments, water, wastewater, and reuse utilities, municipal, special district, industrial, and agricultural water users, and other public and private water users, to be used to supplement other funding sources in the development of alternative water supplies and conservation projects that result in quantifiable water savings.
(b) Beginning in the 2005-2006 fiscal year, the state shall annually provide a portion of those revenues deposited into the Water Protection and Sustainability Program Trust Fund for the purpose of providing funding assistance for the development of alternative water supplies and conservation projects that result in quantifiable water savings

pursuant to the Water Protection and Sustainability Program. At the beginning of each fiscal year, beginning with the 2005-2006 fiscal year, such revenues shall be distributed by the department into the alternative water supply trust fund accounts created by each district for the purpose of alternative water supply development under the following funding formula:
1. Thirty percent to the South Florida Water Management District;
2. Twenty-five percent to the Southwest Florida Water Management District;
3. Twenty-five percent to the St. Johns River Water Management District;
4. Ten percent to the Suwannee River Water Management District; and
5. Ten percent to the Northwest Florida Water Management District.
(c) The financial assistance for alternative water supply projects allocated in each district's budget as required in subsection (6) shall be combined with the state funds and used to assist in funding the project construction costs of alternative water supply projects and the project costs of conservation projects that result in quantifiable water savings selected by the governing board. If the district has not completed any regional water supply plan, or the regional water supply plan does not identify the need for any alternative water supply projects, funds deposited in that district's trust fund may be used for water resource development projects, including, but not limited to, springs protection.
(d) All projects submitted to the governing board for consideration shall reflect the total capital cost for implementation. The costs shall be segregated pursuant to the categories described in the definition of capital costs.
(e) Applicants for projects that may receive funding assistance pursuant to the Water Protection and Sustainability Program shall, at a minimum, be required to pay 60 percent of the project's construction costs. The water management districts may, at their discretion, totally or partially waive this requirement for projects sponsored by:
1. Financially disadvantaged small local governments as defined in former s. 403.885(5); or
2. Water users for projects determined by a water management district governing board to be in the public interest pursuant to paragraph (1)(f), if the projects are not otherwise financially feasible.
The water management districts or basin boards may, at their discretion, use ad valorem or federal revenues to assist a project applicant in meeting the requirements of this paragraph.
(f) The governing boards shall determine those projects that will be selected for financial assistance. The governing boards may establish factors to determine project funding; however, significant weight shall be given to the following factors:
1. Whether the project provides substantial environmental benefits by preventing or limiting adverse water resource impacts.
2. Whether the project reduces competition for water supplies.
3. Whether the project brings about replacement of traditional sources in order to help implement a minimum flow or level or a reservation.
4. Whether the project will be implemented by a consumptive use permittee that has achieved the targets contained in a goal-based water conservation program approved pursuant to s. 373.227.
5. The quantity of water supplied by the project as compared to its cost.

6. Projects in which the construction and delivery to end users of reuse water is a major component.
7. Whether the project will be implemented by a multijurisdictional water supply entity or regional water supply authority.
8. Whether the project implements reuse that assists in the elimination of domestic wastewater ocean outfalls as provided in s. 403.086(9).
9. Whether the county or municipality, or the multiple counties or municipalities, in which the project is located has implemented a high-water recharge protection tax assessment program as provided in s. 193.625.
(g) Additional factors to be considered in determining project funding shall include:
1. Whether the project is part of a plan to implement two or more alternative water supply projects, all of which will be operated to produce water at a uniform rate for the participants in a multijurisdictional water supply entity or regional water supply authority.
2. The percentage of project costs to be funded by the water supplier or water user.
3. Whether the project proposal includes sufficient preliminary planning and engineering to demonstrate that the project can reasonably be implemented within the timeframes provided in the regional water supply plan.
4. Whether the project is a subsequent phase of an alternative water supply project that is underway.
5. Whether and in what percentage a local government or local government utility is transferring water supply system revenues to the local government general fund in excess of reimbursements for services received from the general fund, including direct and indirect costs and legitimate payments in lieu of taxes.
(h) After conducting one or more meetings to solicit public input on eligible projects, including input from those entities identified pursuant to s. 373.709(2)(a)3.d. for implementation of alternative water supply projects, the governing board of each water management district shall select projects for funding assistance based upon the criteria set forth in paragraphs (f) and (g). The governing board may select a project identified or listed as an alternative water supply development project in the regional water supply plan, or allocate up to 20 percent of the funding for alternative water supply projects that are not identified or listed in the regional water supply plan but are consistent with the goals of the plan.
(i) Without diminishing amounts available through other means described in this paragraph, the governing boards are encouraged to consider establishing revolving loan funds to expand the total funds available to accomplish the objectives of this section. A revolving loan fund created under this paragraph must be a nonlapsing fund from which the water management district may make loans with interest rates below prevailing market rates to public or private entities for the purposes described in this section. The governing board may adopt resolutions to establish revolving loan funds which must specify the details of the administration of the fund, the procedures for applying for loans from the fund, the criteria for awarding loans from the fund, the initial capitalization of the fund, and the goals for future capitalization of the fund in subsequent budget years. Revolving loan funds created under this paragraph must be used to expand the total sums and sources of cooperative funding available for the development of alternative water supplies. The Legislature does not intend for the creation of revolving

loan funds to supplant or otherwise reduce existing sources or amounts of funds currently available through other means.
(j) For each utility that receives financial assistance from the state or a water management district for an alternative water supply project, the water management district shall require the appropriate rate-setting authority to develop rate structures for water customers in the service area of the funded utility that will:
1. Promote the conservation of water; and
2. Promote the use of water from alternative water supplies.
(k) The governing boards shall establish a process for the disbursal of revenues pursuant to this subsection.
(l) All revenues made available pursuant to this subsection must be encumbered annually by the governing board when it approves projects sufficient to expend the available revenues.
(m) This subsection is not subject to the rulemaking requirements of chapter 120.
(n) By March 1 of each year, as part of the consolidated annual report required by s. 373.036(7), each water management district shall submit a report on the disbursal of all budgeted amounts pursuant to this section. Such report shall describe all alternative water supply projects funded as well as the quantity of new water to be created as a result of such projects and shall account separately for any other moneys provided through grants, matching grants, revolving loans, and the use of district lands or facilities to implement regional water supply plans.
(o) The Florida Public Service Commission shall allow entities under its jurisdiction constructing or participating in constructing facilities that provide alternative water supplies to recover their full, prudently incurred cost of constructing such facilities through their rate structure. If construction of a facility or participation in construction is pursuant to or in furtherance of a regional water supply plan, the cost shall be deemed to be prudently incurred. Every component of an alternative water supply facility constructed by an investor-owned utility shall be recovered in current rates. Any state or water management district cost share is not subject to the recovery provisions allowed in this paragraph.
(9) Funding assistance provided by the water management districts for a water reuse system may include the following conditions for that project if a water management district determines that such conditions will encourage water use efficiency:
(a) Metering of reclaimed water use for residential irrigation, agricultural irrigation, industrial uses, except for electric utilities as defined in s. 366.02(2), landscape irrigation, golf course irrigation, irrigation of other public access areas, commercial and institutional uses such as toilet flushing, and transfers to other reclaimed water utilities;
(b) Implementation of reclaimed water rate structures based on actual use of reclaimed water for the reuse activities listed in paragraph (a);
(c) Implementation of education programs to inform the public about water issues, water conservation, and the importance and proper use of reclaimed water; or
(d) Development of location data for key reuse facilities.
History.—ss. 1, 28, 29, 49, ch. 2010-205; s. 20, ch. 2016-1.

373.709 Regional water supply planning.—

(1) The governing board of each water management district shall conduct water supply planning for a water supply planning region within the district identified in the appropriate district water supply plan under s. 373.036, where it determines that existing sources of water are not adequate to supply water for all existing and future reasonable-beneficial uses and to sustain the water resources and related natural systems for the planning period. The planning must be conducted in an open public process, in coordination and cooperation with local governments, regional water supply authorities, government-owned and privately owned water and wastewater utilities, multijurisdictional water supply entities, self-suppliers, reuse utilities, the Department of Environmental Protection, the Department of Agriculture and Consumer Services, and other affected and interested parties. The districts shall actively engage in public education and outreach to all affected local entities and their officials, as well as members of the public, in the planning process and in seeking input. During preparation, but before completion of the regional water supply plan, the district shall conduct at least one public workshop to discuss the technical data and modeling tools anticipated to be used to support the regional water supply plan. The district shall also hold several public meetings to communicate the status, overall conceptual intent, and impacts of the plan on existing and future reasonable-beneficial uses and related natural systems. During the planning process, a local government may choose to prepare its own water supply assessment to determine if existing water sources are adequate to meet existing and projected reasonable-beneficial needs of the local government while sustaining water resources and related natural systems. The local government shall submit such assessment, including the data and methodology used, to the district. The district shall consider the local government's assessment during the formation of the plan. A determination by the governing board that initiation of a regional water supply plan for a specific planning region is not needed pursuant to this section is subject to s. 120.569. The governing board shall reevaluate the determination at least once every 5 years and shall initiate a regional water supply plan, if needed, pursuant to this subsection.
(2) Each regional water supply plan must be based on at least a 20-year planning period and must include, but need not be limited to:
(a) A water supply development component for each water supply planning region identified by the district which includes:
1. A quantification of the water supply needs for all existing and future reasonable-beneficial uses within the planning horizon. The level-of-certainty planning goal associated with identifying the water supply needs of existing and future reasonable-beneficial uses must be based upon meeting those needs for a 1-in-10-year drought event.
a. Population projections used for determining public water supply needs must be based upon the best available data. In determining the best available data, the district shall consider the University of Florida ~~Florida's~~ Bureau of Economic and Business Research (BEBR) medium population projections and population projection data and analysis submitted by a local government pursuant to the public workshop described in subsection (1) if the data and analysis support the local government's comprehensive plan. Any adjustment of or deviation from the BEBR projections must be fully described, and the original BEBR data must be presented along with the adjusted data.

b. Agricultural demand projections used for determining the needs of agricultural self-suppliers must be based upon the best available data. In determining the best available data for agricultural self-supplied water needs, the district shall consider the data indicative of future water supply demands provided by the Department of Agriculture and Consumer Services pursuant to s. 570.93 and agricultural demand projection data and analysis submitted by a local government pursuant to the public workshop described in subsection (1), if the data and analysis support the local government's comprehensive plan. Any adjustment of or deviation from the data provided by the Department of Agriculture and Consumer Services must be fully described, and the original data must be presented along with the adjusted data.
2. A list of water supply development project options, including traditional and alternative water supply project options that are technically and financially feasible, from which local government, government-owned and privately owned utilities, regional water supply authorities, multijurisdictional water supply entities, self-suppliers, and others may choose for water supply development. In addition to projects listed by the district, such users may propose specific projects for inclusion in the list of alternative water supply projects. If such users propose a project to be listed as an alternative water supply project, the district shall determine whether it meets the goals of the plan, and, if so, it shall be included in the list. The total capacity of the projects included in the plan must exceed the needs identified in subparagraph 1. and take into account water conservation and other demand management measures, as well as water resources constraints, including adopted minimum flows and minimum water levels and water reservations. Where the district determines it is appropriate, the plan should specifically identify the need for multijurisdictional approaches to project options that, based on planning level analysis, are appropriate to supply the intended uses and that, based on such analysis, appear to be permittable and financially and technically feasible. The list of water supply development options must contain provisions that recognize that alternative water supply options for agricultural self-suppliers are limited.
3. For each project option identified in subparagraph 2., the following must be provided:
a. An estimate of the amount of water to become available through the project.
b. The timeframe in which the project option should be implemented and the estimated planning-level costs for capital investment and operating and maintaining the project.
c. An analysis of funding needs and sources of possible funding options. For alternative water supply projects, the water management districts shall provide funding assistance pursuant to s. 373.707(8).
d. Identification of the entity that should implement each project option and the current status of project implementation.
(b) A water resource development component that includes:
1. A listing of those water resource development projects that support water supply development for all existing and future reasonable-beneficial uses as described in paragraph (a) and for the natural systems as identified in the recovery or prevention strategies for adopted minimum flows and minimum water levels or water reservations.
2. For each water resource development project listed:
a. An estimate of the amount of water to become available through the project for all existing and future reasonable-beneficial uses as described in paragraph (a) and for the

natural systems as identified in the recovery or prevention strategies for adopted minimum flows and minimum water levels or water reservations.
b. The timeframe in which the project option should be implemented and the estimated planning-level costs for capital investment and for operating and maintaining the project.
c. An analysis of funding needs and sources of possible funding options.
d. Identification of the entity that should implement each project option and the current status of project implementation.
(c) The recovery and prevention strategy described in s. 373.0421(2).
(d) A funding strategy for water resource development projects, which shall be reasonable and sufficient to pay the cost of constructing or implementing all of the listed projects.
(e) Consideration of how the project options addressed in paragraph (a) serve the public interest or save costs overall by preventing the loss of natural resources or avoiding greater future expenditures for water resource development or water supply development. However, unless adopted by rule, these considerations do not constitute final agency action.
(f) The technical data and information applicable to each planning region which are necessary to support the regional water supply plan.
(g) The minimum flows and minimum water levels established for water resources within each planning region.
(h) Reservations of water adopted by rule pursuant to s. 373.223(4) within each planning region.
(i) Identification of surface waters or aquifers for which minimum flows and minimum water levels are scheduled to be adopted.
(j) An analysis, developed in cooperation with the department, of areas or instances in which the variance provisions of s. 378.212(1)(g) or s. 378.404(9) may be used to create water supply development or water resource development projects.
(k) An assessment of how the regional water supply plan and the projects identified in the funding plans prepared pursuant to sub-subparagraphs (a)3.c. and (b)2.c. support the recovery or prevention strategies for implementation of adopted minimum flows and minimum water levels or water reservations, including minimum flows and minimum water levels for Outstanding Florida Springs adopted pursuant to s. 373.805; while ensuring that sufficient water will be available for all existing and future reasonable-beneficial uses and the natural systems identified herein; and that the adverse effects of competition for water supplies will be avoided.
(3) The water supply development component of a regional water supply plan which deals with or affects public utilities and public water supply for those areas served by a regional water supply authority and its member governments shall be developed jointly by the authority and the applicable water management district. In areas not served by regional water supply authorities, or other multijurisdictional water supply entities, and where opportunities exist to meet water supply needs more efficiently through multijurisdictional projects identified pursuant to paragraph (2)(a), water management districts are directed to assist in developing multijurisdictional approaches to water supply project development jointly with affected water utilities, special districts, self-suppliers, and local governments.

(4) The South Florida Water Management District shall include in its regional water supply plan water resource and water supply development projects that promote the elimination of wastewater ocean outfalls as provided in s. 403.086(9).
(5) Governing board approval of a regional water supply plan shall not be subject to the rulemaking requirements of chapter 120. However, any portion of an approved regional water supply plan which affects the substantial interests of a party shall be subject to s. 120.569.
(6) Annually and in conjunction with the reporting requirements of s. 373.536(6)(a)4., the department shall submit to the Governor and the Legislature a report on the status of regional water supply planning in each district. The report shall include:
(a) A compilation of the estimated costs ~~of~~ and an analysis of the sufficiency of potential sources of funding from all sources for water resource development and water supply development projects as identified in the water management district regional water supply plans.
(b) The percentage and amount, by district, of district ad valorem tax revenues or other district funds made available to develop alternative water supplies.
(c) A description of each district's progress toward achieving its water resource development objectives, including the district's implementation of its 5-year water resource development work program.
(d) An assessment of the specific progress being made to implement each alternative water supply project option chosen by the entities and identified for implementation in the plan.
(e) An overall assessment of the progress being made to develop water supply in each district, including, but not limited to, an explanation of how each project in the 5-year water resource development work program developed pursuant to s. 373.536(6)(a)4., either alternative or traditional, will produce, contribute to, or account for additional water being made available for consumptive uses, minimum flows and minimum water levels, or water reservations; an estimate of the quantity of water to be produced by each project; and an assessment of the contribution of the district's regional water supply plan in providing sufficient water to meet the needs of existing and future reasonable-beneficial uses for a 1-in-10-year drought event, as well as the needs of the natural systems.
(7) Nothing contained in the water supply development component of a regional water supply plan shall be construed to require local governments, government-owned or privately owned water utilities, special districts, self-suppliers, regional water supply authorities, multijurisdictional water supply entities, or other water suppliers to select a water supply development project identified in the component merely because it is identified in the plan. Except as provided in s. 373.223(3) and (5), the plan may not be used in the review of permits under part II of this chapter unless the plan or an applicable portion thereof has been adopted by rule. However, this subsection does not prohibit a water management district from employing the data or other information used to establish the plan in reviewing permits under part II, nor does it limit the authority of the department or governing board under part II.
(8) Where the water supply component of a water supply planning region shows the need for one or more alternative water supply projects, the district shall notify the affected local governments and make every reasonable effort to educate and involve

local public officials in working toward solutions in conjunction with the districts and, where appropriate, other local and regional water supply entities.
(a) Within 6 months following approval or amendment of its regional water supply plan, each water management district shall notify by certified mail each entity identified in sub-subparagraph (2)(a)3.d. of that portion of the plan relevant to the entity. Upon request of such an entity, the water management district shall appear before and present its findings and recommendations to the entity.
(b) Within 1 year after the notification by a water management district pursuant to paragraph (a), each entity identified in sub-subparagraph (2)(a)3.d. shall provide to the water management district written notification of the following: the alternative water supply projects or options identified in paragraph (2)(a) which it has developed or intends to develop, if any; an estimate of the quantity of water to be produced by each project; and the status of project implementation, including development of the financial plan, facilities master planning, permitting, and efforts in coordinating multijurisdictional projects, if applicable. The information provided in the notification shall be updated annually, and a progress report shall be provided by November 15 of each year to the water management district. If an entity does not intend to develop one or more of the alternative water supply project options identified in the regional water supply plan, the entity shall propose, within 1 year after notification by a water management district pursuant to paragraph (a), another alternative water supply project option sufficient to address the needs identified in paragraph (2)(a) within the entity's jurisdiction and shall provide an estimate of the quantity of water to be produced by the project and the status of project implementation as described in this paragraph. The entity may request that the water management district consider the other project for inclusion in the regional water supply plan.
(9) For any regional water supply plan that is scheduled to be updated before December 31, 2005, the deadline for such update shall be extended by 1 year.
History.—ss. 1, 28, 49, 50, ch. 2010-205; s. 3, ch. 2013-177; s. 4, ch. 2013-229; s. 9, ch. 2014-150; s. 21, ch. 2016-1.

373.801 Legislative findings and intent.—
(1) The Legislature finds that springs are a unique part of this state's scenic beauty. Springs provide critical habitat for plants and animals, including many endangered or threatened species. Springs also provide immeasurable natural, recreational, economic, and inherent value. Springs are of great scientific importance in understanding the diverse functions of aquatic ecosystems. Water quality of springs is an indicator of local conditions of the Floridan Aquifer, which is a source of drinking water for many residents of this state. Water flows in springs may reflect regional aquifer conditions. In addition, springs provide recreational opportunities for swimming, canoeing, wildlife watching, fishing, cave diving, and many other activities in this state. These recreational opportunities and the accompanying tourism they provide are a benefit to local economies and the economy of the state as a whole.
(2) The Legislature finds that the water quantity and water quality in springs may be related. For regulatory purposes, the department has primary responsibility for water quality; the water management districts have primary responsibility for water quantity; and the Department of Agriculture and Consumer Services has primary responsibility for the development and implementation of agricultural best management practices. Local

governments have primary responsibility for providing domestic wastewater collection and treatment services and stormwater management. The foregoing responsible entities must coordinate to restore and maintain the water quantity and water quality of the Outstanding Florida Springs.
(3) The Legislature recognizes that:
(a) A spring is only as healthy as its aquifer system. The groundwater that supplies springs is derived from water that recharges the aquifer system in the form of seepage from the land surface and through direct conduits, such as sinkholes. Springs may be adversely affected by polluted runoff from urban and agricultural lands; discharges resulting from inadequate wastewater and stormwater management practices; stormwater runoff; and reduced water levels of the Floridan Aquifer. As a result, the hydrologic and environmental conditions of a spring or spring run are directly influenced by activities and land uses within a springshed and by water withdrawals from the Floridan Aquifer.
(b) Springs, whether found in urban or rural settings, or on public or private lands, may be threatened by actual or potential flow reductions and declining water quality. Many of this state's springs are demonstrating signs of significant ecological imbalance, increased nutrient loading, and declining flow. Without effective remedial action, further declines in water quality and water quantity may occur.
(c) Springshed boundaries and areas of high vulnerability within a springshed need to be identified and delineated using the best available data.
(d) Springsheds typically cross water management district boundaries and local government jurisdictional boundaries, so a coordinated statewide springs protection plan is needed.
(e) The aquifers and springs of this state are complex systems affected by many variables and influences.
(4) The Legislature recognizes that action is urgently needed and, as additional data is acquired, action must be modified.
History.—s. 23, ch. 2016-1.

373.802 Definitions.—
As used in this part, the term:
(1) "Department" means the Department of Environmental Protection, which includes the Florida Geological Survey or its successor agencies.
(2) "Local government" means a county or municipal government the jurisdictional boundaries of which include an Outstanding Florida Spring or any part of a springshed or delineated priority focus area of an Outstanding Florida Spring.
(3) "Onsite sewage treatment and disposal system" means a system that contains a standard subsurface, filled, or mound drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a septic tank; a grease interceptor; a pump tank; a solids or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land on which the owner has the legal right to install such system. The term includes any item placed within, or intended to be used as a part of or in conjunction with, the system. The term

does not include package sewage treatment facilities and other treatment works regulated under chapter 403.
(4) “Outstanding Florida Spring” includes all historic first magnitude springs, including their associated spring runs, as determined by the department using the most recent Florida Geological Survey springs bulletin, and the following additional springs, including their associated spring runs:
(a) De Leon Springs;
(b) Peacock Springs;
(c) Poe Springs;
(d) Rock Springs;
(e) Wekiwa Springs; and
(f) Gemini Springs.
The term does not include submarine springs or river rises.
(5) “Priority focus area” means the area or areas of a basin where the Floridan Aquifer is generally most vulnerable to pollutant inputs where there is a known connectivity between groundwater pathways and an Outstanding Florida Spring, as determined by the department in consultation with the appropriate water management districts, and delineated in a basin management action plan.
(6) “Springshed” means the areas within the groundwater and surface water basins which contribute, based upon all relevant facts, circumstances, and data, to the discharge of a spring as defined by potentiometric surface maps and surface watershed boundaries.
(7) “Spring run” means a body of flowing water that originates from a spring or whose primary source of water is a spring or springs under average rainfall conditions.
(8) “Spring vent” means a location where groundwater flows out of a natural, discernible opening in the ground onto the land surface or into a predominantly fresh surface water body.
History.—s. 24, ch. 2016-1.

373.803 Delineation of priority focus areas for Outstanding Florida Springs.—
Using the best data available from the water management districts and other credible sources, the department, in coordination with the water management districts, shall delineate priority focus areas for each Outstanding Florida Spring or group of springs that contains one or more Outstanding Florida Springs and is identified as impaired in accordance with s. 373.807. In delineating priority focus areas, the department shall consider groundwater travel time to the spring, hydrogeology, nutrient load, and any other factors that may lead to degradation of an Outstanding Florida Spring. The delineation of priority focus areas must be completed by July 1, 2018, shall use understood and identifiable boundaries such as roads or political jurisdictions for ease of implementation, and is effective upon incorporation in a basin management action plan.
History.—s. 25, ch. 2016-1.

373.805 Minimum flows and minimum water levels for Outstanding Florida Springs.—

(1) At the time a minimum flow or minimum water level is adopted pursuant to s. 373.042 for an Outstanding Florida Spring, if the spring is below or is projected within 20 years to fall below the minimum flow or minimum water level, a water management district or the department shall concurrently adopt a recovery or prevention strategy.
(2) When a minimum flow or minimum water level for an Outstanding Florida Spring is revised pursuant to s. 373.0421(3), if the spring is below or is projected within 20 years to fall below the minimum flow or minimum water level, a water management district or the department shall concurrently adopt a recovery or prevention strategy or modify an existing recovery or prevention strategy. A district or the department may adopt the revised minimum flow or minimum water level before the adoption of a recovery or prevention strategy if the revised minimum flow or minimum water level is less constraining on existing or projected future consumptive uses.
(3) For an Outstanding Florida Spring without an adopted recovery or prevention strategy, if a district or the department determines the spring has fallen below, or is projected within 20 years to fall below, the adopted minimum flow or minimum water level, a water management district or the department shall expeditiously adopt a recovery or prevention strategy.
(4) The recovery or prevention strategy for each Outstanding Florida Spring must, at a minimum, include:
(a) A listing of all specific projects identified for implementation of the plan;
(b) A priority listing of each project;
(c) For each listed project, the estimated cost of and the estimated date of completion;
(d) The source and amount of financial assistance to be made available by the water management district for each listed project, which may not be less than 25 percent of the total project cost unless a specific funding source or sources are identified which will provide more than 75 percent of the total project cost. The Northwest Florida Water Management District and the Suwannee River Water Management District are not required to meet the minimum requirement to provide financial assistance pursuant to this paragraph;
(e) An estimate of each listed project's benefit to an Outstanding Florida Spring; and
(f) An implementation plan designed with a target to achieve the adopted minimum flow or minimum water level no more than 20 years after the adoption of a recovery or prevention strategy.
The water management district or the department shall develop a schedule establishing 5-year, 10-year, and 15-year targets for achieving the adopted minimum flows or minimum water levels. The schedule shall be used to provide guidance for planning and funding purposes and is exempt from chapter 120.
(5) A local government may apply to the department for a single extension of up to 5 years for any project in an adopted recovery or prevention strategy. The department may grant the extension if the local government provides to the department sufficient evidence that an extension is in the best interest of the public. For a local government in a rural area of opportunity, as defined in s. 288.0656, the department may grant a single extension of up to 10 years.
History.—s. 26, ch. 2016-1.

373.807 Protection of water quality in Outstanding Florida Springs.—

By July 1, 2016, the department shall initiate assessment, pursuant to s. 403.067(3), of Outstanding Florida Springs or spring systems for which an impairment determination has not been made under the numeric nutrient standards in effect for spring vents. Assessments must be completed by July 1, 2018.

(1)(a) Concurrent with the adoption of a nutrient total maximum daily load for an Outstanding Florida Spring, the department, or the department in conjunction with a water management district, shall initiate development of a basin management action plan, as specified in s. 403.067. For an Outstanding Florida Spring with a nutrient total maximum daily load adopted before July 1, 2016, the department, or the department in conjunction with a water management district, shall initiate development of a basin management action plan by July 1, 2016. During the development of a basin management action plan, if the department identifies onsite sewage treatment and disposal systems as contributors of at least 20 percent of nonpoint source nitrogen pollution or if the department determines remediation is necessary to achieve the total maximum daily load, the basin management action plan shall include an onsite sewage treatment and disposal system remediation plan pursuant to subsection (3) for those systems identified as requiring remediation.

(b) A basin management action plan for an Outstanding Florida Spring shall be adopted within 2 years after its initiation and must include, at a minimum:

1. A list of all specific projects and programs identified to implement a nutrient total maximum daily load;

2. A list of all specific projects identified in any incorporated onsite sewage treatment and disposal system remediation plan, if applicable;

3. A priority rank for each listed project;

4. For each listed project, a planning level cost estimate and the estimated date of completion;

5. The source and amount of financial assistance to be made available by the department, a water management district, or other entity for each listed project;

6. An estimate of each listed project's nutrient load reduction;

7. Identification of each point source or category of nonpoint sources, including, but not limited to, urban turf fertilizer, sports turf fertilizer, agricultural fertilizer, onsite sewage treatment and disposal systems, wastewater treatment facilities, animal wastes, and stormwater facilities. An estimated allocation of the pollutant load must be provided for each point source or category of nonpoint sources; and

8. An implementation plan designed with a target to achieve the nutrient total maximum daily load no more than 20 years after the adoption of a basin management action plan. The department shall develop a schedule establishing 5-year, 10-year, and 15-year targets for achieving the nutrient total maximum daily load. The schedule shall be used to provide guidance for planning and funding purposes and is exempt from chapter 120.

(c) For a basin management action plan adopted before July 1, 2016, which addresses an Outstanding Florida Spring, the department or the department in conjunction with a water management district must revise the plan if necessary to comply with this section by July 1, 2018.

(d) A local government may apply to the department for a single extension of up to 5 years for any project in an adopted basin management action plan. A local government in a rural area of opportunity, as defined in s. 288.0656, may apply for a single

extension of up to 10 years for such a project. The department may grant the extension if the local government provides to the department sufficient evidence that an extension is in the best interest of the public.

(2) By July 1, 2017, each local government, as defined in s. 373.802(2), that has not adopted an ordinance pursuant to s. 403.9337, shall develop, enact, and implement an ordinance pursuant to that section. It is the intent of the Legislature that ordinances required to be adopted under this subsection reflect the latest scientific information, advancements, and technological improvements in the industry.

(3) As part of a basin management action plan that includes an Outstanding Florida Spring, the department, the Department of Health, relevant local governments, and relevant local public and private wastewater utilities shall develop an onsite sewage treatment and disposal system remediation plan for a spring if the department determines onsite sewage treatment and disposal systems within a priority focus area contribute at least 20 percent of nonpoint source nitrogen pollution or if the department determines remediation is necessary to achieve the total maximum daily load. The plan shall identify cost-effective and financially feasible projects necessary to reduce the nutrient impacts from onsite sewage treatment and disposal systems and shall be completed and adopted as part of the basin management action plan no later than the first 5-year milestone required by subparagraph (1)(b)8. The department is the lead agency in coordinating the preparation of and the adoption of the plan. The department shall:

(a) Collect and evaluate credible scientific information on the effect of nutrients, particularly forms of nitrogen, on springs and springs systems; and

(b) Develop a public education plan to provide area residents with reliable, understandable information about onsite sewage treatment and disposal systems and springs.

In addition to the requirements in s. 403.067, the plan shall include options for repair, upgrade, replacement, drainfield modification, addition of effective nitrogen reducing features, connection to a central sewerage system, or other action for an onsite sewage treatment and disposal system or group of systems within a priority focus area that contribute at least 20 percent of nonpoint source nitrogen pollution or if the department determines remediation is necessary to achieve a total maximum daily load. For these systems, the department shall include in the plan a priority ranking for each system or group of systems that requires remediation and shall award funds to implement the remediation projects contingent on an appropriation in the General Appropriations Act, which may include all or part of the costs necessary for repair, upgrade, replacement, drainfield modification, addition of effective nitrogen reducing features, initial connection to a central sewerage system, or other action. In awarding funds, the department may consider expected nutrient reduction benefit per unit cost, size and scope of project, relative local financial contribution to the project, and the financial impact on property owners and the community. The department may waive matching funding requirements for proposed projects within an area designated as a rural area of opportunity under s. 288.0656.

(4) The department shall provide notice to a local government of all permit applicants under s. 403.814(12) in a priority focus area of an Outstanding Florida Spring over which the local government has full or partial jurisdiction.

History.—s. 27, ch. 2016-1.

373.811 Prohibited activities within a priority focus area.—
The following activities are prohibited within a priority focus area in effect for an Outstanding Florida Spring:
(1) New domestic wastewater disposal facilities, including rapid infiltration basins, with permitted capacities of 100,000 gallons per day or more, except for those facilities that meet an advanced wastewater treatment standard of no more than 3 mg/l total nitrogen, expressed as N, on an annual permitted basis, or a more stringent treatment standard if the department determines the more stringent standard is necessary to attain a total maximum daily load for the Outstanding Florida Spring.
(2) New onsite sewage treatment and disposal systems on lots of less than 1 acre, if the addition of the specific systems conflicts with an onsite treatment and disposal system remediation plan incorporated into a basin management action plan in accordance with s. 373.807(3).
(3) New facilities for the disposal of hazardous waste.
(4) The land application of Class A or Class B domestic wastewater biosolids not in accordance with a department approved nutrient management plan establishing the rate at which all biosolids, soil amendments, and sources of nutrients at the land application site can be applied to the land for crop production while minimizing the amount of pollutants and nutrients discharged to groundwater or waters of the state.
(5) New agriculture operations that do not implement best management practices, measures necessary to achieve pollution reduction levels established by the department, or groundwater monitoring plans approved by a water management district or the department.
History.—s. 28, ch. 2016-1.

373.813 Rules.—
(1) The department shall adopt rules to improve water quantity and water quality to administer this part, as applicable.
(2)(a) The Department of Agriculture and Consumer Services is the lead agency coordinating the reduction of agricultural nonpoint sources of pollution for the protection of Outstanding Florida Springs. The Department of Agriculture and Consumer Services and the department, pursuant to s. 403.067(7)(c)4., shall study new or revised agricultural best management practices for improving and protecting Outstanding Florida Springs and, if necessary, in cooperation with applicable local governments and stakeholders, initiate rulemaking to require the implementation of such practices within a reasonable period.
(b) The department, the Department of Agriculture and Consumer Services, and the University of Florida Institute of Food and Agricultural Sciences shall cooperate in conducting the necessary research and demonstration projects to develop improved or additional nutrient management tools, including the use of controlled release fertilizer that can be used by agricultural producers as part of an agricultural best management practices program. The development of such tools must reflect a balance between

water quality improvement and agricultural productivity and, if applicable, must be incorporated into the revised agricultural best management practices adopted by rule by the Department of Agriculture and Consumer Services.

History.—s. 29, ch. 2016-1.

Chapter 376
Pollutant Discharge Prevention and Removal
Enforceable Policies

Any additions are underlined and any deletions are struck-through.

376.011*	Pollutant Discharge Prevention and Control Act; short title.
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376.031	Definitions.
376.041	Pollution of waters and lands of the state prohibited.
376.051	Powers and duties of the Department of Environmental Protection.
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376.10	Personnel and equipment.
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376.121	Liability for damage to natural resources.
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376.19	County and municipal ordinances; powers limited.
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376.205	Individual cause of action for damages under ss. 376.011-376.21.
376.207	Traps impregnated with pollutants prohibited.
376.21	Construction of ss. 376.011-376.21.
376.30	Legislative intent with respect to pollution of surface and ground waters.
376.301	Definitions of terms used in ss. 376.30-376.319, 376.70, and 376.75.
376.302	Prohibited acts; penalties.
376.303	Powers and duties of the Department of Environmental Protection.
376.304	Review and analysis of disposal materials or byproducts; disposal at designated local government solid waste disposal facilities.
376.305	Removal of prohibited discharges.
376.306	Cattle-dipping vats; legislative findings; liability.
376.307	Water Quality Assurance Trust Fund.

*Sections 376.011, .3073, .3075, .317, and .41, F.S., are not considered enforceable policy for federal consistency purposes

Chapter 376--Pollutant Discharge Prevention and Removal

376.301 Definitions of terms used in ss. 376.30-376.317, 376.70, and 376.75.—
When used in ss. 376.30-376.317, 376.70, and 376.75, unless the context clearly requires otherwise, the term:
(1) “Aboveground hazardous substance tank” means any stationary aboveground storage tank and onsite integral piping that contains hazardous substances which are liquid at standard temperature and pressure and has an individual storage capacity greater than 110 gallons.
(2) “Additive effects” means a scientific principle that the toxicity that occurs as a result of exposure is the sum of the toxicities of the individual chemicals to which the individual is exposed.
(3) “Antagonistic effects” means a scientific principle that the toxicity that occurs as a result of exposure is less than the sum of the toxicities of the individual chemicals to which the individual is exposed.
(4) “Background concentration” means the concentration of contaminants naturally occurring or resulting from anthropogenic impacts unrelated to the discharge of pollutants or hazardous substances at a contaminated site undergoing site rehabilitation.
(5)~~(4)~~ “Barrel” means 42 U.S. gallons at 60 degrees Fahrenheit.
(6)~~(5)~~ “Bulk product facility” means a waterfront location with at least one aboveground tank with a capacity greater than 30,000 gallons which is used for the storage of pollutants.
(7)~~(6)~~ “Cattle-dipping vat” means any structure, excavation, or other facility constructed by any person, or the site where such structure, excavation, or other facility once existed, for the purpose of treating cattle or other livestock with a chemical solution pursuant to or in compliance with any local, state, or federal governmental program for the prevention, suppression, control, or eradication of any dangerous, contagious, or infectious diseases.
(8)~~(7)~~ “Cleanup target level” means the concentration for each contaminant identified by an applicable analytical test method, in the medium of concern, at which a site rehabilitation program is deemed complete.
(9)~~(8)~~ “Compression vessel” means any stationary container, tank, or onsite integral piping system, or combination thereof, which has a capacity of greater than 110 gallons, that is primarily used to store pollutants or hazardous substances above atmospheric pressure or at a reduced temperature in order to lower the vapor pressure of the contents. Manifold compression vessels that function as a single vessel shall be considered as one vessel.
(10)~~(9)~~ “Contaminant” means any physical, chemical, biological, or radiological substance present in any medium which may result in adverse effects to human health or the environment or which creates an adverse nuisance, organoleptic, or aesthetic condition in groundwater.
(11)~~(10)~~ “Contaminated site” means any contiguous land, sediment, surface water, or groundwater areas that contain contaminants that may be harmful to human health or the environment.
(12)~~(11)~~ “Department” means the Department of Environmental Protection.

(13)~~(12)~~ “Discharge” includes, but is not limited to, any spilling, leaking, seeping, pouring, misapplying, emitting, emptying, releasing, or dumping of any pollutant or hazardous substance which occurs and which affects lands and the surface and ground waters of the state not regulated by ss. 376.011-376.21.
(14)~~(13)~~ “Drycleaning facility” means a commercial establishment that operates or has at some time in the past operated for the primary purpose of drycleaning clothing and other fabrics utilizing a process that involves any use of drycleaning solvents. The term “drycleaning facility” includes laundry facilities that use drycleaning solvents as part of their cleaning process. The term does not include a facility that operates or has at some time in the past operated as a uniform rental company or a linen supply company regardless of whether the facility operates as or was previously operated as a drycleaning facility.
(15)~~(14)~~ “Drycleaning solvents” means any and all nonaqueous solvents used in the cleaning of clothing and other fabrics and includes perchloroethylene (also known as tetrachloroethylene) and petroleum-based solvents, and their breakdown products. For purposes of this definition, “drycleaning solvents” only includes those drycleaning solvents originating from use at a drycleaning facility or by a wholesale supply facility.
(16)~~(15)~~ “Dry drop-off facility” means any commercial retail store that receives from customers clothing and other fabrics for drycleaning or laundering at an offsite drycleaning facility and that does not clean the clothing or fabrics at the store utilizing drycleaning solvents.
(17)~~(16)~~ “Engineering controls” means modifications to a site to reduce or eliminate the potential for exposure to petroleum products’ chemicals of concern, drycleaning solvents, or other contaminants. Such modifications may include, but are not limited to, physical or hydraulic control measures, capping, point of use treatments, or slurry walls.
(18)~~(17)~~ “Wholesale supply facility” means a commercial establishment that supplies drycleaning solvents to drycleaning facilities.
(19)~~(18)~~ “Facility” means a nonresidential location containing, or which contained, any underground stationary tank or tanks which contain hazardous substances or pollutants and have individual storage capacities greater than 110 gallons, or any aboveground stationary tank or tanks which contain pollutants which are liquids at standard ambient temperature and pressure and have individual storage capacities greater than 550 gallons. This subsection shall not apply to facilities covered by chapter 377, or containers storing solid or gaseous pollutants, and agricultural tanks having storage capacities of less than 550 gallons.
(20)~~(19)~~ “Flow-through process tank” means an aboveground tank that contains hazardous substances or specified mineral acids as defined in s. 376.321 and that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. Flow-through process tanks include, but are not limited to, seal tanks, vapor recovery units, surge tanks, blend tanks, feed tanks, check and delay tanks, batch tanks, oil-water separators, or tanks in which mechanical, physical, or chemical change of a material is accomplished.
(21)~~(20)~~ “Hazardous substances” means those substances defined as hazardous substances in the Comprehensive Environmental Response, Compensation and

Liability Act of 1980, Pub. L. No. 96-510, 94 Stat. 2767, as amended by the Superfund Amendments and Reauthorization Act of 1986.
(22)~~(21)~~ “Institutional controls” means the restriction on use or access to a site to eliminate or minimize exposure to petroleum products’ chemicals of concern, drycleaning solvents, or other contaminants. Such restrictions may include, but are not limited to, deed restrictions, restrictive covenants, or conservation easements.
(23)~~(22)~~ “Laundering on a wash, dry, and fold basis” means the service provided by the owner or operator of a coin-operated laundry to its customers whereby an employee of the laundry washes, dries, and folds laundry for its customers.
(24) “Long-term natural attenuation” means natural attenuation approved by the department as a site rehabilitation program task for a period of more than 5 years.
(25)~~(23)~~ “Marine fueling facility” means a commercial or recreational coastal facility, excluding a bulk product facility, providing fuel to vessels.
(26)~~(24)~~ “Natural attenuation” means a verifiable approach to site rehabilitation that allows natural processes to contain the spread of contamination and reduce the concentrations of contaminants in contaminated groundwater and soil. Natural attenuation processes may include the following: sorption, biodegradation, chemical reactions with subsurface materials, diffusion, dispersion, and volatilization.
(27)~~(25)~~ “Operator” means any person operating a facility, whether by lease, contract, or other form of agreement.
(28)~~(26)~~ “Owner” means any person owning a facility.
(29)~~(27)~~ “Person” means any individual, partner, joint venture, or corporation; any group of the foregoing, organized or united for a business purpose; or any governmental entity.
(30)~~(28)~~ “Person in charge” means the person on the scene who is in direct, responsible charge of a facility from which pollutants are discharged, when the discharge occurs.
(31)~~(29)~~ “Person responsible for site rehabilitation” means the person performing site rehabilitation pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, or s. 376.30701. Such person may include, but is not limited to, any person who has legal responsibility for site rehabilitation pursuant to this chapter or chapter 403, the department when it conducts site rehabilitation, a real property owner, a facility owner or operator, any person responsible for brownfield site rehabilitation, or any person who voluntarily rehabilitates a site and seeks acknowledgment from the department for approval of site rehabilitation program tasks.
(32)~~(30)~~ “Petroleum” includes:
(a) Oil, including crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary methods and which are not the result of condensation of gas after it leaves the reservoir; and
(b) All natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in paragraph (a).
(33)~~(31)~~ “Petroleum product” means any liquid fuel commodity made from petroleum, including, but not limited to, all forms of fuel known or sold as diesel fuel, kerosene, all forms of fuel known or sold as gasoline, and fuels containing a mixture of gasoline and other products, excluding liquefied petroleum gas and American Society for Testing and Materials (ASTM) grades no. 5 and no. 6 residual oils, bunker C residual oils,

intermediate fuel oils (IFO) used for marine bunkering with a viscosity of 30 and higher, asphalt oils, and petrochemical feedstocks.
(34)~~(32)~~ “Petroleum products’ chemicals of concern” means the constituents of petroleum products, including, but not limited to, xylene, benzene, toluene, ethylbenzene, naphthalene, and similar chemicals, and constituents in petroleum products, including, but not limited to, methyl tert-butyl ether (MTBE), lead, and similar chemicals found in additives, provided the chemicals of concern are present as a result of a discharge of petroleum products.
(35)~~(33)~~ “Petroleum storage system” means a stationary tank not covered under the provisions of chapter 377, together with any onsite integral piping or dispensing system associated therewith, which is used, or intended to be used, for the storage or supply of any petroleum product. Petroleum storage systems may also include oil/water separators, and other pollution control devices installed at petroleum product terminals as defined in this chapter and bulk product facilities pursuant to, or required by, permits or best management practices in an effort to control surface discharge of pollutants. Nothing herein shall be construed to allow a continuing discharge in violation of department rules.
(36)~~(34)~~ “Pollutants” includes any “product” as defined in s. 377.19, pesticides, ammonia, chlorine, and derivatives thereof, excluding liquefied petroleum gas.
(37)~~(35)~~ “Pollution” means the presence on the land or in the waters of the state of pollutants in quantities which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property or which may unreasonably interfere with the enjoyment of life or property, including outdoor recreation.
(38)~~(36)~~ “Real property owner” means the individual or entity that is vested with ownership, dominion, or legal or rightful title to the real property, or which has a ground lease interest in the real property, on which a drycleaning facility or wholesale supply facility is or has ever been located.
(39)~~(37)~~ “Response action” means any activity, including evaluation, planning, design, engineering, construction, and ancillary services, which is carried out in response to any discharge, release, or threatened release of a hazardous substance, pollutant, or other contaminant from a facility or site identified by the department under the provisions of ss. 376.30-376.317.
(40)~~(38)~~ “Response action contractor” means a person who is carrying out any response action, including a person retained or hired by such person to provide services relating to a response action.
(41)~~(39)~~ “Risk reduction” means the lowering or elimination of the level of risk posed to human health or the environment through interim remedial actions, remedial action, or institutional and, if appropriate, engineering controls.
(42)~~(40)~~ “Secretary” means the Secretary of Environmental Protection.
(43)~~(41)~~ “Site rehabilitation” means the assessment of site contamination and the remediation activities that reduce the levels of contaminants at a site through accepted treatment methods to meet the cleanup target levels established for that site. For purposes of sites subject to the Resource Conservation and Recovery Act, as amended, the term includes removal, decontamination, and corrective action of releases of hazardous substances.

(44)~~(42)~~ “Source removal” means the removal of free product, or the removal of contaminants from soil or sediment that has been contaminated to the extent that leaching to groundwater or surface water has occurred or is occurring.
(45)~~(43)~~ “Storage system” means a stationary tank not covered under the provisions of chapter 377, together with any onsite integral piping or dispensing system associated therewith, which is or has been used for the storage or supply of any petroleum product, pollutant, or hazardous substance as defined herein, and which is registered with the Department of Environmental Protection under this chapter or any rule adopted pursuant hereto.
(46)~~(44)~~ “Synergistic effects” means a scientific principle that the toxicity that occurs as a result of exposure is more than the sum of the toxicities of the individual chemicals to which the individual is exposed.
(47)~~(45)~~ “Temporary point of compliance” means the boundary represented by one or more designated monitoring wells at which groundwater cleanup target levels may not be exceeded while site rehabilitation is proceeding.
(48)~~(46)~~ “Terminal facility” means any structure, group of structures, motor vehicle, rolling stock, pipeline, equipment, or related appurtenances which are used or capable of being used for one or more of the following purposes: pumping, refining, drilling for, producing, storing, handling, transferring, or processing pollutants, provided such pollutants are transferred over, under, or across any water, estuaries, tidal flats, beaches, or waterfront lands, including, but not limited to, any such facility and related appurtenances owned or operated by a public utility or a governmental or quasi-governmental body. In the event of a ship-to-ship transfer of pollutants, the vessel going to or coming from the place of transfer and a terminal facility shall also be considered a terminal facility. For the purposes of ss. 376.30-376.317, the term “terminal facility” shall not be construed to include spill response vessels engaged in response activities related to removal of pollutants, or temporary storage facilities created to temporarily store recovered pollutants and matter, or waterfront facilities owned and operated by governmental entities acting as agents of public convenience for persons engaged in the drilling for or pumping, storing, handling, transferring, processing, or refining of pollutants. However, each person engaged in the drilling for or pumping, storing, handling, transferring, processing, or refining of pollutants through a waterfront facility owned and operated by such a governmental entity shall be construed as a terminal facility.
(49)~~(47)~~ “Transfer” or “transferred” includes onloading, offloading, fueling, bunkering, lightering, removal of waste pollutants, or other similar transfers, between terminal facility and vessel or vessel and vessel.
(50)~~(48)~~ “Nearby real property owner” means the individual or entity that is vested with ownership, dominion, or legal or rightful title to real property, or that has a ground lease in real property, onto which drycleaning solvent has migrated through soil or groundwater from a drycleaning facility or wholesale supply facility eligible for site rehabilitation under s. 376.3078(3) or from a drycleaning facility or wholesale supply facility that is approved by the department for voluntary cleanup under s. 376.3078(11).
History.—s. 84, ch. 83-310; s. 6, ch. 84-338; s. 11, ch. 86-159; s. 2, ch. 89-188; s. 22, ch. 90-54; s. 9, ch. 90-98; s. 12, ch. 91-305; s. 3, ch. 92-30; s. 3, ch. 94-355; s. 297, ch. 94-356; s. 1, ch. 95-239; s. 1, ch. 95-349; s. 15, ch. 96-263; s. 2, ch. 96-277; s. 8, ch. 98-189; s. 7, ch. 2000-317;

s. 1, ch. 2003-276; s. 1, ch. 2005-50; s. 58, ch. 2007-5; s. 4, ch. 2013-205; s. 5, ch. 2014-151; s. 1, ch. 2016-184.

376.305 Removal of prohibited discharges.—

(1) Any person discharging a pollutant as prohibited by ss. 376.30-376.317 shall immediately undertake to contain, remove, and abate the discharge to the satisfaction of the department. However, such an undertaking to contain, remove, or abate a discharge shall not be deemed an admission of responsibility for the discharge by the person taking such action. Notwithstanding this requirement, the department may undertake the removal of the discharge and may contract and retain agents who shall operate under the direction of the department.

(2) If the person causing the discharge, or the person in charge of facilities at which the discharge has taken place, fails to act immediately, the department may arrange for the removal of the pollutant; except that, if the pollutant was discharged into or upon the navigable waters of the United States, the department shall act in accordance with the national contingency plan for removal of such pollutant as established pursuant to the Federal Water Pollution Control Act, as amended, and the costs of removal incurred by the department shall be paid in accordance with the applicable provisions of that law. Federal funds provided under that act shall be used to the maximum extent possible prior to the expenditure of state funds.

(3) No action taken by any person to contain or remove a discharge, whether such action is taken voluntarily or at the request of the department or its designee, shall be construed as an admission of liability for the discharge.

(4) No person who, voluntarily or at the request of the department or its designee, renders assistance in containing or removing any pollutant shall be liable for any civil damages to third parties resulting solely from the acts or omissions of such person in rendering such assistance, except for acts or omissions amounting to gross negligence or willful misconduct.

(5) Nothing in ss. 376.30-376.317 shall affect the right of any person to render assistance in containing or removing any pollutant or any rights which that person may have against any third party whose acts or omissions in any way have caused or contributed to the discharge of the pollutant.

(6) The Legislature created the Abandoned Tank Restoration Program in response to the need to provide financial assistance for cleanup of sites that have abandoned petroleum storage systems. For purposes of this subsection, the term “abandoned petroleum storage system” means a petroleum storage system that has not stored petroleum products for consumption, use, or sale since March 1, 1990. The department shall establish the Abandoned Tank Restoration Program to facilitate the restoration of sites contaminated by abandoned petroleum storage systems.

(a) To be included in the program:

1. An application must be submitted to the department ~~by June 30, 1996,~~ certifying that the system has not stored petroleum products for consumption, use, or sale at the facility since March 1, 1990.

2. The owner or operator of the petroleum storage system when it was in service must have ceased conducting business involving consumption, use, or sale of petroleum products at that facility on or before March 1, 1990.

3. The site is not otherwise eligible for the cleanup programs pursuant to ~~s. 376.3071 or~~ s. 376.3072.
4. The site is not otherwise eligible for the Petroleum Cleanup Participation Program under s. 376.3071(13) based on any discharge reporting form received by the department before January 1, 1995, or a written report of contamination submitted to the department on or before December 31, 1998.
(b) In order to be eligible for the program, petroleum storage systems from which a discharge occurred must be closed pursuant to department rules before an eligibility determination. However, if the department determines that the owner of the facility cannot financially comply with the department's petroleum storage system closure requirements and all other eligibility requirements are met, the petroleum storage system closure requirements shall be waived. The department shall take into consideration the owner's net worth and the economic impact on the owner in making the determination of the owner's financial ability. ~~The June 30, 1996, application deadline shall be waived for the owners who cannot financially comply.~~
(c) Sites accepted in the program are eligible for site rehabilitation funding as provided in s. 376.3071.
(d) The following sites are excluded from eligibility:
1. Sites on property of the Federal Government;
2. Sites contaminated by pollutants that are not petroleum products; or
3. Sites where the department has been denied site access.
~~4. Sites which are owned by a person who had knowledge of the polluting condition when title was acquired unless the person acquired title to the site after issuance of a notice of site eligibility by the department.~~
(e) Participating sites are subject to a deductible as determined by rule, not to exceed $10,000.
~~This subsection does not relieve a person who has acquired title after July 1, 1992, from the duty to establish by a preponderance of the evidence that he or she undertook, at the time of acquisition, all appropriate inquiry into the previous ownership and use of the property consistent with good commercial or customary practice in an effort to minimize liability, as required by s. 376.308(1)(c).~~
History.—s. 84, ch. 83-310; s. 13, ch. 86-159; s. 12, ch. 90-98; s. 13, ch. 91-305; s. 6, ch. 92-30; s. 2, ch. 94-311; s. 1016, ch. 95-148; s. 4, ch. 96-277; s. 60, ch. 2007-5; s. 7, ch. 2014-151; s. 8, ch. 2016-184.

376.30701 Application of risk-based corrective action principles to contaminated sites; applicability; legislative intent; rulemaking authority; contamination cleanup criteria; limitations; reopeners.—
(1) APPLICABILITY.—
(a) This section shall not create or establish any new liability for site rehabilitation at contaminated sites. This section is intended to describe a risk-based corrective action process to be applied at sites where legal responsibility for site rehabilitation exists pursuant to other provisions of this chapter or chapter 403. An exceedance of any cleanup target level derived from the cleanup criteria established in subsection (2) shall not, at sites where legal responsibility for site rehabilitation does not exist pursuant to other provisions of this chapter or chapter 403, create liability for site rehabilitation. This section may also apply to other contaminated sites at which a person conducting site

rehabilitation elects to have it apply, even where such person does not have legal responsibility for site rehabilitation pursuant to this chapter or chapter 403. This section and any rules adopted pursuant thereto, including the cleanup criteria described in subsection (2), shall not create additional authority to prohibit or limit the legal placement of materials or products on land.

(b) This section shall apply to all contaminated sites resulting from a discharge of pollutants or hazardous substances where legal responsibility for site rehabilitation exists pursuant to other provisions of this chapter or chapter 403, except for those contaminated sites subject to the risk-based corrective action cleanup criteria established for the petroleum, brownfields, and drycleaning programs pursuant to ss. 376.3071, 376.81, and 376.3078, respectively. This section does not apply to nonprogram petroleum-contaminated sites unless application of this section is requested by the person responsible for site rehabilitation.

(c) This section shall apply to a variety of site rehabilitation scenarios including, but not limited to, site rehabilitation conducted voluntarily, site rehabilitation conducted pursuant to the department's enforcement authority, or site rehabilitation conducted as a state-managed cleanup by the department.

(d) This section, and any rules adopted pursuant thereto, shall apply retroactively to all existing contaminated sites where legal responsibility for site rehabilitation exists pursuant to other provisions of this chapter or chapter 403, except those sites for which cleanup target levels have been accepted by the department in an approved technical document, current permit, or other written agreement and except at those sites that have received a "No Further Action" order or a "Site Rehabilitation Completion" order from the department. However, the person responsible for site rehabilitation can elect to have the provisions of this section, including cleanup target levels established pursuant thereto, apply in lieu of those in an approved technical document, current permit, or other written agreement.

(e) Nothing in this section shall be construed to prohibit or delay actions to respond to a discharge of pollutants or hazardous substances prior to any contact with the department. The risk-based corrective action process contemplates appropriate emergency response action or initial remedial action prior to any formal application of the risk-based corrective action process involving site assessment and, if required, subsequent remedial action. Any emergency response actions or initial remedial actions must be conducted in accordance with all applicable federal, state, and local laws and regulations.

(2) INTENT; RULEMAKING AUTHORITY; CLEANUP CRITERIA.—It is the intent of the Legislature to protect the health of all people under actual circumstances of exposure. By July 1, 2004, the secretary of the department shall establish criteria by rule for the purpose of determining, on a site-specific basis, the rehabilitation program tasks that comprise a site rehabilitation program, including a voluntary site rehabilitation program, and the level at which a rehabilitation program task and a site rehabilitation program may be deemed completed. In establishing these rules, the department shall apply, to the maximum extent feasible, a risk-based corrective action process to achieve protection of human health and safety and the environment in a cost-effective manner based on the principles set forth in this subsection. These rules shall prescribe a phased risk-based corrective action process that is iterative and that tailors site

rehabilitation tasks to site-specific conditions and risks. The department and the person responsible for site rehabilitation are encouraged to establish decision points at which risk management decisions will be made. The department shall provide an early decision, when requested, regarding applicable exposure factors and a risk management approach based on the current and future land use at the site. These rules must ~~shall also~~ include protocols for the use of natural attenuation, including long-term natural attenuation where site conditions warrant, the use of institutional and engineering controls, and the issuance of "No Further Action" orders. The criteria for determining what constitutes a rehabilitation program task or completion of a site rehabilitation program task or site rehabilitation program, including a voluntary site rehabilitation program, must:

(a) Consider the current exposure and potential risk of exposure to humans and the environment, including multiple pathways of exposure. The physical, chemical, and biological characteristics of each contaminant must be considered in order to determine the feasibility of a risk-based corrective action assessment.

(b) Establish the point of compliance at the source of the contamination. However, the department may ~~is authorized to~~ temporarily move the point of compliance to the boundary of the property, or to the edge of the plume when the plume is within the property boundary, while cleanup, including cleanup through natural attenuation processes in conjunction with appropriate monitoring, is proceeding. The department may ~~also is authorized~~, pursuant to criteria provided in this section, ~~to~~ temporarily extend the point of compliance beyond the property boundary with appropriate monitoring, if such extension is needed to facilitate natural attenuation or to address the current conditions of the plume, provided human health, public safety, and the environment are protected. When temporarily extending the point of compliance beyond the property boundary, it cannot be extended further than the lateral extent of the plume, if known, at the time of execution of a cleanup agreement, if required, or the lateral extent of the plume as defined at the time of site assessment. Temporary extension of the point of compliance beyond the property boundary, as provided in this paragraph, must include actual notice by the person responsible for site rehabilitation to local governments and the owners of any property into which the point of compliance is allowed to extend and constructive notice to residents and business tenants of the property into which the point of compliance is allowed to extend. Persons receiving notice pursuant to this paragraph shall have the opportunity to comment within 30 days after receipt of the notice. Additional notice concerning the status of natural attenuation processes shall be similarly provided to persons receiving notice pursuant to this paragraph every 5 years.

(c) Ensure that the site-specific cleanup goal is that all contaminated sites being cleaned up pursuant to this section ultimately achieve the applicable cleanup target levels provided in this subsection. In the circumstances provided in this subsection, and after constructive notice and opportunity to comment within 30 days after receipt of the notice to local government, owners of any property into which the point of compliance is allowed to extend, and residents of any property into which the point of compliance is allowed to extend, the department may allow concentrations of contaminants to temporarily exceed the applicable cleanup target levels while cleanup, including cleanup

through natural attenuation processes in conjunction with appropriate monitoring, is proceeding, if human health, public safety, and the environment are protected.
(d) Allow the use of institutional or engineering controls at contaminated sites being cleaned up pursuant to this section, where appropriate, to eliminate or control the potential exposure to contaminants of humans or the environment. The use of controls must be preapproved by the department and only after constructive notice and opportunity to comment within 30 days after receipt of notice is provided to local governments, owners of any property into which the point of compliance is allowed to extend, and residents on any property into which the point of compliance is allowed to extend. When institutional or engineering controls are implemented to control exposure, the removal of the controls must have prior department approval and must be accompanied by the resumption of active cleanup, or other approved controls, unless cleanup target levels under this section have been achieved.
(e) Consider the interactive ~~additive~~ effects of contaminants, including additive, synergistic, and antagonistic effects. ~~The synergistic and antagonistic effects shall also be considered when the scientific data become available.~~
(f) Take into consideration individual site characteristics, which shall include, but not be limited to, the current and projected use of the affected groundwater and surface water in the vicinity of the site, current and projected land uses of the area affected by the contamination, the exposed population, the degree and extent of contamination, the rate of contaminant migration, the apparent or potential rate of contaminant degradation through natural attenuation processes, the location of the plume, and the potential for further migration in relation to site property boundaries.
(g) Apply state water quality standards as follows:
1. Cleanup target levels for each contaminant found in groundwater shall be the applicable state water quality standards. Where such standards do not exist, the cleanup target levels for groundwater shall be based on the minimum criteria specified in department rule. The department shall apply the following, as appropriate, in establishing the applicable cleanup target levels: calculations using a lifetime cancer risk level of 1.0E-6; a hazard index of 1 or less; the best achievable detection limit; and nuisance, organoleptic, and aesthetic considerations. However, the department may ~~shall~~ not require site rehabilitation to achieve a cleanup target level for any individual contaminant that is more stringent than the site-specific, ~~naturally occurring~~ background concentration for that contaminant.
2. Where surface waters are exposed to contaminated groundwater, the cleanup target levels for the contaminants must ~~shall~~ be based on the more protective of the groundwater or surface water standards as established by department rule, unless it has been demonstrated that the contaminants do not cause or contribute to the exceedance of applicable surface water quality criteria. In such circumstance, the point of measuring compliance with the surface water standards shall be in the groundwater immediately adjacent to the surface water body.
3. Using risk-based corrective action principles, the department shall approve alternative cleanup target levels in conjunction with institutional and engineering controls, if needed, based upon an applicant's demonstration, using site-specific or other relevant data and information, risk assessment modeling results, including results from probabilistic risk assessment modeling, risk assessment studies, risk reduction

techniques, or a combination thereof, that human health, public safety, and the environment are protected to the same degree as provided in subparagraphs 1. and 2. Where a state water quality standard is applicable, a deviation may not result in the application of cleanup target levels more stringent than the standard. In determining whether it is appropriate to establish alternative cleanup target levels at a site, the department must consider the effectiveness of source removal, if any, that has been completed at the site and the practical likelihood of the use of low yield or poor quality groundwater, the use of groundwater near marine surface water bodies, the current and projected use of the affected groundwater in the vicinity of the site, or the use of groundwater in the immediate vicinity of the contaminated area, where it has been demonstrated that the groundwater contamination is not migrating away from such localized source, provided human health, public safety, and the environment are protected. Groundwater resource protection remains the ultimate goal of cleanup, particularly in light of the state's continued growth and consequent demands for drinking water resources. The Legislature recognizes the need for a protective yet flexible cleanup approach that risk-based corrective action provides. Only where it is appropriate on a site-specific basis, using the criteria in this paragraph and careful evaluation by the department, shall proposed alternative cleanup target levels be approved. If alternative cleanup target levels are used, institutional controls are not required if:

a. The only cleanup target levels exceeded are the groundwater cleanup target levels derived from nuisance, organoleptic, or aesthetic considerations;

b. Concentrations of all contaminants meet the state water quality standards or the minimum criteria, based on the protection of human health, public safety, and the environment, as provided in subparagraph 1.;

c. All of the groundwater cleanup target levels established pursuant to subparagraph 1. are met at the property boundary;

d. The person responsible for site rehabilitation has demonstrated that the contaminants will not migrate beyond the property boundary at concentrations that exceed the groundwater cleanup target levels established pursuant to subparagraph 1.;

e. The property has access to and is using an offsite water supply, and an unplugged private well is not used for domestic purposes; and

f. The real property owner does not object to the "No Further Action" proposal to the department or the local pollution control program.

(h) Provide for the department to issue a "No Further Action" order, with conditions, including, but not limited to, the use of institutional or engineering controls where appropriate, when alternative cleanup target levels established pursuant to subparagraph (g)3. have been achieved or when the person responsible for site rehabilitation can demonstrate that the cleanup target level is unachievable with the use of available technologies. Before ~~Prior to~~ issuing such an order, the department shall consider the feasibility of an alternative site rehabilitation technology at the contaminated site.

(i) Establish appropriate cleanup target levels for soils. Although there are existing state water quality standards, there are no existing state soil quality standards. The Legislature does not intend, through the adoption of this section, to create such soil quality standards. The specific rulemaking authority granted pursuant to this section

merely authorizes the department to establish appropriate soil cleanup target levels. These soil cleanup target levels shall be applicable at sites only after a determination as to legal responsibility for site rehabilitation has been made pursuant to other provisions of this chapter or chapter 403.

1. In establishing soil cleanup target levels for human exposure to each contaminant found in soils from the land surface to 2 feet below land surface, the department shall apply the following, as appropriate: calculations using a lifetime cancer risk level of 1.0E-6; a hazard index of 1 or less; and the best achievable detection limit. However, the department may ~~shall~~ not require site rehabilitation to achieve a cleanup target level for an individual contaminant that is more stringent than the site-specific~~, naturally occurring~~ background concentration for that contaminant. Institutional controls or other methods shall be used to prevent human exposure to contaminated soils more than 2 feet below the land surface. Any removal of such institutional controls shall require such contaminated soils to be remediated.

2. Leachability-based soil cleanup target levels shall be based on protection of the groundwater cleanup target levels or the alternate cleanup target levels for groundwater established pursuant to this paragraph, as appropriate. Source removal and other cost-effective alternatives that are technologically feasible shall be considered in achieving the leachability soil cleanup target levels established by the department. The leachability goals are ~~shall~~ not ~~be~~ applicable if the department determines, based upon individual site characteristics, and in conjunction with institutional and engineering controls, if needed, that contaminants will not leach into the groundwater at levels that pose a threat to human health, public safety, and the environment.

3. Using risk-based corrective action principles, the department shall approve alternative cleanup target levels in conjunction with institutional and engineering controls, if needed, based upon an applicant's demonstration, using site-specific or other relevant data and information, risk assessment modeling results, including results from probabilistic risk assessment modeling, risk assessment studies, risk reduction techniques, or a combination thereof, that human health, public safety, and the environment are protected to the same degree as provided in subparagraphs 1. and 2. The department shall require source removal as a risk reduction measure if warranted and cost-effective. Once source removal at a site is complete, the department shall reevaluate the site to determine the degree of active cleanup needed to continue. Further, the department shall determine if the reevaluated site qualifies for monitoring only or if no further action is required to rehabilitate the site. If additional site rehabilitation is necessary to reach "No Further Action" status, the department is encouraged to utilize natural attenuation monitoring, including long-term natural attenuation ~~and~~ monitoring, where site conditions warrant.

(3) LIMITATIONS.—The cleanup criteria established pursuant to this section govern only site rehabilitation activities occurring at the contaminated site. Removal of contaminated media from a site for offsite relocation or treatment must be in accordance with all applicable federal, state, and local laws and regulations.

(4) REOPENERS.—Upon completion of site rehabilitation in compliance with subsection (2), additional site rehabilitation is not required unless it is demonstrated that:

(a) Fraud was committed in demonstrating site conditions or completion of site rehabilitation;

(b) New information confirms the existence of an area of previously unknown contamination which exceeds the site-specific rehabilitation levels established in accordance with subsection (2), or which otherwise poses the threat of real and substantial harm to public health, safety, or the environment;
(c) The remediation efforts failed to achieve the site rehabilitation criteria established under this section;
(d) The level of risk is increased beyond the acceptable risk established under subsection (2) due to substantial changes in exposure conditions, such as a change in land use from nonresidential to residential use. Any person who changes the land use of the site, thereby causing the level of risk to increase beyond the acceptable risk level, may be required by the department to undertake additional remediation measures to ensure that human health, public safety, and the environment are protected consistent with this section; or
(e) A new discharge of pollutants or hazardous substances occurs at the site subsequent to the issuance of a “No Further Action” order or a “Site Rehabilitation Completion” order associated with the original contamination being addressed pursuant to this section.
History.—s. 1, ch. 2003-173; s. 2, ch. 2016-184.

376.3071 Inland Protection Trust Fund; creation; purposes; funding.—
(1) FINDINGS.—In addition to the legislative findings set forth in s. 376.30, the Legislature finds and declares:
(a) That significant quantities of petroleum and petroleum products are being stored in storage systems in this state, which is a hazardous undertaking.
(b) That spills, leaks, and other discharges from such storage systems have occurred, are occurring, and will continue to occur and that such discharges pose a significant threat to the quality of the groundwaters and inland surface waters of this state.
(c) That, where contamination of the ground or surface water has occurred, remedial measures have often been delayed for long periods while determinations as to liability and the extent of liability are made and that such delays result in the continuation and intensification of the threat to the public health, safety, and welfare; in greater damage to water resources and the environment; and in significantly higher costs to contain and remove the contamination.
(d) That adequate financial resources must be readily available to provide for the expeditious supply of safe and reliable alternative sources of potable water to affected persons and to provide a means for investigation and cleanup of contamination sites without delay.
(e) That it is necessary to fulfill the intent and purposes of ss. 376.30-376.317 and determined to be in the best interest of, and necessary for the protection of the public health, safety, and welfare of the residents of this state, and therefore a paramount public purpose, to provide for the creation of a nonprofit public benefit corporation as an instrumentality of the state to assist in financing the functions provided in ss. 376.30-376.317 and to authorize the department to enter into one or more service contracts with such corporation for the purpose of financing services related to such functions and to make payments thereunder from the amount on deposit in the Inland Protection Trust Fund, subject to annual appropriation by the Legislature.

(f) That to achieve the purposes established in paragraph (e) and in order to facilitate the expeditious handling and rehabilitation of contamination sites and remedial measures with respect to contamination sites without delay, it is in the best interests of the residents of this state to authorize such corporation to issue evidences of indebtedness payable from amounts paid by the department under any such service contract entered into between the department and such corporation.
(g) That the Petroleum Restoration Program must be implemented in a manner that reduces costs and improves the efficiency of rehabilitation activities to reduce the significant backlog of contaminated sites eligible for state-funded rehabilitation and the corresponding threat to the public health, safety, and welfare, water resources, and the environment.
(2) INTENT AND PURPOSE.—
(a) It is the intent of the Legislature to establish the Inland Protection Trust Fund to serve as a repository for funds which will enable the department to respond without delay to incidents of inland contamination related to the storage of petroleum and petroleum products in order to protect the public health, safety, and welfare and to minimize environmental damage.
(b) It is the intent of the Legislature that the department implement rules and procedures to improve the efficiency and productivity of the Petroleum Restoration Program. The department is directed to implement rules and policies to eliminate and reduce duplication of site rehabilitation efforts, paperwork, and documentation, and micromanagement of site rehabilitation tasks. The department shall make efficiency and productivity a priority in the administration of the Petroleum Restoration Program and to this end, when necessary, shall use petroleum program contracted services to improve the efficiency and productivity of the program. Furthermore, when implementing rules and procedures to improve such efficiency and productivity, the department shall recognize and consider the potential value of utilizing contracted inspection and professional resources to efficiently and productively administer the program.
(c) It is the intent of the Legislature that rehabilitation of contamination sites be conducted with emphasis on first addressing the sites that pose the greatest threat to the public health, safety, and welfare, water resources, and the environment, within the availability of funds in the Inland Protection Trust Fund, recognizing that source removal, wherever it is technologically feasible and cost-effective, will significantly reduce contamination or eliminate the spread of contamination and will protect the public health, safety, and welfare, water resources, and the environment.
(d) The department is directed to adopt and implement uniform and standardized forms for site rehabilitation work and for the submittal of reports to ensure that information is submitted to the department in a concise, standardized uniform format seeking only information that is necessary.
(e) The department is directed to implement computerized and electronic filing capabilities and submittal of reports in order to expedite submittal of the information and elimination of delay in paperwork.
(f) The department is directed to establish guidelines for consideration and acceptance of new and innovative technologies for site rehabilitation work.
(3) CREATION.—There is created the Inland Protection Trust Fund, hereinafter referred to as the “fund,” to be administered by the department. This fund shall be used by the

department as a nonlapsing revolving fund for carrying out the purposes of this section and s. 376.3073. To this fund shall be credited all penalties, judgments, recoveries, reimbursements, loans, and other fees and charges related to the implementation of this section and s. 376.3073 and the excise tax revenues levied, collected, and credited pursuant to ss. 206.9935(3) and 206.9945(1)(c). Charges against the fund shall be made pursuant to this section.
(4) USES.—Whenever, in its determination, incidents of inland contamination related to the storage of petroleum or petroleum products may pose a threat to the public health, safety, or welfare, water resources, or the environment, the department shall obligate moneys available in the fund to provide for:
(a) Prompt investigation and assessment of contamination sites.
(b) Expeditious restoration or replacement of potable water supplies as provided in s. 376.30(3)(c)1.
(c) Rehabilitation of contamination sites, which shall consist of cleanup of affected soil, groundwater, and inland surface waters, using the most cost-effective alternative that is technologically feasible and reliable and that provides adequate protection of the public health, safety, and welfare, and water resources, and that minimizes environmental damage, pursuant to the site selection and cleanup criteria established by the department under subsection (5), except that this paragraph does not authorize the department to obligate funds for payment of costs which may be associated with, but are not integral to, site rehabilitation, such as the cost for retrofitting or replacing petroleum storage systems.
(d) Maintenance and monitoring of contamination sites.
(e) Inspection and supervision of activities described in this subsection.
(f) Payment of expenses incurred by the department in its efforts to obtain from responsible parties the payment or recovery of reasonable costs resulting from the activities described in this subsection.
(g) Payment of any other reasonable costs of administration, including those administrative costs incurred by the Department of Health in providing field and laboratory services, toxicological risk assessment, and other assistance to the department in the investigation of drinking water contamination complaints and costs associated with public information and education activities.
(h) Establishment and implementation of the compliance verification program as authorized in s. 376.303(1)(a), including contracting with local governments or state agencies to provide for the administration of such program through locally administered programs, to minimize the potential for further contamination sites.
(i) Funding of the provisions of ss. 376.305(6) and 376.3072.
(j) Activities related to removal and replacement of petroleum storage systems, exclusive of costs of any tank, piping, dispensing unit, or related hardware, if soil removal is approved as a component of site rehabilitation and requires removal of the tank where remediation is conducted under this section or if such activities were justified in an approved remedial action plan.
(k) Reasonable costs of restoring property as nearly as practicable to the conditions which existed before activities associated with contamination assessment or remedial action taken under s. 376.303(4).
(l) Repayment of loans to the fund.

(m) Expenditure of sums from the fund to cover ineligible sites or costs as set forth in subsection (13), if the department in its discretion deems it necessary to do so. In such cases, the department may seek recovery and reimbursement of costs in the same manner and pursuant to the same procedures established for recovery and reimbursement of sums otherwise owed to or expended from the fund.
(n) Payment of amounts payable under any service contract entered into by the department pursuant to s. 376.3075, subject to annual appropriation by the Legislature.
(o) Petroleum remediation pursuant to this section throughout a state fiscal year. The department shall establish a process to uniformly encumber appropriated funds throughout a state fiscal year and shall allow for emergencies and imminent threats to public health, safety, and welfare, water resources, and the environment as provided in paragraph (5)(a). This paragraph does not apply to appropriations associated with the free product recovery initiative provided in paragraph (5)(c) or the advanced cleanup program provided in s. 376.30713.
(p) Enforcement of this section and ss. 376.30-376.317 by the Fish and Wildlife Conservation Commission. The department shall disburse moneys to the commission for such purpose.
[1](q) Payments for program deductibles, copayments, and limited contamination assessment reports that otherwise would be paid by another state agency for state-funded petroleum contamination site rehabilitation. ~~This paragraph expires July 1, 2016~~. The issuance of a site rehabilitation completion order pursuant to subsection (5) or paragraph (12)(b) for contamination eligible for programs funded by this section does not alter the project's eligibility for state-funded remediation if the department determines that site conditions are not protective of human health under actual or proposed circumstances of exposure under subsection (5). The Inland Protection Trust Fund may ~~only~~ be used only to fund the activities in ss. 376.30-376.317 except ss. 376.3078 and 376.3079. Amounts on deposit in the fund in each fiscal year must ~~shall~~ first be applied or allocated for the payment of amounts payable by the department pursuant to paragraph (n) under a service contract entered into by the department pursuant to s. 376.3075 and appropriated in each year by the Legislature before making or providing for other disbursements from the fund. This subsection does not authorize the use of the fund for cleanup of contamination caused primarily by a discharge of solvents as defined in s. 206.9925(6), or polychlorinated biphenyls when their presence causes them to be hazardous wastes, except solvent contamination which is the result of chemical or physical breakdown of petroleum products and is otherwise eligible. Facilities used primarily for the storage of motor or diesel fuels as defined in ss. 206.01 and 206.86 are not excluded from eligibility pursuant to this section.
(5) SITE SELECTION AND CLEANUP CRITERIA.—
(a) The department shall adopt rules to establish priorities based upon a scoring system for state-conducted cleanup at petroleum contamination sites based upon factors that include, but need not be limited to:
1. The degree to which the public health, safety, or welfare may be affected by exposure to the contamination;
2. The size of the population or area affected by the contamination;
3. The present and future uses of the affected aquifer or surface waters, with particular consideration as to the probability that the contamination is substantially affecting, or will

migrate to and substantially affect, a known public or private source of potable water; and
4. The effect of the contamination on water resources and the environment.
Moneys in the fund shall then be obligated for activities described in paragraphs (4)(a)-(e) at individual sites pursuant to such established criteria. However, this paragraph does not restrict the department from modifying the priority status of a rehabilitation site where conditions warrant, taking into consideration the actual distance between the contamination site and groundwater or surface water receptors or other factors that affect the risk of exposure to petroleum products' chemicals of concern. The department may use the effective date of a department final order granting eligibility pursuant to subsections (10) and (13) and ss. 376.305(6) and 376.3072 to establish a prioritization system within a particular priority scoring range.
(b) It is the intent of the Legislature to protect the health of all people under actual circumstances of exposure. The secretary shall establish criteria by rule for the purpose of determining, on a site-specific basis, the rehabilitation program tasks that comprise a site rehabilitation program and the level at which a rehabilitation program task and a site rehabilitation program are completed. In establishing the rule, the department shall incorporate, to the maximum extent feasible, risk-based corrective action principles to achieve protection of the public health, safety, and welfare, water resources, and the environment in a cost-effective manner as provided in this subsection. Criteria for determining what constitutes a rehabilitation program task or completion of site rehabilitation program tasks and site rehabilitation programs shall be based upon the factors set forth in paragraph (a) and the following additional factors:
1. The current exposure and potential risk of exposure to humans and the environment including multiple pathways of exposure.
2. The appropriate point of compliance with cleanup target levels for petroleum products' chemicals of concern. The point of compliance shall be at the source of the petroleum contamination. However, the department may temporarily move the point of compliance to the boundary of the property, or to the edge of the plume when the plume is within the property boundary, while cleanup, including cleanup through natural attenuation processes in conjunction with appropriate monitoring, is proceeding. The department may also, pursuant to criteria provided for in this paragraph, temporarily extend the point of compliance beyond the property boundary with appropriate monitoring, if such extension is needed to facilitate natural attenuation or to address the current conditions of the plume, if the public health, safety, and welfare, water resources, and the environment are adequately protected. Temporary extension of the point of compliance beyond the property boundary, as provided in this subparagraph, must include notice to local governments and owners of any property into which the point of compliance is allowed to extend.
3. The appropriate site-specific cleanup goal. The site-specific cleanup goal shall be that all petroleum contamination sites ultimately achieve the applicable cleanup target levels provided in this paragraph. However, the department may allow concentrations of the petroleum products' chemicals of concern to temporarily exceed the applicable cleanup target levels while cleanup, including cleanup through natural attenuation processes in conjunction with appropriate monitoring, is proceeding, if the public health, safety, and welfare, water resources, and the environment are adequately protected.

4. The appropriateness of using institutional or engineering controls. Site rehabilitation programs may include the use of institutional or engineering controls to eliminate the potential exposure to petroleum products' chemicals of concern to humans or the environment. Use of such controls must have prior department approval, and institutional controls may not be acquired with moneys from the fund other than the costs associated with a professional land survey or a specific purpose survey, if such is needed, and costs associated with obtaining a title report and recording fees. When institutional or engineering controls are implemented to control exposure, the removal of such controls must have prior department approval and must be accompanied immediately by the resumption of active cleanup or other approved controls unless cleanup target levels pursuant to this paragraph have been achieved.
5. The additive effects of the petroleum products' chemicals of concern. The synergistic effects of petroleum products' chemicals of concern must also be considered when the scientific data becomes available.
6. Individual site characteristics which must include, but not be limited to, the current and projected use of the affected groundwater in the vicinity of the site, current and projected land uses of the area affected by the contamination, the exposed population, the degree and extent of contamination, the rate of contaminant migration, the apparent or potential rate of contaminant degradation through natural attenuation processes, the location of the plume, and the potential for further migration in relation to site property boundaries.
7. Applicable state water quality standards.
a. Cleanup target levels for petroleum products' chemicals of concern found in groundwater shall be the applicable state water quality standards. Where such standards do not exist, the cleanup target levels for groundwater shall be based on the minimum criteria specified in department rule. The department shall consider the following, as appropriate, in establishing the applicable minimum criteria: calculations using a lifetime cancer risk level of 1.0E-6; a hazard index of 1 or less; the best achievable detection limit; the naturally occurring background concentration; or nuisance, organoleptic, and aesthetic considerations.
b. Where surface waters are exposed to petroleum contaminated groundwater, the cleanup target levels for the petroleum products' chemicals of concern shall be based on the surface water standards as established by department rule. The point of measuring compliance with the surface water standards shall be in the groundwater immediately adjacent to the surface water body.
8. Whether deviation from state water quality standards or from established criteria is appropriate. The department may issue a "No Further Action Order" based upon the degree to which the desired cleanup target level is achievable and can be reasonably and cost-effectively implemented within available technologies or engineering and institutional control strategies. Where a state water quality standard is applicable, a deviation may not result in the application of cleanup target levels more stringent than the standard. In determining whether it is appropriate to establish alternate cleanup target levels at a site, the department may consider the effectiveness of source removal that has been completed at the site and the practical likelihood of the use of low yield or poor quality groundwater; the use of groundwater near marine surface water bodies; the current and projected use of the affected groundwater in the vicinity of the site; or the

use of groundwater in the immediate vicinity of the storage tank area, where it has been demonstrated that the groundwater contamination is not migrating away from such localized source, if the public health, safety, and welfare, water resources, and the environment are adequately protected.

9. Appropriate cleanup target levels for soils.

a. In establishing soil cleanup target levels for human exposure to petroleum products' chemicals of concern found in soils from the land surface to 2 feet below land surface, the department shall consider the following, as appropriate: calculations using a lifetime cancer risk level of 1.0E-6; a hazard index of 1 or less; the best achievable detection limit; or the naturally occurring background concentration.

b. Leachability-based soil target levels shall be based on protection of the groundwater cleanup target levels or the alternate cleanup target levels for groundwater established pursuant to this paragraph, as appropriate. Source removal and other cost-effective alternatives that are technologically feasible shall be considered in achieving the leachability soil target levels established by the department. The leachability goals do not apply if the department determines, based upon individual site characteristics, that petroleum products' chemicals of concern will not leach into the groundwater at levels which pose a threat to public health, safety, and welfare, water resources, or the environment.

This paragraph does not restrict the department from temporarily postponing completion of any site rehabilitation program for which funds are being expended whenever such postponement is necessary in order to make funds available for rehabilitation of a contamination site with a higher priority status.

(c) The department shall require source removal, if warranted and cost-effective, at each site eligible for restoration funding from the fund.

1. Funding for free product recovery may be provided in advance of the order established by the priority ranking system under paragraph (a) for site cleanup activities. However, a separate prioritization for free product recovery shall be established consistent with paragraph (a). No more than $5 million shall be encumbered from the fund in any fiscal year for free product recovery conducted in advance of the priority order under paragraph (a) established for site cleanup activities.

2. Once free product removal and other source removal identified in this paragraph are completed at a site, and notwithstanding the order established by the priority ranking system under paragraph (a) for site cleanup activities, the department may reevaluate the site to determine the degree of active cleanup needed to continue site rehabilitation. Further, the department shall determine whether the reevaluated site qualifies for natural attenuation monitoring, long-term natural attenuation monitoring, or no further action. If additional site rehabilitation is necessary to reach no further action status, the site rehabilitation shall be conducted in the order established by the priority ranking system under paragraph (a). The department shall use natural attenuation monitoring strategies and, when cost-effective, transition sites eligible for restoration funding assistance to long-term natural attenuation monitoring where the plume is shrinking or stable and confined to the source property boundaries and the petroleum products' chemicals of concern meet the natural attenuation default concentrations, as defined by department rule. If the plume migrates beyond the source property boundaries, natural attenuation monitoring may be conducted pursuant to department rule, or if the site no

longer qualifies for natural attenuation monitoring, active remediation may be resumed. For long-term natural attenuation monitoring, if the petroleum products' chemicals of concern increase or are not significantly reduced after 42 months of monitoring, or if the plume migrates beyond the property boundaries, active remediation shall be resumed as necessary. For sites undergoing active remediation, the department shall evaluate the cost of natural attenuation monitoring to ensure that site mobilizations are performed in a cost-effective manner. Sites that are not eligible for state restoration funding may transition to long-term natural attenuation monitoring using the criteria in this subparagraph. This subparagraph does not preclude a site from pursuing a "No Further Action" order with conditions.

3. The department shall evaluate whether higher natural attenuation default concentrations for natural attenuation monitoring or long-term natural attenuation monitoring are cost-effective and would adequately protect the public health, safety, and welfare, water resources, and the environment. The department shall also evaluate site-specific characteristics that would allow for higher natural attenuation or long-term natural attenuation concentration levels.

4. A local government may not deny a building permit based solely on the presence of petroleum contamination for any construction, repairs, or renovations performed in conjunction with tank upgrade activities to an existing retail fuel facility if the facility was fully operational before the building permit was requested and if the construction, repair, or renovation is performed by a licensed contractor. All building permits and any construction, repairs, or renovations performed in conjunction with such permits must comply with the applicable provisions of chapters 489 and 553.

(6) CONTRACTING AND CONTRACTOR SELECTION REQUIREMENTS.—

(a) Site rehabilitation work on sites which are eligible for state-funded cleanup from the fund pursuant to this section and ss. 376.305(6), 376.3072, and 376.3073 may only be funded pursuant to this section. A facility operator shall abate the source of discharge for a new release that occurred after March 29, 1995. If free product is present, the operator shall notify the department, and the department may direct the removal of the free product. The department shall grant approval to continue site rehabilitation pursuant to this section.

(b) When contracting for site rehabilitation activities performed under the Petroleum Restoration Program, the department shall comply with competitive procurement requirements provided in chapter 287 or rules adopted under this section or s. 287.0595.

(c) Each contractor performing site assessment and remediation activities for state-funded sites under this section shall certify to the department that the contractor meets all certification and license requirements imposed by law. Each contractor shall certify to the department that the contractor meets the following minimum qualifications:

1. Complies with applicable Occupational Safety and Health Administration regulations.

2. Maintains workers' compensation insurance for employees as required by the Florida Workers' Compensation Law.

3. Maintains comprehensive general liability and comprehensive automobile liability insurance with minimum limits of at least $1 million per occurrence and $1 million annual aggregate to pay claims for damage for personal injury, including accidental

death, as well as claims for property damage that may arise from performance of work under the program, which insurance designates the state as an additional insured party.
4. Maintains professional liability insurance of at least $1 million per occurrence and $1 million annual aggregate.
5. Has the capacity to perform or directly supervise the majority of the rehabilitation work at a site pursuant to s. 489.113(9).
(d) The department rules implementing this section must specify that only qualified vendors may submit responses on a competitive solicitation. The department rules must also include procedures for the rejection of vendors not meeting the minimum qualifications on the opening of a competitive solicitation and requirements for a vendor to maintain its qualifications in order to enter contracts or perform rehabilitation work.
(e) A contractor that performs services pursuant to this subsection may file invoices for payment with the department for the services described in the approved contract. The invoices for payment must be submitted to the department on forms provided by the department, together with evidence documenting that activities were conducted or completed pursuant to the approved contract. If there are sufficient unencumbered funds available in the fund which have been appropriated for expenditure by the Legislature, and if all of the terms of the approved contract have been met, invoices for payment must be paid pursuant to s. 215.422. After a contractor has submitted its invoices to the department, and before payment is made, the contractor may assign its right to payment to another person without recourse of the assignee or assignor to the state. In such cases, the assignee must be paid pursuant to s. 215.422. Prior notice of the assignment and assignment information must be made to the department and must be signed and notarized by the assigning party.
(f) The contractor shall submit an invoice to the department within 30 days after the date of the department's written acceptance of each interim deliverable or written approval of the final deliverable specified in the approved contract.
(g) The department shall make payments based on the terms of an approved contract for site rehabilitation work. The department may, based on its experience and the past performance and concerns regarding a contractor, retain up to 25 percent of the contracted amount or use performance bonds to ensure performance. The amount of retainage and the amount of performance bonds, as well as the terms and conditions for such, must be included in the approved contract.
(h) The contractor or the person to which the contractor has assigned its right to payment pursuant to paragraph (e) shall make prompt payment to subcontractors and suppliers for their costs associated with an approved contract pursuant to s. 287.0585(1).
(i) The exemption under s. 287.0585(2) does not apply to payments associated with an approved contract.
(j) The department may withhold payment if the validity or accuracy of a contractor's invoices or supporting documents is in question.
(k) This section does not authorize payment to a person for costs of contaminated soil treatment or disposal that does not meet the applicable rules of this state for such treatment or disposal, including all general permitting, state air emission standards, monitoring, sampling, and reporting rules more specifically described in department rules.

(l) The department shall terminate or suspend a contractor's eligibility for participation in the program if the contractor fails to perform its contractual duties for site rehabilitation program tasks.
(m) A site owner or operator, or his or her designee, may not receive any remuneration, in cash or in kind, directly or indirectly, from a rehabilitation contractor performing site cleanup activities pursuant to this section.
(7) FUNDING.—The Inland Protection Trust Fund shall be funded as follows:
(a) All excise taxes levied, collected, and credited to the fund in accordance with ss. 206.9935(3) and 206.9945(1)(c).
(b) All penalties, judgments, recoveries, reimbursements, and other fees and charges credited to the fund pursuant to subsection (3).
(8) DEPARTMENTAL DUTY TO SEEK RECOVERY AND REIMBURSEMENT.—
(a) Except as provided in subsection (10) and as otherwise provided by law, the department shall recover to the use of the fund from a person or persons at any time causing or having caused the discharge or from the Federal Government, jointly and severally, all sums owed or expended from the fund pursuant to s. 376.308, except that the department may decline to pursue such recovery if it finds the amount involved too small or the likelihood of recovery too uncertain. Sums recovered as a result of damage due to a discharge related to the storage of petroleum or petroleum products or other similar disaster shall be apportioned between the fund and the General Revenue Fund so as to repay the full costs to the General Revenue Fund of sums disbursed therefrom as a result of such disaster. A request for reimbursement to the fund for such costs, if not paid within 30 days after demand, shall be turned over to the department for collection.
(b) Except as provided in subsection (10) and as otherwise provided by law, it is the duty of the department in administering the fund diligently to pursue the reimbursement to the fund of any sum expended from the fund for cleanup and abatement pursuant to this section or s. 376.3073, unless the department finds the amount involved too small or the likelihood of recovery too uncertain. For the purposes of s. 95.11, the limitation period within which to institute an action to recover such sums shall begin on the last date on which such sums were expended and not the date on which the discharge occurred.
(c)1. The department may perform financial and technical audits in order to verify site restoration costs and ensure compliance with this chapter. The department shall seek recovery of any overpayment based on the findings of the audits. The department must begin an audit within 5 years after the date of payment for costs incurred at a facility, except in cases where the department alleges specific facts indicating fraud.
2. Upon determination by the department that any portion of costs that have been paid from the fund is disallowed, the department shall provide written notice to the recipient of the payment specifying the allegations of fact that justify the department's proposed action and ordering repayment of disallowed costs within 60 days after receipt of such notice.
3. If the recipient does not make payment to the department within 60 days after receipt of such notice, the department shall seek recovery in a court of competent jurisdiction to recover the overpayment, unless the department finds the amount involved too small or the likelihood of recovery too uncertain.

4. In addition to the amount of the overpayment, the recipient is liable to the department for interest of 1 percent per month or the prime rate, whichever is less, on the amount of the overpayment from the date of the overpayment by the department until the recipient satisfies the department's request for repayment pursuant to this paragraph. The accrual of interest shall be tolled during the pendency of any litigation.
(d) Claims that accrued under former reimbursement or preapproval programs are expressly preserved.
(e) If the department initiates an enforcement action to clean up a contaminated site and determines that the responsible party cannot financially undertake complete restoration of the contaminated site, that the current property owner was not responsible for the discharge when the contamination first occurred, or that the state's interest can best be served by conducting cleanup, the department may enter into an agreement with the responsible party or property owner whereby the department agrees to conduct site rehabilitation and the responsible party or property owner agrees to pay for the portion of the cleanup costs that are within such party's or owner's financial capabilities as determined by the department, taking into consideration the party's or owner's net worth and the economic impact on the party or owner.
[2](9) INVESTMENTS; INTEREST.—Moneys in the fund which are not needed currently to meet the obligations of the department in the exercise of its responsibilities under this section and s. 376.3073 shall be deposited with the Chief Financial Officer to the credit of the fund and may be invested in such manner as provided by law. The interest received on such investment shall be credited to the fund. Any provisions of law to the contrary notwithstanding, such interest may be freely transferred between the trust fund and the Water Quality Assurance Trust Fund in the discretion of the department or as authorized in the General Appropriations Act.
(10) EARLY DETECTION INCENTIVE PROGRAM.—To encourage early detection, reporting, and cleanup of contamination from leaking petroleum storage systems, the department shall, within the guidelines established in this subsection, conduct an incentive program which provides for a 30-month grace period ending on December 31, 1988.
(a) The department shall establish reasonable requirements for the written reporting of petroleum contamination incidents and shall distribute forms to registrants under s. 376.303(1)(b) and to other interested parties upon request to be used for such purpose. Until such forms are available for distribution, the department shall take reports of such incidents, however made, but shall notify any person making such a report that a complete written report of the incident will be required by the department at a later time, the form for which will be provided by the department.
(b) When reporting forms become available for distribution, all sites involving incidents of contamination from petroleum storage systems initially reported to the department at any time from midnight on June 30, 1986, to midnight on December 31, 1988, shall be qualified sites if a complete written report is filed with respect thereto within a reasonable time. Subject to the delays which may occur as a result of the prioritization of sites under paragraph (5)(a) for any qualified site, costs for activities described in paragraphs (4)(a)-(e) shall be absorbed at the expense of the fund, without recourse to reimbursement or recovery, with the following exceptions:

1. This subsection does not apply to a site where the department has been denied site access to implement this section.
2. This subsection does not authorize or require reimbursement from the fund for costs expended before the beginning of the grace period.
3.a. Upon discovery by the department that the owner or operator of a petroleum storage system has been grossly negligent in the maintenance of such petroleum storage system; has, with willful intent to conceal the existence of a serious discharge, falsified inventory or reconciliation records maintained with respect to the site at which such system is located; or has intentionally damaged such petroleum storage system, the site at which such system is located shall be ineligible for participation in the incentive program and the owner shall be liable for all costs due to discharges from petroleum storage systems at that site, any other provisions of chapter 86-159, Laws of Florida, to the contrary notwithstanding. For the purposes of this paragraph, willful failure to maintain inventory and reconciliation records, willful failure to make monthly monitoring system checks where such systems are in place, and failure to meet monitoring and retrofitting requirements within the schedules established under chapter 62-761, Florida Administrative Code, or violation of similar rules adopted by the department under this chapter, constitutes gross negligence in the maintenance of a petroleum storage system.
b. The department shall redetermine the eligibility of petroleum storage systems for which a timely Early Detection Incentive Program application was filed, but which were deemed ineligible by the department, under the following conditions:
(I) The owner or operator, on or before March 31, 1991, shall submit, in writing, notification that the storage system is now in compliance with department rules adopted pursuant to s. 376.303, and which requests the department to reevaluate the storage system eligibility; and
(II) The department verifies the storage system compliance based on a compliance inspection.
A site may be determined eligible by the department for good cause shown, including, but not limited to, demonstration by the owner or operator that to achieve compliance would cause an increase in the potential for the spread of the contamination.
c. Redetermination of eligibility pursuant to sub-subparagraph b. shall not be available to:
(I) Petroleum storage systems owned or operated by the Federal Government.
(II) Facilities that denied site access to the department.
(III) Facilities where a discharge was intentionally concealed.
(IV) Facilities that were denied eligibility due to:
(A) Absence of contamination, unless any such facility subsequently establishes that contamination did exist at that facility on or before December 31, 1988.
(B) Contamination from substances that were not petroleum or a petroleum product.
(C) Contamination that was not from a petroleum storage system.
d. Applicants who demonstrate compliance for a site pursuant to sub-subparagraph b. are eligible for the Early Detection Incentive Program and site rehabilitation funding pursuant to subsections (5) and (6).
If, in order to avoid prolonged delay, the department in its discretion deems it necessary to expend sums from the fund to cover ineligible sites or costs as set forth in this

paragraph, the department may do so and seek recovery and reimbursement therefor in the same manner and pursuant to the same procedures established for recovery and reimbursement of sums otherwise owed to or expended from the fund.
(c) A report of a discharge made to the department by a person pursuant to this subsection or rules adopted pursuant to this subsection may not be used directly as evidence of liability for such discharge in any civil or criminal trial arising out of the discharge.
(d) This subsection does not apply to petroleum storage systems owned or operated by the Federal Government.
(11) VIOLATIONS; PENALTY.—A person may not:
(a) Falsify inventory or reconciliation records maintained in compliance with chapters 62-761 and 62-762, Florida Administrative Code, with willful intent to conceal the existence of a serious leak; or
(b) Intentionally damage a petroleum storage system.
A person convicted of such a violation is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(12) SITE CLEANUP.—
(a) Voluntary cleanup.—This section does not prohibit a person from conducting site rehabilitation through his or her own personnel or through responsible response action contractors or subcontractors when such person is not seeking site rehabilitation funding from the fund. Such voluntary cleanups must meet all applicable environmental standards.
(b) Low-scored site initiative.—Notwithstanding subsections (5) and (6), a site with a priority ranking score of 29 points or less may voluntarily participate in the low-scored site initiative regardless of whether the site is eligible for state restoration funding.
1. To participate in the low-scored site initiative, the ~~responsible party or~~ property owner, or a responsible party who provides evidence of authorization from the property owner, must submit a “No Further Action” proposal and affirmatively demonstrate that the ~~following~~ conditions imposed under subparagraph 4. are met.~~:~~
~~a. Upon reassessment pursuant to department rule, the site retains a priority ranking score of 29 points or less.~~
~~b. Excessively contaminated soil, as defined by department rule, does not exist onsite as a result of a release of petroleum products.~~
~~c. A minimum of 6 months of groundwater monitoring indicates that the plume is shrinking or stable.~~
~~d. The release of petroleum products at the site does not adversely affect adjacent surface waters, including their effects on human health and the environment.~~
~~e. The area of groundwater containing the petroleum products’ chemicals of concern is less than one-quarter acre and is confined to the source property boundaries of the real property on which the discharge originated.~~
~~f. Soils onsite that are subject to human exposure found between land surface and 2 feet below land surface meet the soil cleanup target levels established by department rule or human exposure is limited by appropriate institutional or engineering controls.~~
2. Upon affirmative demonstration that ~~of~~ the conditions imposed under subparagraph 4. are met ~~subparagraph 1.~~, the department shall issue a site rehabilitation completion order incorporating the ~~determination of~~ “No Further Action.” proposal submitted by the

property owner or the responsible party, who must provide evidence of authorization from the property owner ~~Such determination acknowledges that minimal contamination exists onsite and that such contamination is not a threat to the public health, safety, or welfare, water resources, or the environment~~. If no contamination is detected, the department may issue a site rehabilitation completion order.
3. Sites that are eligible for state restoration funding may receive payment of costs for the low-scored site initiative as follows:
a. A ~~responsible party or~~ property owner, or a responsible party who provides evidence of authorization from the property owner, may submit an assessment and limited remediation plan designed to affirmatively demonstrate that the site meets the conditions imposed under subparagraph 4 ~~subparagraph 1~~. Notwithstanding the priority ranking score of the site, the department may approve the cost of the assessment and limited remediation, including up to 12 ~~6~~ months of groundwater monitoring and 12 months of limited remediation activities in one or more task assignments or modifications thereof, not to exceed the threshold amount provided in s. 287.017 for CATEGORY TWO, ~~$30,000~~ for each site where the department has determined that the assessment and limited remediation, if applicable, will likely result in a determination of "No Further Action.". The department may not pay the costs associated with the establishment of institutional or engineering controls other than the costs associated with a professional land survey or a specific purpose survey, if such is needed, and the costs associated with obtaining a title report and paying recording fees.
b. After the approval of initial site assessment results provided pursuant to state funding under sub-subparagraph a., the department may approve an additional amount not to exceed the threshold amount provided in s. 287.017 for CATEGORY TWO for limited remediation needed to achieve a determination of "No Further Action."
c. ~~b.~~ The assessment and limited remediation work shall be completed no later than 15 ~~6~~ months after the department authorizes the start of a state-funded, low-score site initiative task. If groundwater monitoring is required after the assessment and limited remediation in order to satisfy the conditions under subparagraph 4., the department may authorize an additional 12 months to complete the monitoring ~~issues its approval~~.
d. ~~c.~~ No more than $15 ~~$10~~ million for the low-scored site initiative may be encumbered from the fund in any fiscal year. Funds shall be made available on a first-come, first-served basis and shall be limited to 10 sites in each fiscal year for each ~~responsible party or~~ property owner or each responsible party who provides evidence of authorization from the property owner.
e. ~~d.~~ Program deductibles, copayments, and the limited contamination assessment report requirements under paragraph (13)(d) ~~(13)(c)~~ do not apply to expenditures under this paragraph.
4. The department shall issue an order incorporating the "No Further Action" proposal submitted by a property owner or a responsible party who provides evidence of authorization from the property owner upon affirmative demonstration that all of the following conditions are met:
a. Soil saturated with petroleum or petroleum products, or soil that causes a total corrected hydrocarbon measurement of 500 parts per million or higher for the Gasoline Analytical Group or 50 parts per million or higher for the Kerosene Analytical Group, as

defined by department rule, does not exist onsite as a result of a release of petroleum products.
b. A minimum of 12 months of groundwater monitoring indicates that the plume is shrinking or stable.
c. The release of petroleum products at the site does not adversely affect adjacent surface waters, including their effects on human health and the environment.
d. The area containing the petroleum products' chemicals of concern:
(I) Is confined to the source property boundaries of the real property on which the discharge originated, unless the property owner has requested or authorized a more limited area in the "No Further Action" proposal submitted under this subsection; or
(II) Has migrated from the source property onto or beneath a transportation facility as defined [3]in s. 334.03(30) for which the department has approved, and the governmental entity owning the transportation facility has agreed to institutional controls as defined in [4]s. 376.301(22). This sub-sub-subparagraph does not, however, impose any legal liability on the transportation facility owner, obligate such owner to engage in remediation, or waive such owner's right to recover costs for damages.
e. The groundwater contamination containing the petroleum products' chemicals of concern is not a threat to any permitted potable water supply well.
f. Soils onsite found between land surface and 2 feet below land surface which are subject to human exposure meet the soil cleanup target levels established in subparagraph (5)(b)9., or human exposure is limited by appropriate institutional or engineering controls.
Issuance of a site rehabilitation completion order under this paragraph acknowledges that minimal contamination exists onsite and that such contamination is not a threat to the public health, safety, or welfare; water resources; or the environment. Pursuant to subsection (4), the issuance of the site rehabilitation completion order, with or without conditions, does not alter eligibility for state-funded rehabilitation that would otherwise be applicable under this section.
(13) PETROLEUM CLEANUP PARTICIPATION PROGRAM.—To encourage detection, reporting, and cleanup of contamination caused by discharges of petroleum or petroleum products, the department shall, within the guidelines established in this subsection, implement a cost-sharing cleanup program to provide rehabilitation funding assistance for all property contaminated by discharges of petroleum or petroleum products from a petroleum storage system occurring before January 1, 1995, subject to a copayment provided for in a Petroleum Cleanup Participation Program site rehabilitation agreement. Eligibility is subject to an annual appropriation from the fund. Additionally, funding for eligible sites is contingent upon annual appropriation in subsequent years. Such continued state funding is not an entitlement or a vested right under this subsection. Eligibility shall be determined in the program, notwithstanding any other provision of law, consent order, order, judgment, or ordinance to the contrary.
(a)1. The department shall accept any discharge reporting form received before January 1, 1995, as an application for this program, and the facility owner or operator need not reapply.
2. Regardless of whether ownership has changed, owners or operators of property that is contaminated by petroleum or petroleum products from a petroleum storage system may apply for such program by filing a written report of the contamination incident,

including evidence that such incident occurred before January 1, 1995, with the department. Incidents of petroleum contamination discovered after December 31, 1994, at sites which have not stored petroleum or petroleum products for consumption, use, or sale after such date shall be presumed to have occurred before January 1, 1995. An operator's filed report shall be an application of the owner for all purposes. ~~Sites reported to the department after December 31, 1998, are not eligible for this program.~~

(b) Subject to annual appropriation from the fund, sites meeting the criteria of this subsection are eligible for up to $400,000 of site rehabilitation funding assistance in priority order pursuant to subsections (5) and (6). Sites meeting the criteria of this subsection for which a site rehabilitation completion order was issued before June 1, 2008, do not qualify for the 2008 increase in site rehabilitation funding assistance and are bound by the pre-June 1, 2008, limits. Sites meeting the criteria of this subsection for which a site rehabilitation completion order was not issued before June 1, 2008, regardless of whether they have previously transitioned to nonstate-funded cleanup status, may continue state-funded cleanup pursuant to this section until a site rehabilitation completion order is issued or the increased site rehabilitation funding assistance limit is reached, whichever occurs first. The department may not pay expenses incurred beyond the scope of an approved contract.

(c) The department may also approve supplemental funding of up to $100,000 for additional remediation and monitoring if such remediation and monitoring is necessary to achieve a determination of "No Further Action."

(d) Upon notification by the department that rehabilitation funding assistance is available for the site pursuant to subsections (5) and (6), the property owner, operator, or person otherwise responsible for site rehabilitation shall provide the department with a limited contamination assessment report and shall enter into a Petroleum Cleanup Participation Program site rehabilitation agreement with the department. The agreement must provide for a 25-percent copayment by the owner, operator, or person otherwise responsible for conducting site rehabilitation. The owner, operator, or person otherwise responsible for conducting site rehabilitation shall adequately demonstrate the ability to meet the copayment obligation. The limited contamination assessment report and the copayment costs may be reduced or eliminated if the owner and all operators responsible for restoration under s. 376.308 demonstrate that they cannot financially comply with the copayment and limited contamination assessment report requirements. The department shall take into consideration the owner's and operator's net worth in making the determination of financial ability. In the event the department and the owner, operator, or person otherwise responsible for site rehabilitation cannot complete negotiation of the cost-sharing agreement within 120 days after beginning negotiations, the department shall terminate negotiations and the site shall be ineligible for state funding under this subsection and all liability protections provided for in this subsection shall be revoked.

(e)~~(d)~~ A report of a discharge made to the department by a person pursuant to this subsection or any rules adopted pursuant to this subsection may not be used directly as evidence of liability for such discharge in any civil or criminal trial arising out of the discharge.

(f)~~(e)~~ This subsection does not preclude the department from pursuing penalties under s. 403.141 for violations of any law or any rule, order, permit, registration, or certification adopted or issued by the department pursuant to its lawful authority.
(g)~~(f)~~ Upon the filing of a discharge reporting form under paragraph (a), the department or local government may not pursue any judicial or enforcement action to compel rehabilitation of the discharge. This paragraph does not prevent any such action with respect to discharges determined ineligible under this subsection or to sites for which rehabilitation funding assistance is available pursuant to subsections (5) and (6).
(h)~~(g)~~ The following are excluded from participation in the program:
1. Sites at which the department has been denied reasonable site access to implement this section.
2. Sites that were active facilities when owned or operated by the Federal Government.
3. Sites that are identified by the United States Environmental Protection Agency to be on, or which qualify for listing on, the National Priorities List under Superfund. This exception does not apply to those sites for which eligibility has been requested or granted as of the effective date of this act under the Early Detection Incentive Program established pursuant to s. 15, chapter 86-159, Laws of Florida.
4. Sites for which contamination is covered under the Early Detection Incentive Program, the Abandoned Tank Restoration Program, or the Petroleum Liability and Restoration Insurance Program, in which case site rehabilitation funding assistance shall continue under the respective program.
(14) LEGISLATIVE APPROVAL AND AUTHORIZATION.—Before the department enters into a service contract with the Inland Protection Financing Corporation which includes payments by the department to support any existing or planned note, bond, certificate of indebtedness, or other obligation or evidence of indebtedness of the corporation pursuant to s. 376.3075, the Legislature, by law, must specifically authorize the department to enter into such a contract. The corporation may issue bonds in an amount not to exceed $104 million, with a term up to 15 years, and annual payments not in excess of $10.4 million. The department may enter into a service contract in conjunction with the issuance of such bonds which provides for annual payments for debt service payments or other amounts payable with respect to bonds, plus any administrative expenses of the corporation to finance the rehabilitation of petroleum contamination sites pursuant to ss. 376.30-376.317.
History.—ss. 15, 16, ch. 86-159; s. 3, ch. 87-374; s. 2, ch. 88-331; s. 4, ch. 89-188; s. 10, ch. 90-98; s. 81, ch. 90-132; s. 15, ch. 91-305; s. 5, ch. 91-429; s. 7, ch. 92-30; s. 67, ch. 93-207; s. 301, ch. 94-356; s. 1017, ch. 95-148; s. 15, ch. 95-396; s. 134, ch. 95-417; s. 5, ch. 96-277; s. 105, ch. 96-410; s. 14, ch. 97-277; s. 69, ch. 99-8; s. 177, ch. 99-13; s. 1, ch. 99-376; s. 8, ch. 2000-211; s. 392, ch. 2003-261; ss. 29, 54, ch. 2005-71; s. 1, ch. 2005-180; s. 62, ch. 2007-5; s. 1, ch. 2008-127; s. 44, ch. 2008-153; s. 3, ch. 2009-68; s. 31, ch. 2009-82; ss. 1, 3, ch. 2010-278; HJR 7-A, 2010 Special Session A; s. 19, ch. 2012-88; s. 9, ch. 2012-205; s. 61, ch. 2013-15; s. 2, ch. 2014-151; s. 49, ch. 2015-222; ss. 92, 93, 95, 126, ch. 2016-62; s. 9, ch. 2016-184.
[1]Note.—
A. Section 95, ch. 2016-62, amended paragraph (4)(q) "[i]n order to implement Specific Appropriation 1671 of the 2016-2017 General Appropriations Act."
B. Section 126, ch. 2016-62, provides that "[i]f any other act passed during the 2016 Regular Session of the Legislature contains a provision that is substantively the same as a provision in this act, but that removes or is otherwise not subject to the future repeal applied to such provision by this act, the Legislature intends that the provision in the other act takes precedence

and continues to operate, notwithstanding the future repeal provided by this act." Section 9, ch. 2016-184, amended paragraph (4)(q) to strike the existing repeal language and did not add a future repeal; s. 95, ch. 2016-62, amended paragraph (4)(q) solely to add a future repeal; that language is not published here pursuant to s. 126, ch. 2016-62.

[2]Note.—

A. Section 92, ch. 2016-62, amended subsection (9) "[i]n order to implement Specific Appropriation 1597A of the 2016-2017 General Appropriations Act."

B. Section 93, ch. 2016-62, provides that "[t]he amendment made by this act to s. 376.3071(9), Florida Statutes, expires July 1, 2017, and the text of that subsection shall revert to that in existence on June 30, 2016, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of text which expire pursuant to this section." Effective July 1, 2017, subsection (9), as amended by s. 93, ch. 2016-62, will read:

(9) INVESTMENTS; INTEREST.—Moneys in the fund which are not needed currently to meet the obligations of the department in the exercise of its responsibilities under this section and s. 376.3073 shall be deposited with the Chief Financial Officer to the credit of the fund and may be invested in such manner as provided by law. The interest received on such investment shall be credited to the fund. Any provisions of law to the contrary notwithstanding, such interest may be freely transferred between the trust fund and the Water Quality Assurance Trust Fund in the discretion of the department.

[3]Note.—The word "in" was inserted by the editors.

[4]Note.—Substituted by the editors for a reference to s. 376.301(21). Section 1, ch. 2016-184, redesignated s. 376.301(21), which defines "institutional controls," as subsection (22).

376.30713 Advanced cleanup.—

(1) In addition to the legislative findings provided in s. 376.3071, the Legislature finds and declares:

(a) That the inability to conduct site rehabilitation in advance of a site's priority ranking pursuant to s. 376.3071(5)(a) may substantially impede or prohibit property transactions or the proper completion of public works projects.

(b) While the first priority of the state is to provide for protection of the public health, safety, and welfare, water resources, and the environment, the viability of commerce is of equal importance to the state.

(c) It is in the public interest and of substantial economic benefit to the state to provide an opportunity for site rehabilitation to be conducted on a limited basis at contaminated sites, in advance of the site's priority ranking, to facilitate property transactions or public works projects.

(d) It is appropriate for a person who is responsible for site rehabilitation to share the costs associated with managing and conducting advanced cleanup, to facilitate the opportunity for advanced cleanup, and to mitigate the additional costs that will be incurred by the state in conducting site rehabilitation in advance of the site's priority ranking. Such cost sharing will result in more contaminated sites being cleaned up and greater environmental benefits to the state. This section is only available for sites eligible for restoration funding under EDI, ATRP, or PLRIP. This section is available for discharges eligible for restoration funding under the petroleum cleanup participation program for the state's cost share of site rehabilitation. Applications must include a cost-sharing commitment for this section in addition to the 25-percent-copayment requirement of the petroleum cleanup participation program. This section is not

available for any discharge under a petroleum cleanup participation program where the 25-percent-copayment requirement of the petroleum cleanup participation program has been reduced or eliminated pursuant to s. 376.3071(13)(d) ~~s. 376.3071(13)(c)~~.
(2) The department may approve an application for advanced cleanup at eligible sites, notwithstanding ~~before funding based on~~ the site's priority ranking established pursuant to s. 376.3071(5)(a), pursuant to this section. Only the facility owner or operator or the person otherwise responsible for site rehabilitation qualifies as an applicant under this section.
(a) Advanced cleanup applications may be submitted between May 1 and June 30 and between November 1 and December 31 of each fiscal year. Applications submitted between May 1 and June 30 shall be for the fiscal year beginning July 1. An application must consist of:
1. A commitment to pay 25 percent or more of the total cleanup cost deemed recoverable under this section along with proof of the ability to pay the cost share. The department shall determine whether the cost savings demonstration is acceptable. Such determination is not subject to chapter 120.
a. Applications for the aggregate cleanup of five or more sites may be submitted in one of two formats to meet the cost-share requirement:
(I) For an aggregate application proposing that the department enter into a performance-based contract ~~for the cleanup of 20 or more sites~~, [1]the applicant may use a commitment to pay, a demonstrated cost savings to the department, or both to meet the ~~cost share~~ requirement.
(II) For an aggregate application relying on a demonstrated cost savings to the department, the applicant shall, in conjunction with the proposed agency term contractor, establish and provide in the application the percentage of cost savings in the aggregate that is being provided to the department for cleanup of the sites under the application compared to the cost of cleanup of those same sites using the current rates provided to the department by the proposed agency term contractor. ~~The department shall determine whether the cost savings demonstration is acceptable. Such determination is not subject to chapter 120.~~
b. Applications for the cleanup of individual sites may be submitted in one of two formats to meet the cost-share requirement:
(I) For an individual application proposing that the department enter into a performance-based contract, [1]the applicant may use a commitment to pay, a demonstrated cost savings to the department, or both to meet the requirement.
(II) For an individual application relying on a demonstrated cost savings to the department, the applicant shall, in conjunction with the proposed agency term contractor, establish and provide in the application a 25-percent cost savings to the department for cleanup of the site under the application compared to the cost of cleanup of the same site using the current rates provided to the department by the proposed agency term contractor.
2. A nonrefundable review fee of $250 to cover the administrative costs associated with the department's review of the application.
3. A limited contamination assessment report.
4. A proposed course of action.

5. A department site access agreement, or similar agreements approved by the department that do not violate state law, entered into with the property owner or owners, as applicable, and evidence of authorization from such owner or owners for petroleum site rehabilitation program tasks consistent with the proposed course of action where the applicant is not the property owner for any of the sites contained in the application.
The limited contamination assessment report must be sufficient to support the proposed course of action and to estimate the cost of the proposed course of action. Costs incurred related to conducting the limited contamination assessment report are not refundable from the Inland Protection Trust Fund. Site eligibility under this subsection or any other provision of this section is not an entitlement to advanced cleanup or continued restoration funding. The applicant shall certify to the department that the applicant has the prerequisite authority to enter into an advanced cleanup contract with the department. The certification must be submitted with the application.
(b) The department shall rank the applications based on the percentage of cost-sharing commitment proposed by the applicant, with the highest ranking given to the applicant who proposes the highest percentage of cost sharing. If the department receives applications that propose identical cost-sharing commitments and that exceed the funds available to commit to all such proposals during the advanced cleanup application period, the department shall proceed to rerank those applicants. Those applicants submitting identical cost-sharing proposals that exceed funding availability must be so notified by the department and offered the opportunity to raise their individual cost-share commitments, in a period specified in the notice. At the close of the period, the department shall proceed to rerank the applications pursuant to this paragraph.
(3)(a) Based on the ranking established under paragraph (2)(b), the department shall begin negotiation with such applicants. If the department and the applicant agree on the course of action, the department may enter into a contract with the applicant. The department may negotiate the terms and conditions of the contract.
(b) Advanced cleanup shall be conducted pursuant to s. 376.3071(5)(b) and (6) and rules adopted under ss. 287.0595 and 376.3071. If the terms of the advanced cleanup contract are not fulfilled, the applicant forfeits any right to future payment for any site rehabilitation work conducted under the contract.
(c) The department's decision not to enter into an advanced cleanup contract with the applicant is not subject to chapter 120. If the department cannot complete negotiation of the course of action and the terms of the contract within 60 days after beginning negotiations, the department shall terminate negotiations with that applicant.
(4) The department may enter into contracts for a total of up to $25 ~~$15~~ million of advanced cleanup work in each fiscal year. However, a facility or an applicant who bundles multiple sites as specified in subparagraph (2)(a)1. may not be approved for more than $5 million of cleanup activity in each fiscal year. A property owner or responsible party may enter into a voluntary cost-share agreement in which the property owner or responsible party commits to bundle multiple sites and lists the facilities that will be included in those future bundles. The facilities listed are not subject to agency term contractor assignment pursuant to department rule. The department reserves the right to terminate or amend the voluntary cost-share agreement for any identified site under the voluntary cost-share agreement if the property owner or responsible party fails to submit an application to bundle any site, not already covered by an advance

cleanup contract, under such voluntary cost-share agreement within a subsequent open application period during which it is eligible to participate. For the purposes of this section, the term “facility” includes, but is not limited to, multiple site facilities such as airports, port facilities, and terminal facilities even though such enterprises may be treated as separate facilities for other purposes under this chapter.
(5) All funds collected by the department pursuant to this section shall be deposited into the Inland Protection Trust Fund to be used as provided in this section.
History.—s. 7, ch. 96-277; ss. 3, 5, ch. 99-376; s. 12, ch. 2001-62; s. 2, ch. 2005-180; s. 71, ch. 2010-5; s. 86, ch. 2010-102; s. 15, ch. 2013-92; s. 4, ch. 2014-151; s. 10, ch. 2016-184.
[1]Note.—The words “the applicant” were inserted by the editors to improve clarity.

376.79 Definitions relating to Brownfields Redevelopment Act.—
As used in ss. 376.77-376.85, the term:
(1) “Additive effects” means a scientific principle that the toxicity that occurs as a result of exposure is the sum of the toxicities of the individual chemicals to which the individual is exposed.
(2) “Antagonistic effects” means a scientific principle that the toxicity that occurs as a result of exposure is less than the sum of the toxicities of the individual chemicals to which the individual is exposed.
(3) “Background concentration” means the concentration of contaminants naturally occurring or resulting from anthropogenic impacts unrelated to the discharge of pollutants or hazardous substances at a contaminated site undergoing site rehabilitation.
(4)~~(3)~~ “Brownfield sites” means real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination.
(5)~~(4)~~ “Brownfield area” means a contiguous area of one or more brownfield sites, some of which may not be contaminated, and which has been designated by a local government by resolution. Such areas may include all or portions of community redevelopment areas, enterprise zones, empowerment zones, other such designated economically deprived communities and areas, and Environmental Protection Agency-designated brownfield pilot projects.
(6)~~(5)~~ “Contaminant” means any physical, chemical, biological, or radiological substance present in any medium which may result in adverse effects to human health or the environment or which creates an adverse nuisance, organoleptic, or aesthetic condition in groundwater.
(7)~~(6)~~ “Contaminated site” means any contiguous land, sediment, surface water, or groundwater areas that contain contaminants that may be harmful to human health or the environment.
(8)~~(7)~~ “Department” means the Department of Environmental Protection.
(9)~~(8)~~ “Engineering controls” means modifications to a site to reduce or eliminate the potential for exposure to chemicals of concern from petroleum products, drycleaning solvents, or other contaminants. Such modifications may include, but are not limited to, physical or hydraulic control measures, capping, point of use treatments, or slurry walls.
(10)~~(9)~~ “Environmental justice” means the fair treatment of all people of all races, cultures, and incomes with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

(11)~~(10)~~ “Institutional controls” means the restriction on use of or access to a site to eliminate or minimize exposure to chemicals of concern from petroleum products, drycleaning solvents, or other contaminants. Such restrictions may include, but are not limited to, deed restrictions, restrictive covenants, or conservation easements.
(12)~~(11)~~ “Local pollution control program” means a local pollution control program that has received delegated authority from the Department of Environmental Protection under ss. 376.80(9) and 403.182.
(13) “Long-term natural attenuation” means natural attenuation approved by the department as a site rehabilitation program task for a period of more than 5 years.
(14)~~(12)~~ “Natural attenuation” means a verifiable approach to site rehabilitation that allows natural processes to contain the spread of contamination and reduce the concentrations of contaminants in contaminated groundwater and soil. Natural attenuation processes may include sorption, biodegradation, chemical reactions with subsurface materials, diffusion, dispersion, and volatilization.
(15)~~(13)~~ “Person responsible for brownfield site rehabilitation” means the individual or entity that is designated by the local government to enter into the brownfield site rehabilitation agreement with the department or an approved local pollution control program and enters into an agreement with the local government for redevelopment of the site.
(16)~~(14)~~ “Person” means any individual, partner, joint venture, or corporation; any group of the foregoing, organized or united for a business purpose; or any governmental entity.
(17)~~(15)~~ “Risk reduction” means the lowering or elimination of the level of risk posed to human health or the environment through interim remedial actions, remedial action, or institutional, and if appropriate, engineering controls.
(18)~~(16)~~ “Secretary” means the secretary of the Department of Environmental Protection.
(19)~~(17)~~ “Site rehabilitation” means the assessment of site contamination and the remediation activities that reduce the levels of contaminants at a site through accepted treatment methods to meet the cleanup target levels established for that site. For purposes of sites subject to the Resource Conservation and Recovery Act, as amended, the term includes removal, decontamination, and corrective action of releases of hazardous substances.
(20)~~(18)~~ “Source removal” means the removal of free product, or the removal of contaminants from soil or sediment that has been contaminated to the extent that leaching to groundwater or surface water has occurred or is occurring.
(21)~~(19)~~ “Synergistic effects” means a scientific principle that the toxicity that occurs as a result of exposure is more than the sum of the toxicities of the individual chemicals to which the individual is exposed.
History.—s. 3, ch. 97-277; s. 2, ch. 98-75; s. 10, ch. 2000-317; s. 1, ch. 2004-40; s. 4, ch. 2008-239; s. 3, ch. 2016-184.

376.81 Brownfield site and brownfield areas contamination cleanup criteria.—
(1) It is the intent of the Legislature to protect the health of all people under actual circumstances of exposure. By July 1, 2001, the secretary of the department shall establish criteria by rule for the purpose of determining, on a site-specific basis, the rehabilitation program tasks that comprise a site rehabilitation program and the level at

which a rehabilitation program task and a site rehabilitation program may be deemed completed. In establishing the rule, the department shall apply, to the maximum extent feasible, a risk-based corrective action process to achieve protection of human health and safety and the environment in a cost-effective manner based on the principles set forth in this subsection. The rule must prescribe a phased risk-based corrective action process that is iterative and that tailors site rehabilitation tasks to site-specific conditions and risks. The department and the person responsible for brownfield site rehabilitation are encouraged to establish decision points at which risk management decisions will be made. The department shall provide an early decision, when requested, regarding applicable exposure factors and a risk management approach based on the current and future land use at the site. The rule must ~~shall also~~ include protocols for the use of natural attenuation, including long-term natural attenuation where site conditions warrant, the use of institutional and engineering controls, and the issuance of "no further action" letters. The criteria for determining what constitutes a rehabilitation program task or completion of a site rehabilitation program task or site rehabilitation program must:

(a) Consider the current exposure and potential risk of exposure to humans and the environment, including multiple pathways of exposure. The physical, chemical, and biological characteristics of each contaminant must be considered in order to determine the feasibility of risk-based corrective action assessment.

(b) Establish the point of compliance at the source of the contamination. However, the department may ~~is authorized to~~ temporarily move the point of compliance to the boundary of the property, or to the edge of the plume when the plume is within the property boundary, while cleanup, including cleanup through natural attenuation processes in conjunction with appropriate monitoring, is proceeding. The department may ~~also is authorized to~~, pursuant to criteria provided for in this section, ~~to~~ temporarily extend the point of compliance beyond the property boundary with appropriate monitoring, if such extension is needed to facilitate natural attenuation or to address the current conditions of the plume, provided human health, public safety, and the environment are protected. When temporarily extending the point of compliance beyond the property boundary, it cannot be extended further than the lateral extent of the plume at the time of execution of the brownfield site rehabilitation agreement, if known, or the lateral extent of the plume as defined at the time of site assessment. Temporary extension of the point of compliance beyond the property boundary, as provided in this paragraph, must include actual notice by the person responsible for brownfield site rehabilitation to local governments and the owners of any property into which the point of compliance is allowed to extend and constructive notice to residents and business tenants of the property into which the point of compliance is allowed to extend. Persons receiving notice pursuant to this paragraph shall have the opportunity to comment within 30 days of receipt of the notice.

(c) Ensure that the site-specific cleanup goal is that all contaminated brownfield sites and brownfield areas ultimately achieve the applicable cleanup target levels provided in this section. In the circumstances provided below, and after constructive notice and opportunity to comment within 30 days from receipt of the notice to local government, to owners of any property into which the point of compliance is allowed to extend, and to residents on any property into which the point of compliance is allowed to extend, the department may allow concentrations of contaminants to temporarily exceed the

applicable cleanup target levels while cleanup, including cleanup through natural attenuation processes in conjunction with appropriate monitoring, is proceeding, if human health, public safety, and the environment are protected.
(d) Allow brownfield site and brownfield area rehabilitation programs to include the use of institutional or engineering controls, where appropriate, to eliminate or control the potential exposure to contaminants of humans or the environment. The use of controls must be preapproved by the department and only after constructive notice and opportunity to comment within 30 days from receipt of notice is provided to local governments, to owners of any property into which the point of compliance is allowed to extend, and to residents on any property into which the point of compliance is allowed to extend. When institutional or engineering controls are implemented to control exposure, the removal of the controls must have prior department approval and must be accompanied by the resumption of active cleanup, or other approved controls, unless cleanup target levels under this section have been achieved.
(e) Consider the interactive ~~additive~~ effects of contaminants, including additive, synergistic, and antagonistic effects. ~~The synergistic and antagonistic effects shall also be considered when the scientific data become available.~~
(f) Take into consideration individual site characteristics, which shall include, but not be limited to, the current and projected use of the affected groundwater and surface water in the vicinity of the site, current and projected land uses of the area affected by the contamination, the exposed population, the degree and extent of contamination, the rate of contaminant migration, the apparent or potential rate of contaminant degradation through natural attenuation processes, the location of the plume, and the potential for further migration in relation to site property boundaries.
(g) Apply state water quality standards as follows:
1. Cleanup target levels for each contaminant found in groundwater shall be the applicable state water quality standards. Where such standards do not exist, the cleanup target levels for groundwater shall be based on the minimum criteria specified in department rule. The department shall apply the following, as appropriate, in establishing the applicable cleanup target levels: calculations using a lifetime cancer risk level of 1.0E-6; a hazard index of 1 or less; the best achievable detection limit; and nuisance, organoleptic, and aesthetic considerations. However, the department may ~~shall~~ not require site rehabilitation to achieve a cleanup target level for any individual contaminant which is more stringent than the site-specific ~~naturally occurring~~ background concentration for that contaminant.
2. Where surface waters are exposed to contaminated groundwater, the cleanup target levels for the contaminants must ~~shall~~ be based on the more protective of the groundwater or surface water standards as established by department rule, unless it has been demonstrated that the contaminants do not cause or contribute to the exceedance of applicable surface water quality criteria. In such circumstances, the point of measuring compliance with the surface water standards shall be in the groundwater immediately adjacent to the surface water body.
3. Using risk-based corrective action principles, the department shall approve alternative cleanup target levels in conjunction with institutional and engineering controls, if needed, based upon an applicant's demonstration, using site-specific or other relevant data and information, risk assessment modeling results, including results

from probabilistic risk assessment modeling, risk assessment studies, risk reduction techniques, or a combination thereof, that human health, public safety, and the environment are protected to the same degree as provided in subparagraphs 1. and 2. Where a state water quality standard is applicable, a deviation may not result in the application of cleanup target levels more stringent than the standard. In determining whether it is appropriate to establish alternative cleanup target levels at a site, the department must consider the effectiveness of source removal, if any, which has been completed at the site and the practical likelihood of the use of low yield or poor quality groundwater, the use of groundwater near marine surface water bodies, the current and projected use of the affected groundwater in the vicinity of the site, or the use of groundwater in the immediate vicinity of the contaminated area, where it has been demonstrated that the groundwater contamination is not migrating away from such localized source, provided human health, public safety, and the environment are protected. When using alternative cleanup target levels at a brownfield site, institutional controls are shall not be required if:

a. The only cleanup target levels exceeded are the groundwater cleanup target levels derived from nuisance, organoleptic, or aesthetic considerations;

b. Concentrations of all contaminants meet the state water quality standards or the minimum criteria, based on the protection of human health, provided in subparagraph 1.;

c. All of the groundwater cleanup target levels established pursuant to subparagraph 1. are met at the property boundary;

d. The person responsible for brownfield site rehabilitation has demonstrated that the contaminants will not migrate beyond the property boundary at concentrations exceeding the groundwater cleanup target levels established pursuant to subparagraph 1.;

e. The property has access to and is using an offsite water supply and no unplugged private wells are used for domestic purposes; and

f. The real property owner provides written acceptance of the “no further action” proposal to the department or the local pollution control program.

(h) Provide for the department to issue a “no further action order,” with conditions, including, but not limited to, the use of institutional or engineering controls where appropriate, when alternative cleanup target levels established pursuant to subparagraph (g)3. have been achieved, or when the person responsible for brownfield site rehabilitation can demonstrate that the cleanup target level is unachievable within available technologies. Before Prior to issuing such an order, the department shall consider the feasibility of an alternative site rehabilitation technology at in the brownfield site area.

(i) Establish appropriate cleanup target levels for soils.

1. In establishing soil cleanup target levels for human exposure to each contaminant found in soils from the land surface to 2 feet below land surface, the department shall apply the following, as appropriate: calculations using a lifetime cancer risk level of 1.0E-6; a hazard index of 1 or less; and the best achievable detection limit. However, the department may shall not require site rehabilitation to achieve a cleanup target level for an individual contaminant which is more stringent than the site-specific, naturally occurring background concentration for that contaminant. Institutional controls or other

methods shall be used to prevent human exposure to contaminated soils more than 2 feet below the land surface. Any removal of such institutional controls shall require such contaminated soils to be remediated.
2. Leachability-based soil cleanup target levels shall be based on protection of the groundwater cleanup target levels or the alternate cleanup target levels for groundwater established pursuant to this paragraph, as appropriate. Source removal and other cost-effective alternatives that are technologically feasible shall be considered in achieving the leachability soil cleanup target levels established by the department. The leachability goals are ~~shall~~ not ~~be~~ applicable if the department determines, based upon individual site characteristics, and in conjunction with institutional and engineering controls, if needed, that contaminants will not leach into the groundwater at levels that pose a threat to human health, public safety, and the environment.
3. Using risk-based corrective action principles, the department shall approve alternative cleanup target levels in conjunction with institutional and engineering controls, if needed, based upon an applicant's demonstration, using site-specific or other relevant data and information, risk assessment modeling results, including results from probabilistic risk assessment modeling, risk assessment studies, risk reduction techniques, or a combination thereof, that human health, public safety, and the environment are protected to the same degree as provided in subparagraphs 1. and 2.
(2) The department shall require source removal, as a risk reduction measure, if warranted and cost-effective. Once source removal at a site is complete, the department shall reevaluate the site to determine the degree of active cleanup needed to continue. Further, the department shall determine if the reevaluated site qualifies for monitoring only or if no further action is required to rehabilitate the site. If additional site rehabilitation is necessary to reach "no further action" status, the department is encouraged to utilize natural attenuation monitoring, including long-term natural attenuation ~~and~~ monitoring, where site conditions warrant.
(3) The cleanup criteria described in this section govern only site rehabilitation activities occurring at the contaminated site. Removal of contaminated media from a site for offsite relocation or treatment must be in accordance with all applicable federal, state, and local laws and regulations.
History.—s. 5, ch. 97-277; s. 4, ch. 98-75; s. 12, ch. 2000-317; s. 4, ch. 2016-184.

Chapter 379
Fish and Wildlife Conservation
Enforceable Policies

Any additions are underlined and any deletions are struck-through.

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*Sections 379.206, .207, .212, .213, .214, .2202, .223, .2255, .2256, .2293, .2433, and .359, F.S., are not considered enforceable policies for federal consistency purposes.

**Sections 379.2251 and .362, F.S., are not included in the approved FCMP.

379.204 Federal Grants Trust Fund.—
(1) The Federal Grants Trust Fund is created within the Fish and Wildlife Conservation Commission.
(2) The fund is established for use as a depository for funds to be used for allowable grant activities funded by restricted program revenues. Moneys to be credited to the trust fund shall consist of grants and funding from the Federal Government, interest earnings, and cash advances from other trust funds.
~~(3) The commission may transfer the cash balance originating from hunting and fishing license fees from other trust funds into the Federal Grants Trust Fund for the purpose of supporting cash flow needs. This subsection expires July 1, 2012.~~
History.—s. 1, ch. 2005-19; s. 2, ch. 2008-22; s. 14, ch. 2008-247; s. 14, ch. 2010-4; s. 40, ch. 2011-47; s. 6, ch. 2016-11.
Note.—Former s. 372.102.

379.2223 Control and management of state game lands.—
(1) The Fish and Wildlife Conservation Commission is authorized to make, adopt, promulgate, amend, repeal, and enforce all reasonable rules and regulations necessary for the protection, control, operation, management, or development of lands or waters owned by, leased by, or otherwise assigned to, the commission for fish or wildlife management purposes, including, but not ~~being~~ limited to, the right of ingress and egress. Before any such rule or regulation is adopted, other than one relating to wild animal life, marine life, or freshwater aquatic life, the commission shall obtain the consent and agreement, in writing, of the owner, in the case of privately owned lands or waters, or the owner or primary custodian, in the case of public lands or waters.
(2) A person who violates a rule or regulation adopted pursuant to this section is subject to penalties as provided in s. 379.401 ~~Any person violating or otherwise failing to comply with any rule or regulation so adopted commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083~~.
History.—s. 1, ch. 70-40; s. 306, ch. 71-136; s. 1, ch. 90-39; s. 128, ch. 99-245; s. 20, ch. 2000-197; s. 29, ch. 2008-247; s. 1, ch. 2016-107.
Note.—Former s. 372.121.

379.2257 Cooperative agreements with United States Forest Service; penalty.—
The Fish and Wildlife Conservation Commission is authorized and empowered:
(1) To enter into cooperative agreements with the United States Forest Service for the development of game, bird, fish, reptile, or fur-bearing animal management and demonstration projects on and in the Osceola National Forest in Columbia and Baker Counties, and in the Ocala National Forest in Marion, Lake, and Putnam Counties and in the Apalachicola National Forest in Liberty County. Provided, however, that no such cooperative agreements shall become effective in any county concerned until confirmed by the board of county commissioners of such county expressed through appropriate resolution.
(2) In cooperation with the United States Forest Service, to make, adopt, promulgate, amend, and repeal rules and regulations, consistent with law, for the further or better

control of hunting, fishing, and control of wildlife in the above National Forests or parts thereof; to shorten seasons and reduce bag limits, or shorten or close seasons on any species of game, bird, fish, reptile, or fur-bearing animal within the limits prescribed by the Florida law, in the above enumerated National Forests or parts thereof, when it shall find after investigation that such action is necessary to assure the maintenance of an adequate supply of wildlife.
(3) In addition to the requirements of chapter 120, notice of the making and~~,~~ adoption~~, and promulgation~~ of ~~the above~~ rules and regulations pursuant to this section shall be given by posting the ~~said~~ notices~~,~~ or copies of the rules and regulations~~,~~ in the offices of the county judges and in the post offices within the area to be affected and within 10 miles thereof. In addition to the posting of the ~~said~~ notices, ~~as aforesaid,~~ copies of the ~~said~~ notices or ~~of said~~ rules and regulations shall ~~also~~ be published in newspapers published at the county seats of Baker, Columbia, Marion, Lake, Putnam, and Liberty Counties, or so many thereof as have newspapers, once between 28 and ~~not more than~~ 35 ~~nor less than 28~~ days and once between 14 and ~~not more than~~ 21 ~~nor less than 14~~ days before ~~prior to~~ the opening of the state hunting season in those ~~said~~ areas. A ~~Any~~ person who violates ~~violating~~ any rules or regulations of ~~promulgated by~~ the commission to manage such ~~cover these~~ areas under cooperative agreements between the ~~Fish and Wildlife Conservation~~ commission and the United States Forest Service is subject to penalties as provided in s. 379.401~~, none of which shall be in conflict with the laws of Florida, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083~~.
History.—ss. 1-4, 7, 8, ch. 17939, 1937; CGL 1940 Supp. 1977(117), 8135(9-a); s. 1, ch. 23090, 1945; s. 315, ch. 71-136; s. 16, ch. 78-95; s. 158, ch. 99-245; s. 40, ch. 2008-247; s. 5, ch. 2014-136; s. 2, ch. 2016-107.
Note.—Former s. 372.74.

[1]379.2425 Spearfishing; definition; limitations; penalty.—
(1) For the purposes of this section, “spearfishing” means the taking of any saltwater fish through the instrumentality of a spear, gig, or lance operated by a person swimming at or below the surface of the water.
(2)(a) Except as otherwise provided by commission rule or order, spearfishing is prohibited within the boundaries of the John Pennekamp Coral Reef State Park, the waters of Collier County, and the area in Monroe County known as Upper Keys, which includes all salt waters under the jurisdiction of the ~~Fish and Wildlife Conservation~~ commission beginning at the county line between Miami-Dade and Monroe Counties and running south, including all of the keys down to and including Long Key.
(b) For the purposes of this subsection, the possession in the water of a spear, gig, or lance by a person swimming at or below the surface of the water in a prohibited area is prima facie evidence of a violation of the provisions of this subsection regarding spearfishing.
(3) The Fish and Wildlife Conservation Commission shall have the power to establish restricted areas when it is determined that safety hazards exist or when needs are determined by biological findings. Restricted areas shall be established only after an investigation has been conducted and upon application by the governing body of the county or municipality in which the restricted areas are to be located and one publication in a local newspaper of general circulation in said county or municipality in

addition to any other notice required by law. Prior to promulgation of regulations, the local governing body of the area affected shall agree to post and maintain notices in the area affected.
(4) A person who violates this section commits a Level Two violation under s. 379.401.
History.—s. 1, ch. 57-303; ss. 25, 35, ch. 69-106; s. 301, ch. 71-136; ss. 1, 2, ch. 73-141; s. 1, ch. 77-174; s. 1, ch. 77-381; s. 23, ch. 78-95; s. 6, ch. 83-134; s. 2, ch. 84-121; ss. 16, 17, ch. 85-234; s. 5, ch. 86-219; s. 19, ch. 86-240; ss. 9, 12, ch. 89-98; s. 236, ch. 94-356; s. 251, ch. 99-245; s. 13, ch. 2004-264; s. 77, ch. 2008-4; s. 72, ch. 2008-247; s. 3, ch. 2016-107.
[1]Note.—Section 6, ch. 83-134, as amended by s. 2, ch. 84-121; by s. 5, ch. 86-219; and by s. 19, ch. 86-240, repealed the then-existing section effective July 1, 1984, and further provided that if the Governor and Cabinet had not adopted appropriate rules by July 1, 1984, this section would remain in force until such rules were effective. Section 9, ch. 83-134, provided that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 6, the Marine Fisheries Commission would hold a public hearing thereon, and no such amendment, readoption, or repeal would be acted upon until it had been determined, based upon appropriate findings of fact, that such action would not adversely affect the resource. The Marine Fisheries Commission was transferred to the Fish and Wildlife Conservation Commission by s. 3, ch. 99-245.
Note.—Former s. 370.172.

379.2431 Marine animals; regulation.—
(1) PROTECTION OF MARINE TURTLES.—
(a) This subsection may be cited as the “Marine Turtle Protection Act.”
(b) The Legislature intends, pursuant to the provisions of this subsection, to ensure that the Fish and Wildlife Conservation Commission has the appropriate authority and resources to implement its responsibilities under the recovery plans of the United States Fish and Wildlife Service for the following species of marine turtle:
1. Atlantic loggerhead turtle (Caretta caretta).
2. Atlantic green turtle (Chelonia mydas).
3. Leatherback turtle (Dermochelys coriacea).
4. Atlantic hawksbill turtle (Eretmochelys imbricata).
5. Atlantic ridley turtle (Lepidochelys kempi).
(c) As used in this subsection, the following phrases have the following meanings:
1. A “properly accredited person” is:
a. Students of colleges or universities whose studies with saltwater animals are under the direction of their teacher or professor; or
b. Scientific or technical faculty of public or private colleges or universities; or
c. Scientific or technical employees of private research institutions and consulting firms; or
d. Scientific or technical employees of city, county, state, or federal research or regulatory agencies; or
e. Members in good standing or recognized and properly chartered conservation organizations, the Audubon Society, or the Sierra Club; or
f. Persons affiliated with aquarium facilities or museums, or contracted as an agent therefor, which are open to the public with or without an admission fee; or
g. Persons without specific affiliations listed above, but who are recognized by the commission for their contributions to marine conservation such as scientific or technical publications, or through a history of cooperation with the commission in conservation

programs such as turtle nesting surveys, or through advanced educational programs such as high school marine science centers.
2. “Take” means an act that actually kills or injures marine turtles, and includes significant habitat modification or degradation that kills or injures marine turtles by significantly impairing essential behavioral patterns, such as breeding, feeding, or sheltering.
(d) Except as authorized in this paragraph, or unless otherwise provided by the Federal Endangered Species Act or its implementing regulations, a person, firm, or corporation may not ~~:~~
~~1. Knowingly possess the eggs of any marine turtle species described in this subsection.~~
~~2.~~ knowingly possess, take, disturb, mutilate, destroy, cause to be destroyed, transfer, sell, offer to sell, molest, or harass any marine turtle species or hatchling, or parts thereof, ~~turtles~~ or the eggs or nest of any marine turtle species ~~turtles~~ described in this subsection. The commission may:
1.~~3. The commission may~~ Issue a special permit or loan agreement to a ~~any~~ person, firm, or corporation~~, to enable the holder~~ to possess a marine turtle species or hatchling, or parts thereof, including nests or~~,~~ eggs~~, or hatchlings~~, for scientific, education, or exhibition purposes, or for conservation activities such as the relocation of nests, eggs, or marine turtles or hatchlings away from construction sites. Notwithstanding other provisions of law, the commission may issue such special permit or loan agreement to a ~~any~~ properly accredited person as defined in paragraph (c) for the purposes of marine turtle conservation.
2.~~4. The commission shall have the authority to~~ Adopt rules pursuant to chapter 120 to prescribe terms, conditions, and restrictions for marine turtle conservation, and to permit the possession of marine turtle species or hatchlings, ~~turtles~~ or parts thereof, including nests or eggs.
(e)1. A ~~Any~~ person, firm, or corporation that commits any act prohibited in paragraph (d) involving any egg of any marine turtle species described in this subsection shall pay a penalty of $100 per egg in addition to other penalties provided in this paragraph.
2. A ~~Any~~ person, firm, or corporation that illegally possesses 11 or fewer ~~of any~~ eggs of any marine turtle species described in this subsection commits a first degree misdemeanor, punishable as provided in ss. 775.082 and 775.083.
3. For a second or subsequent violation of subparagraph 2., a ~~any~~ person, firm, or corporation that illegally possesses 11 or fewer ~~of any~~ eggs of any marine turtle species described in this subsection commits a third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
4. A ~~Any~~ person, firm, or corporation that illegally possesses more than 11 ~~of any~~ eggs of any marine turtle species described in this subsection commits a third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
5. A ~~Any~~ person, firm, or corporation that illegally takes, disturbs, mutilates, destroys, causes to be destroyed, transfers, sells, offers to sell, molests, or harasses any marine turtle species or hatchling, or parts thereof, or the eggs or nest of any marine turtle species ~~as~~ described in this subsection, commits a third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

6. A person, firm, or corporation that illegally possesses any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described in this subsection, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
7. ~~6.~~ Notwithstanding s. 777.04, a ~~any~~ person, firm, or corporation that solicits or conspires with another person, firm, or corporation, to commit an act prohibited by this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
8. ~~7.~~ The proceeds from the penalties assessed pursuant to this paragraph shall be deposited into the Marine Resources Conservation Trust Fund.
(f) Any application for a Department of Environmental Protection permit or other type of approval for an activity that affects marine turtles or their nests or habitat shall be subject to conditions and requirements for marine turtle protection as part of the permitting or approval process.
(g) The Department of Environmental Protection may condition the nature, timing, and sequence of construction of permitted activities to provide protection to nesting marine turtles and hatchlings and their habitat pursuant to s. 161.053(4). If the department is considering a permit for a beach restoration, beach renourishment, or inlet sand transfer project and the applicant has had an active marine turtle nest relocation program or the applicant has agreed to and has the ability to administer a program, the department may not restrict the timing of the project. If appropriate, the department, in accordance with the applicable rules of the Fish and Wildlife Conservation Commission, shall require as a condition of the permit that the applicant relocate and monitor all turtle nests that would be affected by the beach restoration, beach renourishment, or sand transfer activities. Such relocation and monitoring activities shall be conducted in a manner that ensures successful hatching. This limitation on the department’s authority applies only on the Atlantic coast of Florida.
(h) The department shall recommend denial of a permit application if the activity would result in a “take” as defined in this subsection, unless, as provided for in the federal Endangered Species Act and its implementing regulations, such taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.
(i) The department shall give special consideration to beach preservation and beach nourishment projects that restore habitat of endangered marine turtle species. Nest relocation shall be considered for all such projects in urbanized areas. When an applicant for a beach restoration, beach renourishment, or inlet sand transfer project has had an active marine turtle nest relocation program or the applicant has agreed to have and has the ability to administer a program, the department in issuing a permit for a project must not restrict the timing of the project. Where appropriate, the department, in accordance with the applicable rules of the Fish and Wildlife Conservation Commission, shall require as a condition of the permit that the applicant relocate and monitor all turtle nests that would be affected by the beach restoration, beach renourishment, or sand transfer activities. Such relocation and monitoring activities shall be conducted in a manner that ensures successful hatching. This limitation on the department’s authority applies only on the Atlantic coast of Florida.
(2) PROTECTION OF MANATEES OR SEA COWS.—

(a) This subsection shall be known and may be cited as the “Florida Manatee Sanctuary Act.”
(b) The State of Florida is hereby declared to be a refuge and sanctuary for the manatee, the “Florida state marine mammal.” The protections extended to and authorized on behalf of the manatee by this act are independent of, and therefore are not contingent upon, its status as a state or federal listed species.
(c) Whenever the Fish and Wildlife Conservation Commission is satisfied that the interest of science will be subserved, and that the application for a permit to possess a manatee or sea cow (Trichechus manatus) is for a scientific or propagational purpose and should be granted, and after concurrence by the United States Department of the Interior, the commission may grant to any person making such application a special permit to possess a manatee or sea cow, which permit shall specify the exact number which shall be maintained in captivity.
(d) Except as may be authorized by the terms of a valid state permit issued pursuant to paragraph (c) or by the terms of a valid federal permit, it is unlawful for any person at any time, by any means, or in any manner intentionally or negligently to annoy, molest, harass, or disturb or attempt to molest, harass, or disturb any manatee; injure or harm or attempt to injure or harm any manatee; capture or collect or attempt to capture or collect any manatee; pursue, hunt, wound, or kill or attempt to pursue, hunt, wound, or kill any manatee; or possess, literally or constructively, any manatee or any part of any manatee.
(e) Any gun, net, trap, spear, harpoon, boat of any kind, aircraft, automobile of any kind, other motorized vehicle, chemical, explosive, electrical equipment, scuba or other subaquatic gear, or other instrument, device, or apparatus of any kind or description used in violation of any provision of paragraph (d) may be forfeited upon conviction. The foregoing provisions relating to seizure and forfeiture of vehicles, vessels, equipment, or supplies do not apply when such vehicles, vessels, equipment, or supplies are owned by, or titled in the name of, innocent parties; and such provisions shall not vitiate any valid lien, retain title contract, or chattel mortgage on such vehicles, vessels, equipment, or supplies if such lien, retain title contract, or chattel mortgage is property of public record at the time of the seizure.
(f)1. Except for emergency rules adopted under s. 120.54, all proposed rules of the commission for which a notice of intended agency action is filed proposing to govern the speed and operation of motorboats for purposes of manatee protection shall be submitted to the counties in which the proposed rules will take effect for review by local rule review committees.
2. No less than 60 days prior to filing a notice of rule development in the Florida Administrative Register, as provided in s. 120.54(3)(a), the commission shall notify the counties for which a rule to regulate the speed and operation of motorboats for the protection of manatees is proposed. A county so notified shall establish a rule review committee or several counties may combine rule review committees.
3. The county commission of each county in which a rule to regulate the speed and operation of motorboats for the protection of manatees is proposed shall designate a rule review committee. The designated voting membership of the rule review committee must be comprised of waterway users, such as fishers, boaters, water skiers, other waterway users, as compared to the number of manatee and other environmental

advocates. A county commission may designate an existing advisory group as the rule review committee. With regard to each committee, fifty percent of the voting members shall be manatee advocates and other environmental advocates, and fifty percent of the voting members shall be waterway users.
4. The county shall invite other state, federal, county, municipal, or local agency representatives to participate as nonvoting members of the local rule review committee.
5. The county shall provide logistical and administrative staff support to the local rule review committee and may request technical assistance from commission staff.
6. Each local rule review committee shall elect a chair and recording secretary from among its voting members.
7. Commission staff shall submit the proposed rule and supporting data used to develop the rule to the local rule review committees.
8. The local rule review committees shall have 60 days from the date of receipt of the proposed rule to submit a written report to commission members and staff. The local rule review committees may use supporting data supplied by the commission, as well as public testimony which may be collected by the committee, to develop the written report. The report may contain recommended changes to proposed manatee protection zones or speed zones, including a recommendation that no rule be adopted, if that is the decision of the committee.
9. Prior to filing a notice of proposed rulemaking in the Florida Administrative Register as provided in s. 120.54(3)(a), the commission staff shall provide a written response to the local rule review committee reports to the appropriate counties, to the commission members, and to the public upon request.
10. In conducting a review of the proposed manatee protection rule, the local rule review committees may address such factors as whether the best available scientific information supports the proposed rule, whether seasonal zones are warranted, and such other factors as may be necessary to balance manatee protection and public access to and use of the waters being regulated under the proposed rule.
11. The written reports submitted by the local rule review committees shall contain a majority opinion. If the majority opinion is not unanimous, a minority opinion shall also be included.
12. The members of the commission shall fully consider any timely submitted written report submitted by a local rule review committee prior to authorizing commission staff to move forward with proposed rulemaking and shall fully consider any timely submitted subsequent reports of the committee prior to adoption of a final rule. The written reports of the local rule review committees and the written responses of the commission staff shall be part of the rulemaking record and may be submitted as evidence regarding the committee’s recommendations in any proceeding relating to a rule proposed or adopted pursuant to this subsection.
13. The commission is relieved of any obligations regarding the local rule review committee process created in this paragraph if a timely noticed county commission fails to timely designate the required rule review committee.
(g) In order to protect manatees or sea cows from harmful collisions with motorboats or from harassment, the Fish and Wildlife Conservation Commission is authorized, in addition to all other authority, to provide a permitting agency with comments regarding the expansion of existing, or the construction of new, marine facilities and mooring or

docking slips, by the addition or construction of five or more powerboat slips. The commission shall adopt rules under chapter 120 regulating the operation and speed of motorboat traffic only where manatee sightings are frequent and the best available scientific information, as well as other available, relevant, and reliable information, which may include but is not limited to, manatee surveys, observations, available studies of food sources, and water depths, supports the conclusions that manatees inhabit these areas on a regular basis:

1. In Lee County: the entire Orange River, including the Tice Florida Power and Light Corporation discharge canal and adjoining waters of the Caloosahatchee River within 1 mile of the confluence of the Orange and Caloosahatchee Rivers.
2. In Brevard County: those portions of the Indian River within three-fourths of a mile of the Orlando Utilities Commission Delespine power plant effluent and the Florida Power and Light Frontenac power plant effluents.
3. In Indian River County: the discharge canals of the Vero Beach Municipal Power Plant and connecting waters within 11/4 miles thereof.
4. In St. Lucie County: the discharge of the Henry D. King Municipal Electric Station and connecting waters within 1 mile thereof.
5. In Palm Beach County: the discharges of the Florida Power and Light Riviera Beach power plant and connecting waters within 11/2 miles thereof.
6. In Broward County: the discharge canal of the Florida Power and Light Port Everglades power plant and connecting waters within 11/2 miles thereof and the discharge canal of the Florida Power and Light Fort Lauderdale power plant and connecting waters within 2 miles thereof. For purposes of ensuring the physical safety of boaters in a sometimes turbulent area, the area from the easternmost edge of the authorized navigation project of the intracoastal waterway east through the Port Everglades Inlet is excluded from this regulatory zone.
7. In Citrus County: headwaters of the Crystal River, commonly referred to as King’s Bay, and the Homosassa River.
8. In Volusia County: Blue Springs Run and connecting waters of the St. Johns River within 1 mile of the confluence of Blue Springs and the St. Johns River; and Thompson Creek, Strickland Creek, Dodson Creek, and the Tomoka River.
9. In Hillsborough County: that portion of the Alafia River from the main shipping channel in Tampa Bay to U.S. Highway 41.
10. In Sarasota County: the Venice Inlet and connecting waters within 1 mile thereof, including Lyons Bay, Donna Bay, Roberts Bay, and Hatchett Creek, excluding the waters of the intracoastal waterway and the right-of-way bordering the centerline of the intracoastal waterway.
11. In Collier County: within the Port of Islands, within section 9, township 52 south, range 28 east, and certain unsurveyed lands, all east-west canals and the north-south canals to the southerly extent of the intersecting east-west canals which lie southerly of the centerline of U.S. Highway 41.
12. In Manatee County: that portion of the Manatee River east of the west line of section 17, range 19 east, township 34 south; the Braden River south of the north line and east of the west line of section 29, range 18 east, township 34 south; Terra Ceia Bay and River, east of the west line of sections 26 and 35 of range 17 east, township 33 south,

and east of the west line of section 2, range 17 east, township 34 south; and Bishop Harbor east of the west line of section 13, range 17 east, township 33 south.
13. In Miami-Dade County: those portions of Black Creek lying south and east of the water control dam, including all boat basins and connecting canals within 1 mile of the dam.
(h) The Fish and Wildlife Conservation Commission shall adopt rules pursuant to chapter 120 regulating the operation and speed of motorboat traffic only where manatee sightings are frequent and the best available scientific information, as well as other available, relevant, and reliable information, which may include but is not limited to, manatee surveys, observations, available studies of food sources, and water depths, supports the conclusion that manatees inhabit these areas on a regular basis within that portion of the Indian River between the St. Lucie Inlet in Martin County and the Jupiter Inlet in Palm Beach County and within the Loxahatchee River in Palm Beach and Martin Counties, including the north and southwest forks thereof.
(i) The commission shall adopt rules pursuant to chapter 120 regulating the operation and speed of motorboat traffic only where manatee sightings are frequent and the best available scientific information, as well as other available, relevant, and reliable information, which may include but is not limited to, manatee surveys, observations, available studies of food sources, and water depths, supports the conclusion that manatees inhabit these areas on a regular basis within the Withlacoochee River and its tributaries in Citrus and Levy Counties. The specific areas to be regulated include the Withlacoochee River and the U.S. 19 bridge westward to a line between U.S. Coast Guard markers number 33 and number 34 at the mouth of the river, including all side channels and coves along that portion of the river; Bennets' Creek from its beginning to its confluence with the Withlacoochee River; Bird's Creek from its beginning to its confluence with the Withlacoochee River; and the two dredged canal systems on the north side of the Withlacoochee River southwest of Yankeetown.
(j) If any new power plant is constructed or other source of warm water discharge is discovered within the state which attracts a concentration of manatees or sea cows, the commission is directed to adopt rules pursuant to chapter 120 regulating the operation and speed of motorboat traffic within the area of such discharge. Such rules shall designate a zone which is sufficient in size, and which shall remain in effect for a sufficient period of time, to protect the manatees or sea cows.
(k) It is the intent of the Legislature to allow the Fish and Wildlife Conservation Commission to post and regulate boat speeds only where the best available scientific information, as well as other available, relevant, and reliable information, which may include but is not limited to, manatee surveys, observations, available studies of food sources, and water depth, supports the conclusion that manatees inhabit these areas on a periodic basis. It is not the intent of the Legislature to permit the commission to post and regulate boat speeds generally throughout the waters of the state, thereby unduly interfering with the rights of fishers, boaters, and water skiers using the areas for recreational and commercial purposes. The Legislature further intends that the commission may identify and designate limited lanes or corridors providing for reasonable motorboat speeds within waters of the state whenever such lanes and corridors are consistent with manatee protection.

(l) The commission shall adopt rules pursuant to chapter 120 regulating the operation and speed of motorboat traffic all year around within Turkey Creek and its tributaries and within Manatee Cove in Brevard County. The specific areas to be regulated consist of:
1. A body of water which starts at Melbourne-Tillman Drainage District structure MS-1, section 35, township 28 south, range 37 east, running east to include all natural waters and tributaries of Turkey Creek, section 26, township 28 south, range 37 east, to the confluence of Turkey Creek and the Indian River, section 24, township 28 south, range 37 east, including all lagoon waters of the Indian River bordered on the west by Palm Bay Point, the north by Castaway Point, the east by the four immediate spoil islands, and the south by Cape Malabar, thence northward along the shoreline of the Indian River to Palm Bay Point.
2. A triangle-shaped body of water forming a cove (commonly referred to as Manatee Cove) on the east side of the Banana River, with northern boundaries beginning and running parallel to the east-west cement bulkhead located 870 feet south of SR 520 Relief Bridge in Cocoa Beach and with western boundaries running in line with the City of Cocoa Beach channel markers 121 and 127 and all waters east of these boundaries in section 34, township 24 south, range 37 east; the center coordinates of this cove are 28°20′14″ north, 80°35′17″ west.
(m) The commission shall promulgate regulations pursuant to chapter 120 relating to the operation and speed of motor boat traffic in port waters with due regard to the safety requirements of such traffic and the navigational hazards related to the movement of commercial vessels.
(n) The commission may designate by rule adopted pursuant to chapter 120 other portions of state waters where manatees are frequently sighted and the best available scientific information, as well as other available, relevant, and reliable information, which may include but is not limited to, manatee surveys, observations, available studies of food sources, and water depths, supports the conclusion that manatees inhabit such waters periodically. Upon designation of such waters, the commission shall adopt rules pursuant to chapter 120 to regulate motorboat speed and operation which are necessary to protect manatees from harmful collisions with motorboats and from harassment. The commission may adopt rules pursuant to chapter 120 to protect manatee habitat, such as seagrass beds, within such waters from destruction by boats or other human activity. Such rules shall not protect noxious aquatic plants subject to control under s. 369.20.
(o) The commission may designate, by rule adopted pursuant to chapter 120, limited areas as a safe haven for manatees to rest, feed, reproduce, give birth, or nurse undisturbed by human activity. Access by motor boat to private residences, boat houses, and boat docks through these areas by residents, and their authorized guests, who must cross one of these areas to have water access to their property is permitted when the motorboat is operated at idle speed, no wake.
(p) Except in the marked navigation channel of the Florida Intracoastal Waterway as defined in s. 327.02 and the area within 100 feet of such channel, a local government may regulate, by ordinance, motorboat speed and operation on waters within its jurisdiction where the best available scientific information, as well as other available, relevant, and reliable information, which may include but is not limited to, manatee

surveys, observations, available studies of food sources, and water depths, supports the conclusion that manatees inhabit these areas on a regular basis. However, such an ordinance may not take effect until it has been reviewed and approved by the commission. If the commission and a local government disagree on the provisions of an ordinance, a local manatee protection committee must be formed to review the technical data of the commission and the United States Fish and Wildlife Service, and to resolve conflicts regarding the ordinance. The manatee protection committee must be comprised of:

1. A representative of the commission;
2. A representative of the county;
3. A representative of the United States Fish and Wildlife Service;
4. A representative of a local marine-related business;
5. A representative of the Save the Manatee Club;
6. A local fisher;
7. An affected property owner; and
8. A representative of the Florida Marine Patrol.

If local and state regulations are established for the same area, the more restrictive regulation shall prevail.

(q) The commission shall evaluate the need for use of fenders to prevent crushing of manatees between vessels (100′ or larger) and bulkheads or wharves in counties where manatees have been crushed by such vessels. For areas in counties where evidence indicates that manatees have been crushed between vessels and bulkheads or wharves, the commission shall:

1. Adopt rules pursuant to chapter 120 requiring use of fenders for construction of future bulkheads or wharves; and
2. Implement a plan and time schedule to require retrofitting of existing bulkheads or wharves consistent with port bulkhead or wharf repair or replacement schedules.

The fenders shall provide sufficient standoff from the bulkhead or wharf under maximum operational compression to ensure that manatees cannot be crushed between the vessel and the bulkhead or wharf.

(r) Any violation of a restricted area established by this subsection, or established by rule pursuant to chapter 120 or ordinance pursuant to this subsection, shall be considered a violation of the boating laws of this state and shall be charged on a uniform boating citation as provided in s. 327.74, except as otherwise provided in paragraph (s). Any person who refuses to post a bond or accept and sign a uniform boating citation shall, as provided in s. 327.73(3), be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(s) Except as otherwise provided in this paragraph, any person violating the provisions of this subsection or any rule or ordinance adopted pursuant to this subsection commits a misdemeanor, punishable as provided in s. 379.407(1)(a) or (b).

1. Any person operating a vessel in excess of a posted speed limit shall be guilty of a civil infraction, punishable as provided in s. 327.73, except as provided in subparagraph 2.
2. This paragraph does not apply to persons violating restrictions governing “No Entry” zones or “Motorboat Prohibited” zones, who, if convicted, shall be guilty of a misdemeanor, punishable as provided in s. 379.407(1)(a) or (b), or, if such violation

demonstrates blatant or willful action, may be found guilty of harassment as described in paragraph (d).
3. A person may engage in any activity otherwise prohibited by this subsection or any rule or ordinance adopted pursuant to this subsection if the activity is reasonably necessary in order to prevent the loss of human life or a vessel in distress due to weather conditions or other reasonably unforeseen circumstances, or in order to render emergency assistance to persons or a vessel in distress.
(t)1. In order to protect manatees and manatee habitat, the counties identified in the Governor and Cabinet's October 1989 Policy Directive shall develop manatee protection plans consistent with commission criteria based upon "Schedule K" of the directive, and shall submit such protection plans for review and approval by the commission. Any manatee protection plans not submitted by July 1, 2004, and any plans not subsequently approved by the commission shall be addressed pursuant to subparagraph 2.
2. No later than January 1, 2005, the Fish and Wildlife Conservation Commission shall designate any county it has identified as a substantial risk county for manatee mortality as a county that must complete a manatee protection plan by July 1, 2006. The commission is authorized to adopt rules pursuant to s. 120.54 for identifying substantial risk counties and establishing criteria for approval of manatee protection plans for counties so identified. Manatee protection plans shall include the following elements at a minimum: education about manatees and manatee habitat; boater education; an assessment of the need for new or revised manatee protection speed zones; local law enforcement; and a boat facility siting plan to address expansion of existing and the development of new marinas, boat ramps, and other multislip boating facilities.
3. Counties required to adopt manatee protection plans under this paragraph shall incorporate the boating facility siting element of those protection plans within their respective comprehensive plans.
4. Counties that have already adopted approved manatee protection plans, or that adopt subsequently approved manatee protection plans by the effective date of this act, are in compliance with the provisions of this paragraph so long as they incorporate their approved boat facility siting plan into the appropriate element of their local comprehensive plan no later than July 1, 2003.
(u)1. Existing state manatee protection rules shall be given great weight in determining whether additional rules are necessary in a region where the measurable goals developed pursuant to s. 379.2291 have been achieved. However, the commission may amend existing rules or adopt new rules to address risks or circumstances in a particular area or waterbody to protect manatees.
2. As used in this paragraph, the term "region" means one of the four geographic areas defined by the United States Fish and Wildlife Service in the Florida Manatee Recovery Plan, 3rd revision (October 30, 2001).
(3) PROTECTION OF MAMMALIAN DOLPHINS (PORPOISES).—It is unlawful to catch, attempt to catch, molest, injure, kill, or annoy, or otherwise interfere with the normal activity and well-being of, mammalian dolphins (porpoises), except as may be authorized by a federal permit.
(4) ANNUAL FUNDING OF PROGRAMS FOR MARINE ANIMALS.—

(a) Each fiscal year the Save the Manatee Trust Fund shall be available to fund an impartial scientific benchmark census of the manatee population in the state. Weather permitting, the study shall be conducted annually by the Fish and Wildlife Conservation Commission and the results shall be made available to the President of the Senate, the Speaker of the House of Representatives, and the Governor and Cabinet for use in the evaluation and development of manatee protection measures. In addition, the Save the Manatee Trust Fund shall be available for annual funding of activities of public and private organizations and those of the commission intended to provide manatee and marine mammal protection and recovery effort; manufacture and erection of informational and regulatory signs; production, publication, and distribution of educational materials; participation in manatee and marine mammal research programs, including carcass salvage and other programs; programs intended to assist the recovery of the manatee as an endangered species, assist the recovery of the endangered or threatened marine mammals, and prevent the endangerment of other species of marine mammals; and other similar programs intended to protect and enhance the recovery of the manatee and other species of marine mammals.
(b) By December 1 each year, the Fish and Wildlife Conservation Commission shall provide the President of the Senate and the Speaker of the House of Representatives a written report, enumerating the amounts and purposes for which all proceeds in the Save the Manatee Trust Fund for the previous fiscal year are expended, in a manner consistent with those recovery tasks enumerated within the manatee recovery plan as required by the Endangered Species Act.
(c) When the federal and state governments remove the manatee from status as an endangered or threatened species, the annual allocation may be reduced.
(d) Up to 10 percent of the annual use fee deposited in the Save the Manatee Trust Fund from the sale of the manatee license plate authorized in s. 320.08058 may be used to promote and market the license plate issued by the Department of Highway Safety and Motor Vehicles after June 30, 2007.
History.—s. 2, ch. 28145, 1953; ss. 1, 2, ch. 57-771; s. 1, ch. 59-483; s. 1, ch. 67-2198; ss. 25, 35, ch. 69-106; s. 1, ch. 70-48; s. 1, ch. 70-357; s. 1, ch. 71-120; s. 289, ch. 71-136; ss. 1, 1A, ch. 71-145; s. 1, ch. 74-20; s. 1, ch. 77-174; s. 1, ch. 78-252; s. 79, ch. 79-164; s. 6, ch. 81-228; ss. 1, 2, ch. 82-170; s. 1, ch. 83-81; s. 68, ch. 84-338; s. 10, ch. 85-234; s. 7, ch. 89-168; s. 1, ch. 89-314; s. 5, ch. 90-219; s. 3, ch. 91-199; s. 2, ch. 91-215; s. 1, ch. 93-83; s. 1, ch. 93-254; s. 226, ch. 94-356; s. 991, ch. 95-148; s. 1, ch. 95-248; s. 31, ch. 96-321; s. 3, ch. 97-272; s. 2, ch. 98-200; ss. 7, 17, ch. 98-227; s. 154, ch. 99-13; s. 45, ch. 99-245; s. 35, ch. 99-289; s. 2, ch. 2000-153; s. 36, ch. 2000-197; s. 5, ch. 2001-62; s. 16, ch. 2002-264; s. 1, ch. 2003-59; s. 3, ch. 2003-111; s. 1, ch. 2003-156; s. 1, ch. 2004-343; s. 7, ch. 2007-223; s. 73, ch. 2008-247; s. 192, ch. 2010-102; s. 38, ch. 2013-14; s. 4, ch. 2016-107.
Note.—Former s. 370.12.

379.29 Contaminating fresh waters.—
(1) It shall be unlawful for any person or persons, firm or corporation to cause any dyestuff, coal tar, oil, sawdust, poison, or deleterious substances to be thrown, run, or drained into any of the fresh running waters of this state in quantities sufficient to injure, stupefy, or kill fish which may inhabit the same at or below the point where any such substances are discharged, or caused to flow or be thrown into such waters; provided, that it shall not be a violation of this section for any person, firm, or corporation engaged

in any mining industry to cause any water handled or used in any branch of such industry to be discharged on the surface of land where such industry or branch thereof is being carried on under such precautionary measures as shall be approved by the Fish and Wildlife Conservation Commission.
(2) A ~~Any~~ person, firm, or corporation that violates ~~violating any of the provisions of~~ this section commits a Level Two violation under s. 379.401 ~~shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083 for the first offense, and for the second or subsequent offense shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083~~.
History.—ss. 1, 2, ch. 22009, 1943; s. 317, ch. 71-136; s. 164, ch. 99-245; s. 61, ch. 2008-247; s. 5, ch. 2016-107.
Note.—Former s. 372.85.

379.295 Use of explosives and other substances or force prohibited.—
A ~~No~~ person may not throw or place, or cause to be thrown or placed, any dynamite, lyddite, gunpowder, cannon cracker, acids, filtration discharge, debris from mines, Indian berries, sawdust, green walnuts, walnut leaves, creosote, oil, or other explosives or deleterious substance or force into the fresh waters of this state whereby fish therein are or may be injured. Nothing in this section may be construed as preventing the release of water slightly discolored by mining operations or water escaping from such operations as the result of providential causes. A person who violates this section commits a Level Two violation under s. 379.401.
History.—s. 29, ch. 13644, 1929; CGL 1936 Supp. 1977(29); s. 6, ch. 2016-107.
Note.—Former s. 372.75.

379.33 Enforcement of commission rules~~; penalties for violation of rule~~.—
Rules of the ~~Fish and Wildlife Conservation~~ commission shall be enforced by any law enforcement officer certified pursuant to s. 943.13. ~~Except as provided under s. 379.401, any person who violates or otherwise fails to comply with any rule adopted by the commission shall be punished pursuant to s. 379.407(1).~~
History.—ss. 2, 5, ch. 83-134; ss. 3, 17, ch. 85-234; ss. 16, 17, 18, ch. 93-213; ss. 1, 2, 3, ch. 94-247; s. 8, ch. 98-203; s. 96, ch. 99-245; s. 3, ch. 2006-304; s. 113, ch. 2008-247; s. 7, ch. 2016-107.
Note.—Former s. 370.028.

379.3502 License and permit not transferable.—
A person may not ~~alter or change in any manner, or~~ loan or transfer to another person, unless otherwise provided by commission rule or order, any license or permit issued pursuant to ~~the provisions of~~ this chapter, and a ~~nor may any other~~ person, other than the person to whom the license or permit ~~it~~ is issued, may not use a borrowed or transferred license or permit ~~the same~~. A person who violates this section commits a Level Two violation under s. 379.401.
History.—s. 17, ch. 13644, 1929; CGL 1936 Supp. 1977(17); s. 12, ch. 85-235; s. 20, ch. 96-300; s. 132, ch. 2008-247; s. 8, ch. 2016-107.
Note.—Former s. 372.59.

379.3503 False statement in application for license or permit.—
A ~~Any~~ person who swears or affirms to any false statement in any application for a license or permit provided by this chapter commits a Level Two violation under~~, is guilty of violating this chapter, and shall be subject to penalty provided in~~ s. 379.401, and any false statement contained in any application for such license or permit renders the license or permit void.
History.—s. 16, ch. 13644, 1929; CGL 1936 Supp. 1977(16); s. 10, ch. 85-235; s. 6, ch. 91-134; s. 18, ch. 96-300; s. 133, ch. 2008-247; s. 9, ch. 2016-107; s. 9, ch. 2016-107.
Note.—Former s. 372.58.

379.3504 Entering false information on licenses or permits.—
Whoever knowingly and willfully enters false information on, or allows or causes false information to be entered on or shown upon, any license or permit issued under ~~the provisions of~~ this chapter in order to avoid prosecution or ~~to~~ assist another in avoiding ~~to avoid~~ prosecution, or for any other wrongful purpose, commits a Level Two violation under ~~shall be punished as provided in~~ s. 379.401.
History.—s. 1, ch. 65-159; s. 11, ch. 85-235; s. 7, ch. 91-134; s. 19, ch. 96-300; s. 134, ch. 2008-247; s. 10, ch. 2016-107.
Note.—Former s. 372.581.

379.3511 Appointment of subagents for the sale of hunting, fishing, and trapping licenses and permits.—
(1) Subagents shall serve at the pleasure of the commission. The commission may establish, by rule, procedures for the selection and appointment of subagents. The following are requirements for appointed subagents ~~so appointed~~:
(a) The commission may require each subagent to post an appropriate bond as determined by the commission, using an insurance company acceptable to the commission. In lieu of the bond, the commission may purchase blanket bonds covering all or selected subagents or may allow a subagent to post other security as required by the commission.
(b) A subagent may sell licenses and permits as authorized by the commission at specific locations within the county and in states as will best serve the public interest and convenience in obtaining licenses and permits. The commission may prohibit subagents from selling certain licenses or permits.
(c) It is unlawful for any person to handle licenses or permits for a fee or compensation of any kind unless he or she has been appointed as a subagent.
~~(d) Any person who willfully violates any of the provisions of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.~~
(d)~~(e)~~ A subagent may charge and receive as his or her compensation 50 cents for each license or permit sold. This charge is in addition to the sum required by law to be collected for the sale and issuance of each license or permit. This charge does not apply to the shoreline fishing license; however, for each shoreline fishing license issued, the subagent may retain 50 cents from other license proceeds otherwise due the commission.
(e)~~(f)~~ A subagent shall submit payment for and report the sale of licenses and permits to the commission as prescribed by the commission.

(2) The Fish and Wildlife Conservation Commission or any other law enforcement agency may carry out any investigation necessary to secure information required to carry out and enforce this section.
(3) All social security numbers that are provided pursuant to s. 379.352 and are contained in records of any subagent appointed under this section are confidential as provided in those sections.
(4) A person who willfully violates this section commits a Level Two violation under s. 379.401.
History.—ss. 1, 2, 3, 4, 5, 6, 7, 8, ch. 59-494; s. 1, ch. 65-509; s. 310, ch. 71-136; s. 106, ch. 71-355; s. 103, ch. 73-333; s. 1, ch. 80-369; s. 3, ch. 82-188; s. 31, ch. 83-218; s. 9, ch. 85-235; s. 14, ch. 90-243; s. 578, ch. 95-148; s. 17, ch. 96-300; s. 17, ch. 98-397; s. 138, ch. 99-245; s. 38, ch. 2000-362; ss. 25, 26, ch. 2002-46; s. 135, ch. 2008-247; s. 1, ch. 2010-146; s. 82, ch. 2014-17; s. 11, ch. 2016-107.
Note.—Former s. 372.574.

379.354 Recreational licenses, permits, and authorization numbers; fees established.—
(1) LICENSE, PERMIT, OR AUTHORIZATION NUMBER REQUIRED.—Except as provided in s. 379.353, no person shall take game, freshwater or saltwater fish, or fur-bearing animals within this state without having first obtained a license, permit, or authorization number and paid the fees set forth in this chapter. Such license, permit, or authorization number shall authorize the person to whom it is issued to take game, freshwater or saltwater fish, or fur-bearing animals, and participate in outdoor recreational activities in accordance with the laws of the state and rules of the commission.
(2) NONTRANSFERABILITY; INFORMATION AND DOCUMENTATION.—
(a) Licenses, permits, and authorization numbers issued under this part are not transferable. Each license and permit must bear on its face in indelible ink the name of the person to whom it is issued and other information as deemed necessary by the commission. Licenses issued to the owner, operator, or custodian of a vessel that directly or indirectly collects fees for taking or attempting to take or possess saltwater fish for noncommercial purposes must include the vessel registration number or federal documentation number.
(b) The lifetime licenses and 5-year licenses authorized in this section shall be embossed with the name, date of birth, date of issuance, and other pertinent information as deemed necessary by the commission. A certified copy of the applicant's birth certificate shall accompany each application for a lifetime license for a resident 12 years of age or younger.
(c) A positive form of identification is required when using a free license, a lifetime license, a 5-year license, or an authorization number issued under this chapter, or when otherwise required by a license or permit.
(3) PERSONAL POSSESSION REQUIRED.—Each recreational license, state-issued identification card or driver license indicating possession of a recreational license, permit, or authorization number must be in the personal possession of the person to whom it is issued while the ~~such~~ person is taking, attempting to take, or possessing game, freshwater or saltwater fish, or fur-bearing animals. Any person taking, attempting to take, or possessing game, freshwater or saltwater fish, or fur-bearing

animals who fails to produce a recreational license, state-issued identification card or driver license indicating possession of a recreational license, permit, or authorization number at the request of a commission law enforcement officer commits a violation of the law.
(4) RESIDENT HUNTING AND FISHING LICENSES.—The licenses and fees for residents participating in hunting and fishing activities in this state are as follows:
(a) Annual freshwater fishing license, $15.50.
(b) Annual saltwater fishing license, $15.50.
(c) Annual hunting license to take game, $15.50.
(d) Annual combination hunting and freshwater fishing license, $31.
(e) Annual combination freshwater fishing and saltwater fishing license, $31.
(f) Annual combination hunting, freshwater fishing, and saltwater fishing license, $46.50.
(g) Annual license to take fur-bearing animals, $25. However, a resident with a valid hunting license or a no-cost license who is taking fur-bearing animals for noncommercial purposes using guns or dogs only, and not traps or other devices, is not required to purchase this license. Also, a resident 65 years of age or older is not required to purchase this license.
(h) Annual sportsman's license, $79, except that an annual sportsman's license for a resident 64 years of age or older is $12. A sportsman's license authorizes the person to whom it is issued to take game and freshwater fish, subject to the state and federal laws, rules, and regulations, including rules of the commission, in effect at the time of the taking. Other authorized activities include activities authorized by a management area permit, a muzzle-loading gun season permit, a crossbow season permit, a turkey permit, a Florida waterfowl permit, a deer permit, and an archery season permit.
(i) Annual gold sportsman's license, $98.50. The gold sportsman's license authorizes the person to whom it is issued to take freshwater fish, saltwater fish, and game, subject to the state and federal laws, rules, and regulations, including rules of the commission, in effect at the time of taking. Other authorized activities include activities authorized by a management area permit, a muzzle-loading gun season permit, a crossbow season permit, a turkey permit, a Florida waterfowl permit, a deer permit, an archery season permit, a snook permit, and a spiny lobster permit.
(j) Annual military gold sportsman's license, $18.50. A resident who is an active or retired member of the United States Armed Forces, the United States Armed Forces Reserve, the National Guard, the United States Coast Guard, or the United States Coast Guard Reserve may purchase the military gold sportsman's license upon submission of a current military identification card. The annual military gold sportsman's license authorizes the same activities as the annual gold sportsman's license.
[1](k) An annual resident shoreline fishing license shall be issued without a fee to allow any resident to saltwater fish from land or from a structure fixed to the land. This license is not required for any resident issued any other license identified in this section which allows the taking of saltwater fish.
(5) NONRESIDENT HUNTING AND FISHING LICENSES.—The licenses and fees for nonresidents participating in hunting and fishing activities in the state are as follows:
(a) Freshwater fishing license to take freshwater fish for 3 consecutive days, $15.50.
(b) Freshwater fishing license to take freshwater fish for 7 consecutive days, $28.50.
(c) Saltwater fishing license to take saltwater fish for 3 consecutive days, $15.50.

(d) Saltwater fishing license to take saltwater fish for 7 consecutive days, $28.50.
(e) Annual freshwater fishing license, $45.50.
(f) Annual saltwater fishing license, $45.50.
(g) Hunting license to take game for 10 consecutive days, $45.
(h) Annual hunting license to take game, $150.
(i) Annual license to take fur-bearing animals, $25. However, a nonresident with a valid Florida hunting license who is taking fur-bearing animals for noncommercial purposes using guns or dogs only, and not traps or other devices, is not required to purchase this license.
(6) PIER LICENSE.—A pier license for any pier fixed to land for the purpose of taking or attempting to take saltwater fish is $500 per year. The pier license may be purchased at the option of the owner, operator, or custodian of such pier and must be available for inspection at all times.
(7) VESSEL LICENSES.—
(a) Except as provided in paragraph (f), a person may not operate any vessel wherein a fee is paid, either directly or indirectly, for the purpose of taking, attempting to take, or possessing any saltwater fish for noncommercial purposes unless she or he has obtained a license for each vessel for that purpose, and has paid the license fee pursuant to paragraphs (b) and (c) for such vessel.
(b) A license for any person who operates any vessel licensed to carry more than 10 customers, wherein a fee is paid, either directly or indirectly, for the purpose of taking or attempting to take saltwater fish, is $800 per year. The license must be kept aboard the vessel at all times.
(c)1. A license for any person who operates any vessel licensed to carry no more than 10 customers, or for any person licensed to operate any vessel carrying 6 or fewer customers, wherein a fee is paid, either directly or indirectly, for the purpose of taking or attempting to take saltwater fish, is $400 per year.
2. A license for any person licensed to operate any vessel carrying 6 or fewer customers but who operates a vessel carrying 4 or fewer customers, wherein a fee is paid, either directly or indirectly, for the purpose of taking or attempting to take saltwater fish, is $200 per year. The license must be kept aboard the vessel at all times.
3. A person who operates a vessel required to be licensed pursuant to paragraph (b) or this paragraph may obtain a license in her or his own name, and such license shall be transferable and apply to any vessel operated by the purchaser, provided that the purchaser has paid the appropriate license fee.
(d) A license for a recreational vessel not for hire and for which no fee is paid, either directly or indirectly, by guests for the purpose of taking or attempting to take saltwater fish noncommercially is $2,000 per year. The license may be purchased at the option of the vessel owner and must be kept aboard the vessel at all times. A log of species taken and the date the species were taken shall be maintained and a copy of the log filed with the commission at the time of renewal of the license.
(e) The owner, operator, or custodian of a vessel the operator of which has been licensed pursuant to paragraph (a) must maintain and report such statistical data as required by, and in a manner set forth in, the rules of the commission.
(f) If the operator of a vessel that carries scuba divers for a fee, either directly or indirectly, maintains the appropriate vessel license under this subsection based upon

the number of persons the vessel is licensed to carry and the applicable permits, the individual scuba divers engaging in taking or attempting to take saltwater products are not required to obtain individual fishing licenses or any applicable permits. However, if the operator of such a vessel does not have the appropriate license and applicable permits, the individual scuba divers engaging in taking or attempting to take saltwater products must have individual fishing licenses and any applicable permits.
(8) SPECIFIED HUNTING, FISHING, AND RECREATIONAL ACTIVITY PERMITS.—In order to ensure that the cultural heritage of hunting and sport fishing as recognized in s. 379.104 is passed on to future Floridians, the commission shall use up to 10 percent of the proceeds from the hunting and sport fishing permits issued pursuant to this subsection to promote hunting and sport fishing activities with an emphasis on youth participation. In addition to any license required under this chapter, the following permits and fees for specified hunting, fishing, and other recreational uses and activities are required:
(a) An annual Florida waterfowl permit for a resident or nonresident to take wild ducks or geese within the state or its coastal waters is $5. Revenue generated from the sale of waterfowl permits or that pro rata portion of any license that includes waterfowl hunting privileges provided for in this paragraph shall be used for conservation, research, and management of waterfowl; for the development, restoration, maintenance, and preservation of wetlands within the state; or to promote the cultural heritage of hunting.
(b)1. An annual Florida turkey permit for a resident to take wild turkeys within the state is $10. Revenue generated from the sale of resident wild turkey permits or that pro rata portion of any license that includes turkey hunting privileges provided for in this subparagraph shall be used for the conservation, research, and management of wild turkeys or to promote the cultural heritage of hunting.
2. An annual Florida turkey permit for a nonresident to take wild turkeys within the state is $125. Revenue generated from the sale of nonresident wild turkey permits or that pro rata portion of any license that includes turkey hunting privileges provided for in this subparagraph shall be used for the conservation, research, and management of wild turkeys or to promote the cultural heritage of hunting.
(c) An annual snook permit for a resident or nonresident to take or possess any snook from any waters of the state is $10. Revenue generated from the sale of snook permits shall be used exclusively for programs to benefit the snook population.
(d) An annual spiny lobster permit for a resident or nonresident to take or possess any spiny lobster for recreational purposes from any waters of the state is $5. Revenue generated from the sale of spiny lobster permits shall be used exclusively for programs to benefit the spiny lobster population.
(e) A $5 fee is imposed for each of the following permits:
1. An annual archery season permit for a resident or nonresident to hunt within the state during any archery season authorized by the commission.
2. An annual crossbow season permit for a resident or nonresident to hunt within the state during any crossbow season authorized by the commission.
3. An annual muzzle-loading gun season permit for a resident or nonresident to hunt within the state during any muzzle-loading gun season authorized by the commission.
(f) A special use permit for a resident or nonresident to participate in limited entry hunting or fishing activities as authorized by commission rule shall not exceed $150 per

day or $300 per week. Notwithstanding any other provision of this chapter, there are no exclusions, exceptions, or exemptions from this permit fee. In addition to the permit fee, the commission may charge each special use permit applicant a nonrefundable application fee not to exceed $10.
(g)1. A management area permit for a resident or nonresident to hunt on, fish on, or otherwise use for outdoor recreational purposes land owned, leased, or managed by the commission, or by the state for the use and benefit of the commission, shall not exceed $30 per year.
2. Permit fees for short-term use of land that is owned, leased, or managed by the commission may be established by rule of the commission for activities on such lands. Such permits may be in lieu of, or in addition to, the annual management area permit authorized in subparagraphs 1. and 4.
3. Other than for hunting or fishing, the provisions of this paragraph shall not apply on any lands not owned by the commission, unless the commission has obtained the written consent of the owner or primary custodian of such lands.
4. A management area permit for a resident or nonresident to hike, camp, or otherwise engage in other outdoor recreational activities, except hunting or fishing, on management area lands shall not exceed $5 per day or $30 per year.
(h)1. A recreational user permit is required to hunt on, fish on, or otherwise use for outdoor recreational purposes land leased by the commission from private nongovernmental owners. The fee for a recreational user permit shall be based upon the economic compensation desired by the landowner, game population levels, desired hunter density, and administrative costs. The permit fee shall be set by commission rule on a per-acre basis. The recreational user permit fee, less administrative costs of up to $30 per permit, shall be remitted to the landowner as provided in the lease agreement for each area.
2. One minor dependent under 16 years of age may hunt under the supervision of the permittee and is exempt from the recreational user permit requirements. The spouse and dependent children of a permittee are exempt from the recreational user permit requirements when engaged in outdoor recreational activities other than hunting and when accompanied by a permittee. Notwithstanding any other provision of this chapter, no other exclusions, exceptions, or exemptions from the recreational user permit fee are authorized.
(i) An annual deer permit for a resident or nonresident to take deer within the state during any season authorized by the commission is $5. Revenue generated from the sale of deer permits shall be used for the conservation, research, and management of white-tailed deer or to promote the cultural heritage of hunting.
The commission shall prepare an annual report documenting the use of funds generated pursuant to paragraphs (a) and (b) and shall submit the report to the Governor, the Speaker of the House of Representatives, and the President of the Senate no later than September 1 of each year.
(9) RESIDENT 5-YEAR HUNTING AND FISHING LICENSES.—
(a) Five-year licenses are available for residents only, as follows:
1. A 5-year freshwater fishing or saltwater fishing license is $77.50 for each type of license and authorizes the person to whom the license is issued to take or attempt to

take or possess freshwater fish or saltwater fish consistent with the state and federal laws and regulations and rules of the commission in effect at the time of taking.
2. A 5-year hunting license is $77.50 and authorizes the person to whom it is issued to take or attempt to take or possess game consistent with the state and federal laws and regulations and rules of the commission in effect at the time of taking.
3. The commission is authorized to sell the hunting, fishing, and recreational activity permits authorized in subsection (8) for a 5-year period to match the purchase of 5-year fishing and hunting licenses. The fee for each permit issued under this paragraph shall be five times the annual cost established in subsection (8).
(b) Proceeds from the sale of all 5-year licenses and permits shall be deposited into the Dedicated License Trust Fund, to be distributed in accordance with the provisions of s. 379.203.
(10) RESIDENT LIFETIME FRESHWATER OR SALTWATER FISHING LICENSES.—
(a) Lifetime freshwater fishing licenses or saltwater fishing licenses are available for residents only, as follows, for:
1. Persons 4 years of age or younger, for a fee of $125.
2. Persons 5 years of age or older, but under 13 years of age, for a fee of $225.
3. Persons 13 years of age or older, for a fee of $300.
(b) The following activities are authorized by the purchase of a lifetime freshwater fishing license:
1. Taking, or attempting to take or possess, freshwater fish consistent with the state and federal laws and regulations and rules of the commission in effect at the time of the taking.
2. All activities authorized by a management area permit, excluding hunting.
(c) The following activities are authorized by the purchase of a lifetime saltwater fishing license:
1. Taking, or attempting to take or possess, saltwater fish consistent with the state and federal laws and regulations and rules of the commission in effect at the time of the taking.
2. All activities authorized by a snook permit and a spiny lobster permit.
3. All activities for which an additional license, permit, or fee is required to take or attempt to take or possess saltwater fish, which additional license, permit, or fee was imposed subsequent to the date of the purchase of the lifetime saltwater fishing license.
(11) RESIDENT LIFETIME HUNTING LICENSES.—
(a) Lifetime hunting licenses are available to residents only, as follows, for:
1. Persons 4 years of age or younger, for a fee of $200.
2. Persons 5 years of age or older, but under 13 years of age, for a fee of $350.
3. Persons 13 years of age or older, for a fee of $500.
(b) The following activities are authorized by the purchase of a lifetime hunting license:
1. Taking, or attempting to take or possess, game consistent with the state and federal laws and regulations and rules of the commission in effect at the time of the taking.
2. All activities authorized by a muzzle-loading gun season permit, a crossbow season permit, a turkey permit, an archery season permit, a Florida waterfowl permit, a deer permit, and a management area permit, excluding fishing.
(12) RESIDENT LIFETIME SPORTSMAN’S LICENSES.—
(a) Lifetime sportsman’s licenses are available to residents only, as follows, for:

1. Persons 4 years of age or younger, for a fee of $400.
2. Persons 5 years of age or older, but under 13 years of age, for a fee of $700.
3. Persons 13 years of age or older, for a fee of $1,000.
(b) The following activities are authorized by the purchase of a lifetime sportsman's license:
1. Taking, or attempting to take or possess, freshwater and saltwater fish, and game, consistent with the state and federal laws and regulations and rules of the commission in effect at the time of taking.
2. All activities authorized by a management area permit, a muzzle-loading gun season permit, a crossbow season permit, a turkey permit, an archery season permit, a Florida waterfowl permit, a deer permit, a snook permit, and a spiny lobster permit.
(13) PROCEEDS FROM THE SALE OF LIFETIME LICENSES.—The proceeds from the sale of all lifetime licenses authorized in this section shall be deposited into the Lifetime Fish and Wildlife Trust Fund, to be distributed as provided in s. 379.207.
(14) RECIPROCAL FEE AGREEMENTS.—The commission is authorized to reduce the fees for licenses and permits under this section for residents of those states with which the commission has entered into reciprocal agreements with respect to such fees.
(15) FREE FISHING DAYS.—The commission may designate by rule no more than 4 consecutive or nonconsecutive days in each year as free freshwater fishing days and no more than 4 consecutive or nonconsecutive days in each year as free saltwater fishing days. Notwithstanding any other provision of this chapter, any person may take freshwater fish for noncommercial purposes on a free freshwater fishing day and may take saltwater fish for noncommercial purposes on a free saltwater fishing day, without obtaining or possessing a license or permit or paying a license or permit fee as prescribed in this section. A person who takes freshwater or saltwater fish on a free fishing day must comply with all laws, rules, and regulations governing the holders of a fishing license or permit and all other conditions and limitations regulating the taking of freshwater or saltwater fish as are imposed by law or rule.
(16) PROHIBITED LICENSES OR PERMITS.—A person may not make, forge, counterfeit, or reproduce a license or permit required under this section, except for those persons authorized by the commission to make or reproduce such a license or permit. A person may not knowingly possess a forgery, counterfeit, or unauthorized reproduction of such a license or permit. A person who violates this subsection commits a Level Four violation under s. 379.401.
(17) SUSPENDED OR REVOKED LICENSES.—A person may not take game, freshwater fish, saltwater fish, or fur-bearing animals within this state if a license issued to such person as required under this section or a privilege granted to such person under s. 379.353 is suspended or revoked. A person who violates this subsection commits a Level Three violation under s. 379.401.
(18) VIOLATION OF SECTION.—Unless otherwise provided by law, a person who violates this section commits a Level One violation under s. 379.401.
History.—ss. 15, 19-21, ch. 13644, 1929; s. 1, ch. 17015, 1935; s. 1, ch. 17018, 1935; CGL 1936 Supp. 1977(15); s. 1, ch. 19509, 1939; s. 1, ch. 20886, 1941; s. 1, ch. 23087, 1945; s. 1, ch. 26943, 1951; s. 1, ch. 26944, 1951; s. 1, ch. 29672, 1955; s. 1, ch. 57-185; s. 2, ch. 59-73; s. 1, ch. 61-366; s. 1, ch. 61-392; s. 2, ch. 63-30; s. 1, ch. 65-373; s. 1, ch. 69-40; s. 1, ch. 70-26; s. 1, ch. 71-142; s. 103, ch. 73-333; s. 1, ch. 76-67; ss. 1, 2, ch. 76-156; ss. 1, 2, ch. 77-405; s. 1, ch. 78-6; s. 1, ch. 78-163; ss. 1, 2, ch. 79-107; s. 83, ch. 79-164; s. 143, ch. 79-400; s. 1,

ch. 80-180; s. 1, ch. 81-240; s. 1, ch. 82-188; s. 7, ch. 83-71; s. 30, ch. 83-218; s. 3, ch. 85-235; s. 8, ch. 85-324; s. 7, ch. 86-158; ss. 1, 3, ch. 87-261; s. 16, ch. 87-356; s. 1, ch. 87-540; s. 45, ch. 89-175; s. 11, ch. 89-270; s. 12, ch. 90-243; s. 2, ch. 91-58; s. 4, ch. 91-78; s. 17, ch. 93-268; s. 245, ch. 94-356; s. 1002, ch. 95-148; s. 2, ch. 96-265; s. 13, ch. 96-300; s. 3, ch. 97-217; s. 2, ch. 98-333; s. 14, ch. 98-336; s. 16, ch. 98-397; s. 65, ch. 99-8; s. 161, ch. 99-13; s. 134, ch. 99-245; s. 21, ch. 99-292; s. 14, ch. 99-353; s. 37, ch. 2000-362; s. 8, ch. 2001-272; s. 16, ch. 2002-46; s. 5, ch. 2003-151; s. 1, ch. 2005-45; s. 15, ch. 2006-304; s. 17, ch. 2007-223; s. 5, ch. 2008-106; s. 139, ch. 2008-247; s. 4, ch. 2009-65; s. 36, ch. 2009-86; s. 3, ch. 2010-146; s. 4, ch. 2012-95; s. 2, ch. 2013-56; s. 5, ch. 2013-194; s. 8, ch. 2014-136; s. 4, ch. 2016-4; s. 12, ch. 2016-107.

[1]Note.—Section 51, ch. 2009-86, provides that "[b]eginning in the 2009-2010 fiscal year and continuing each fiscal year thereafter, the sum of $185,000 is appropriated from the State Game Trust Fund to the Fish and Wildlife Conservation Commission for the costs associated with the shoreline fishing license exemption pursuant to s. 379.354(4)(k), Florida Statutes." The amendment to s. 379.354 by s. 36, ch. 2009-86, did not, in its final form, create s. 379.354(4)(k) relating to a license exemption for shoreline fishing. However, s. 4, ch. 2009-65, did create s. 379.354(4)(k) and does contain language that may relate to this subject.

Note.—Former s. 372.57.

379.357 Fish and Wildlife Conservation Commission license program for tarpon; fees; penalties.—

(1) The commission shall establish a license program for the purpose of issuing tags to individuals desiring to harvest fish of the species Megalops atlanticus, commonly known as tarpon, from the waters of the state. The tags shall be nontransferable, except that the commission may allow for a limited number of tags to be purchased by professional fishing guides for transfer to individuals, and issued by the commission in order of receipt of a properly completed application for a nonrefundable fee of $50 per tag. The commission and any tax collector may sell the tags and collect the fees therefor. Tarpon tags are valid from January 1 through December 31. To defray the cost of issuing any tag, the issuing tax collector shall collect and retain as his or her costs, in addition to the tag fee collected, the amount allowed under s. 379.352(6) for the issuance of licenses.

(2) Proceeds from the sale of tarpon tags shall be deposited in the Marine Resources Conservation Trust Fund and shall be used to gather information directly applicable to tarpon management.

(3) A person ~~An individual~~ may not take, kill, or possess any fish of the species Megalops atlanticus, commonly known as tarpon, unless the person ~~individual~~ has purchased a tarpon tag and securely attached it through the lower jaw of the fish.

~~(4) Any individual including a taxidermist who possesses a tarpon which does not have a tag securely attached as required by this section commits a Level Two violation under s. 379.401. Provided, however,~~ A taxidermist may remove the tag during the process of mounting a tarpon. The removed tag shall remain with the fish during any subsequent storage or shipment. The purchase of a tarpon tag does not authorize the purchaser to harvest or possess tarpon in violation of commission rules. A person who violates this subsection commits a Level Two violation under s. 379.401.

(4)~~(5)~~ A person ~~Purchase of a tarpon tag shall not accord the purchaser any right to harvest or possess tarpon in contravention of rules adopted by the commission. No individual~~ may not sell, offer for sale, barter, exchange for merchandise, transport for sale, either within or without the state, offer to purchase, or purchase any species of fish

known as tarpon. A person who violates this subsection commits a Level Three violation under s. 379.401.
(5)~~(6)~~ The commission shall prescribe and provide suitable forms and tags necessary to carry out the provisions of this section.
(6)~~(7)~~ ~~The provisions of~~ This section does ~~shall~~ not apply to anyone who immediately returns a tarpon uninjured to the water at the place where the fish was caught.
History.—s. 1, ch. 88-170; s. 215, ch. 94-356; s. 986, ch. 95-148; s. 7, ch. 96-300; s. 28, ch. 96-321; s. 4, ch. 98-227; s. 100, ch. 99-245; s. 19, ch. 2002-46; s. 16, ch. 2006-304; s. 142, ch. 2008-247; s. 6, ch. 2015-161; s. 13, ch. 2016-107.
Note.—Former s. 370.062; s. 372.5704.

379.363 Freshwater fish dealer's license.—
(1) No person shall engage in the business of taking for sale or selling any frogs or freshwater fish, including live bait, of any species or size, or importing any exotic or nonnative fish, until such person has obtained a license and paid the fee therefor as set forth herein. The license issued shall be in the possession of the person to whom issued while such person is engaging in the business of taking for sale or selling freshwater fish or frogs, is not transferable, shall bear on its face in indelible ink the name of the person to whom it is issued, and shall be affixed to a license identification card issued by the commission. Such license is not valid unless it bears the name of the person to whom it is issued and is so affixed. The failure of such person to exhibit such license to the commission or any of its wildlife officers when such person is found engaging in such business is a violation of law. The license fees and activities permitted under particular licenses are as follows:
(a) The fee for a resident commercial fishing license, which permits a resident to take freshwater fish or frogs by any lawful method prescribed by the commission and to sell such fish or frogs, shall be $25. The license provided for in this paragraph shall also allow noncommercial fishing as provided by law and commission rules, and the license in s. 379.354(4)(a) shall not be required.
(b) The fee for a resident freshwater fish dealer's license, which permits a resident to import, export, or sell freshwater fish or frogs, including live bait, shall be $40.
(c) The fee for a nonresident commercial fishing license, which permits a nonresident to take freshwater fish or frogs as provided in paragraph (a), shall be $100.
(d) The fee for a nonresident retail fish dealer's license, which permits a nonresident to sell freshwater fish or frogs to a consumer, shall be $100.
(e) The fee for a nonresident wholesale fish dealer's license, which permits a nonresident to sell freshwater fish or frogs within the state, and to buy freshwater fish or frogs for resale, shall be $500.
(f) The fee for a nonresident wholesale fish buyer's license, which permits a nonresident who does not sell freshwater fish or frogs in Florida to buy freshwater fish or frogs from resident fish dealers for resale outside the state, shall be $50.
(g) Any individual or business issued an aquaculture certificate, pursuant to s. 597.004, shall be exempt from the requirements of this part with respect to aquaculture products authorized under such certificate.
(2) Each boat engaged in commercial fishing shall have at least one licensed commercial fisher on board.

(3) It shall be unlawful for any resident freshwater fish dealer, or any nonresident wholesale or nonresident retail fish dealer, or any nonresident wholesale fish buyer to buy freshwater fish or frogs from any unlicensed person.
(4) A person who violates this section commits a Level Two violation under s. 379.401.
History.—s. 31, ch. 13644, 1929; CGL 1936 Supp. 1977(31); s. 2, ch. 61-119; ss. 1, 2, ch. 78-189; s. 14, ch. 85-235; s. 12, ch. 85-324; ss. 4, 5, ch. 86-158; s. 2, ch. 90-92; s. 580, ch. 95-148; s. 15, ch. 96-247; s. 16, ch. 98-333; s. 8, ch. 99-390; s. 27, ch. 2002-46; s. 148, ch. 2008-247; s. 13, ch. 2010-185; s. 10, ch. 2014-136; s. 15, ch. 2016-107.
Note.—Former s. 372.65.

379.364 License required for fur and hide dealers.—
(1) A person may not engage in the business of a dealer or buyer in green or dried alligator hides or green or dried furs in the state or purchase such hides or furs within the state until the person has been licensed as provided in this section.
(2) A person who solicits business through the mail, or by advertising, or who travels to buy or employs or has other agents or buyers, shall be deemed a dealer.
(3) A resident dealer must pay a license fee of $100 per annum.
(4) A nonresident dealer must pay a license fee of $500 per annum.
(5) A person who violates this section commits a Level Two violation under s. 379.401.
History.—s. 61, ch. 13644, 1929; CGL 1936 Supp. 1977(61); s. 581, ch. 95-148; s. 141, ch. 99-245; s. 39, ch. 2000-362; s. 150, ch. 2008-247; s. 8, ch. 2015-161; s. 16, ch. 2016-107.
Note.—Former s. 372.66.

379.365 Stone crab; regulation.—
(1) FEES AND EQUITABLE RENT.—
(a) Endorsement fee.—The fee for a stone crab endorsement for the taking of stone crabs, as required by rule of the Fish and Wildlife Conservation Commission, is $125, $25 of which must be used solely for trap retrieval under s. 379.2424.
(b) Certificate fees.—
1. For each trap certificate issued by the commission under the requirements of the stone crab trap limitation program established by commission rule, there is an annual fee of 50 cents per certificate. Replacement tags for lost or damaged tags cost 50 cents each plus the cost of shipping. In the event of a major natural disaster, such as a hurricane or major storm, that causes massive trap losses within an area declared by the Governor to be a disaster emergency area, the commission may temporarily defer or waive replacement tag fees.
2. The fee for transferring trap certificates is $1 per certificate transferred, except that the fee for eligible crew members is 50 cents per certificate transferred. Eligible crew members shall be determined according to criteria established by rule of the commission. Payment must be made by money order or cashier’s check, submitted with the certificate transfer form developed by the commission.
3. In addition to the transfer fee, a surcharge of $1 per certificate transferred, or 25 percent of the actual value of the transferred certificate, whichever is greater, will be assessed the first time a certificate is transferred outside the original holder’s immediate family.
4. Transfer fees and surcharges only apply to the actual number of certificates received by the purchaser. A transfer of a certificate is not effective until the commission receives

a notarized copy of the bill of sale as proof of the actual value of the transferred certificate or certificates, which must also be submitted with the transfer form and payment.
5. A transfer fee will not be assessed or required when the transfer is within a family as a result of the death or disability of the certificate owner. A surcharge will not be assessed for any transfer within an individual's immediate family.
(c) Incidental take endorsement.—The cost of an incidental take endorsement, as established by commission rule, is $25.
(d) Equitable rent.—The commission may establish by rule an amount of equitable rent per trap certificate that may be recovered as partial compensation to the state for the enhanced access to its natural resources. In determining whether to establish such a rent and the amount thereof, the commission may consider the amount of revenues annually generated by endorsement fees, trap certificate fees, transfer fees, surcharges, replacement trap tag fees, trap retrieval fees, incidental take endorsement fees, and the continued economic viability of the commercial stone crab industry. A rule establishing an amount of equitable rent shall become effective only after approval by the Legislature.
(e) Disposition of fees, surcharges, civil penalties and fines, and equitable rent.—Endorsement fees, trap certificate fees, transfer fees, civil penalties and fines, surcharges, replacement trap tag fees, trap retrieval fees, incidental take endorsement fees, and equitable rent, if any, must be deposited in the Marine Resources Conservation Trust Fund. Up to 50 percent of the revenues generated under this section may be used for operation and administration of the stone crab trap limitation program. All remaining revenues so generated must be used for trap retrieval, management of the stone crab fishery, public education activities, evaluation of the impact of trap reductions on the stone crab fishery, and enforcement activities in support of the stone crab trap limitation program.
(f) Program to be self-supporting.—The stone crab trap limitation program is intended to be a self-supporting program funded from proceeds generated under this section.
(g) No vested rights.—The stone crab trap limitation program does not create any vested rights for endorsement or certificateholders and may be altered or terminated by the commission as necessary to protect the stone crab resource, the participants in the fishery, or the public interest.
(2) PENALTIES.—For purposes of this subsection, conviction is any disposition other than acquittal or dismissal, regardless of whether the violation was adjudicated under any state or federal law.
(a) It is unlawful to violate commission rules regulating stone crab trap certificates and trap tags. A ~~No~~ person may not use an expired tag or a stone crab trap tag not issued by the commission or possess or use a stone crab trap in or on state waters or adjacent federal waters without having a trap tag required by the commission firmly attached thereto.
~~1.~~ In addition to any other penalties provided in s. 379.407, for a ~~any~~ commercial harvester who violates this paragraph, the following administrative penalties apply:~~.~~
1.~~a.~~ For a first violation, the commission shall assess an additional administrative penalty of up to $1,000.

2.b. For a second violation that occurs within 24 months after of any previous such violation, the commission shall assess an additional administrative penalty of up to $2,000, and the stone crab endorsement under which the violation was committed may be suspended for 12 calendar months.
3.c. For a third violation that occurs within 36 months after of any two previous two such violations, the commission shall assess an additional administrative penalty of up to $5,000, and the stone crab endorsement under which the violation was committed may be suspended for 24 calendar months.
4.d. A fourth violation that occurs within 48 months after of any three previous such violations shall result in permanent revocation of all of the violator's saltwater fishing privileges, including having the commission proceed against the endorsement holder's saltwater products license in accordance with s. 379.407.
2. Any other person who violates the provisions of this paragraph commits a Level Two violation under s. 379.401.
A Any commercial harvester assessed an administrative penalty under this paragraph shall, within 30 calendar days after notification, pay the administrative penalty to the commission, or request an administrative hearing under ss. 120.569 and 120.57. The proceeds of all administrative penalties collected under this paragraph shall be deposited in the Marine Resources Conservation Trust Fund.
(b) It is unlawful for any commercial harvester to remove the contents of another harvester's stone crab trap or take possession of such without the express written consent of the trap owner available for immediate inspection. Unauthorized possession of another's trap gear or removal of trap contents constitutes theft.
1. Any commercial harvester convicted of theft of or from a trap pursuant to this subsection or s. 379.402 shall, in addition to the penalties specified in s. 379.407 and the provisions of this section, permanently lose all saltwater fishing privileges, including saltwater products licenses, stone crab or incidental take endorsements, and all trap certificates allotted to such commercial harvester by the commission. In such cases, trap certificates and endorsements are nontransferable.
2. In addition, any commercial harvester convicted of violating the prohibitions referenced in this paragraph shall also be assessed an administrative penalty of up to $5,000. Immediately upon receiving a citation for a violation involving theft of or from a trap and until adjudicated for such a violation, or, upon receipt of a judicial disposition other than dismissal or acquittal on such a violation, the violator is prohibited from transferring any stone crab or spiny lobster certificates.
3. Any other person who violates the provisions of this paragraph commits a Level Two violation under s. 379.401.
(c)1. It is unlawful to violate commission rules that prohibit any of the following:
a. The willful molestation of any stone crab trap, line, or buoy that is the property of any licenseholder, without the permission of that licenseholder.
b. The bartering, trading, or sale, or conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply, aiding in supplying, or giving away stone crab trap tags or certificates unless the action is duly authorized by the commission as provided by commission rules.
c. The making, altering, forging, counterfeiting, or reproducing of stone crab trap tags.
d. Possession of forged, counterfeit, or imitation stone crab trap tags.

e. Engaging in the commercial harvest of stone crabs during the time either of the endorsements is under suspension or revocation.
2. Any commercial harvester who violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
3. Any other person who violates this paragraph commits a Level Four violation under s. 379.401.
In addition, any commercial harvester convicted of violating this paragraph shall also be assessed an administrative penalty of up to $5,000, and the incidental take endorsement and/or the stone crab endorsement under which the violation was committed may be suspended for up to 24 calendar months. Immediately upon receiving a citation involving a violation of this paragraph and until adjudicated for such a violation, or if convicted of such a violation, the person, firm, or corporation committing the violation is prohibited from transferring any stone crab certificates or endorsements.
(d) For any commercial harvester convicted of fraudulently reporting the actual value of transferred stone crab certificates, the commission may automatically suspend or permanently revoke the seller's or the purchaser's stone crab endorsements. If the endorsement is permanently revoked, the commission shall also permanently deactivate the endorsement holder's stone crab certificate accounts. Whether an endorsement is suspended or revoked, the commission may also levy a fine against the holder of the endorsement of up to twice the appropriate surcharge to be paid based on the fair market value of the transferred certificates.
(e) During any period of suspension or revocation of an endorsement holder's endorsement, he or she shall remove all traps subject to that endorsement from the water within 15 days after notice provided by the commission. Failure to do so will extend the period of suspension or revocation for an additional 6 calendar months.
(f) An endorsement will not be renewed until all fees and administrative penalties imposed under this section are paid.
(3) DEPREDATION PERMITS.—The Fish and Wildlife Conservation Commission shall issue a depredation permit upon request to any marine aquaculture producer, as defined in s. 379.2523, engaged in the culture of shellfish, which shall entitle the aquaculture producer to possess and use up to 75 stone crab traps and up to 75 blue crab traps for the sole purpose of taking destructive or nuisance stone crabs or blue crabs within 1 mile of the producer's aquaculture shellfish beds. Stone crabs or blue crabs taken under this subsection may not be sold, bartered, exchanged, or offered for sale, barter, or exchange.
History.—s. 2, ch. 28145, 1953; s. 1, ch. 61-482; s. 1, ch. 63-3; s. 290, ch. 71-136; s. 1, ch. 71-335; s. 1, ch. 73-28; ss. 1, 2, ch. 74-141; s. 1, ch. 76-26; s. 1, ch. 77-142; s. 1, ch. 77-207; s. 1, ch. 80-299; s. 6, ch. 83-134; s. 2, ch. 84-121; ss. 11, 17, ch. 85-234; s. 5, ch. 86-219; ss. 1, 9, 19, ch. 86-240; ss. 4, 12, ch. 89-98; s. 227, ch. 94-356; s. 992, ch. 95-148; s. 36, ch. 95-196; s. 10, ch. 95-414; s. 9, ch. 98-203; s. 18, ch. 98-227; s. 106, ch. 99-245; s. 3, ch. 2000-153; ss. 11, 38, ch. 2000-364; s. 2, ch. 2001-272; s. 10, ch. 2003-143; s. 3, ch. 2005-158; s. 22, ch. 2006-26; s. 10, ch. 2006-304; s. 8, ch. 2007-223; s. 9, ch. 2008-5; s. 151, ch. 2008-247; s. 17, ch. 2016-107; s. 1, ch. 2016-208.
Note.—Former s. 370.13.

379.3671 Spiny lobster trap certificate program.—
(1) INTENT.—Due to rapid growth, the spiny lobster fishery is experiencing increased congestion and conflict on the water, excessive mortality of undersized lobsters, a declining yield per trap, and public concern over petroleum and debris pollution from existing traps. In an effort to solve these and related problems, the Legislature intends to develop pursuant to the provisions of this section a spiny lobster trap certificate program, the principal goal of which is to stabilize the fishery by reducing the total number of traps, which should increase the yield per trap and therefore maintain or increase overall catch levels. The Legislature seeks to preserve as much flexibility in the program as possible for the fishery's various constituents and ensure that any reduction in total trap numbers will be proportioned equally on a percentage basis among all users of traps in the fishery.
(2) TRANSFERABLE TRAP CERTIFICATES; TRAP TAGS; FEES; PENALTIES.—The Fish and Wildlife Conservation Commission shall establish a trap certificate program for the spiny lobster fishery of this state and shall be responsible for its administration and enforcement as follows:
(a) Transferable trap certificates.—Each holder of a saltwater products license who uses traps for taking or attempting to take spiny lobsters shall be required to have a certificate on record for each trap possessed or used therefor, except as otherwise provided in this section.
1. Trap certificates are transferable on a market basis and may be transferred from one licenseholder to another for a fair market value agreed upon between the transferor and transferee. Each such transfer shall, within 72 hours thereof, be recorded on a notarized form provided for that purpose by the Fish and Wildlife Conservation Commission and hand delivered or sent by certified mail, return receipt requested, to the commission for recordkeeping purposes. In order to cover the added administrative costs of the program and to recover an equitable natural resource rent for the people of the state, a transfer fee of $2 per certificate transferred shall be assessed against the purchasing licenseholder and sent by money order or cashier's check with the certificate transfer form. Also, in addition to the transfer fee, a surcharge of $5 per certificate transferred or 25 percent of the actual market value, whichever is greater, given to the transferor shall be assessed the first time a certificate is transferred outside the original transferor's immediate family. No transfer of a certificate shall be effective until the commission receives the notarized transfer form and the transfer fee, including any surcharge, is paid. The commission may establish by rule an amount of equitable rent per trap certificate that shall be recovered as partial compensation to the state for the enhanced access to its natural resources. A rule establishing an amount of equitable rent shall become effective only after approval by the Legislature. In determining whether to establish such a rent and, if so, the amount thereof, the commission shall consider the amount of revenues annually generated by certificate fees, transfer fees, surcharges, trap license fees, and sales taxes, the demonstrated fair market value of transferred certificates, and the continued economic viability of the commercial lobster industry. All proceeds of equitable rent recovered shall be deposited in the Marine Resources Conservation Trust Fund and used by the commission for research, management, and protection of the spiny lobster fishery and habitat. A transfer fee may not be assessed or required when the transfer is within a family as a result of the death or disability of the

certificate owner. A surcharge will not be assessed for any transfer within an individual's immediate family.
2. No person, firm, corporation, or other business entity may control, directly or indirectly, more than 1.5 percent of the total available certificates in any license year.
3. The commission shall maintain records of all certificates and their transfers and shall annually provide each licenseholder with a statement of certificates held.
4. The number of trap tags issued annually to each licenseholder shall not exceed the number of certificates held by the licenseholder at the time of issuance, and such tags and a statement of certificates held shall be issued simultaneously.
5. It is unlawful for any person to lease spiny lobster trap tags or certificates.
(b) Trap tags.—Each trap used to take or attempt to take spiny lobsters in state waters or adjacent federal waters shall, in addition to the spiny lobster endorsement number required by s. 379.367(2), have affixed thereto an annual trap tag issued by the commission. Each such tag shall be made of durable plastic or similar material and shall, based on the number of certificates held, have stamped thereon the owner's license number. To facilitate enforcement and recordkeeping, such tags shall be issued each year in a color different from that of each of the previous 3 years. The annual certificate fee shall be $1 per certificate. Replacement tags for lost or damaged tags may be obtained as provided by rule of the commission. In the event of a major natural disaster, such as a hurricane or major storm, that causes massive trap losses within an area declared by the Governor to be a disaster emergency area, the commission may temporarily defer or waive replacement tag fees.
(c) Prohibitions; penalties.—
1. ~~It is unlawful for~~ A person may not ~~to~~ possess or use a spiny lobster trap in or on state waters or adjacent federal waters without having affixed thereto the trap tag required by this section. ~~It is unlawful for~~ A person may not ~~to~~ possess or use any other gear or device designed to attract and enclose or otherwise aid in the taking of spiny lobster by trapping that is not a trap as defined by commission rule.
2. ~~It is unlawful for~~ A person may not ~~to~~ possess or use spiny lobster trap tags without having the necessary number of certificates on record as required by this section.
3. A ~~It is unlawful for any~~ person may not ~~to~~ willfully molest, take possession of, or remove the contents of another harvester's spiny lobster trap without the express written consent of the trap owner available for immediate inspection. Unauthorized possession of another harvester's ~~another's~~ trap gear or removal of another harvester's trap contents constitutes theft.
a. A commercial harvester who violates this subparagraph shall be punished under ss. 379.367 and 379.407. A ~~Any~~ commercial harvester receiving a judicial disposition other than dismissal or acquittal on a charge of theft of or from a trap pursuant to this subparagraph or s. 379.402 shall, in addition to the penalties specified in ss. 379.367 and 379.407 and ~~the provisions of~~ this section, permanently lose all of his or her saltwater fishing privileges, including his or her saltwater products license, spiny lobster endorsement, and all trap certificates allotted to him or her through this program. In such cases, trap certificates and endorsements are nontransferable.
b. A ~~Any~~ commercial harvester receiving a judicial disposition other than dismissal or acquittal on a charge of willful molestation of a trap, in addition to the penalties specified

in ss. 379.367 and 379.407, shall lose all of his or her saltwater fishing privileges for a period of 24 ~~calendar~~ months.
c. In addition to any other penalties specified in this subparagraph, a ~~any~~ commercial harvester charged with violating this subparagraph and receiving a judicial disposition other than dismissal or acquittal for violating this subparagraph or s. 379.402 shall also be assessed an administrative penalty of up to $5,000.
Immediately upon receiving a citation for a violation involving theft of or from a trap, or molestation of a trap, and until adjudicated for such a violation or, upon receipt of a judicial disposition other than dismissal or acquittal of such a violation, the commercial harvester committing the violation is prohibited from transferring any of his or her spiny lobster trap certificates and endorsements.
4. In addition to any other penalties provided in s. 379.407, a commercial harvester who violates ~~the provisions of~~ this section or commission rules relating to spiny lobster traps shall be punished as follows:
a. If the first violation is for a violation of subparagraph 1. or subparagraph 2., the commission shall assess an additional administrative penalty of up to $1,000. For all other first violations, the commission shall assess an additional administrative penalty of up to $500.
b. For a second violation of subparagraph 1. or subparagraph 2. that ~~which~~ occurs within 24 months after ~~of~~ any previous such violation, the commission shall assess an additional administrative penalty of up to $2,000, and the spiny lobster endorsement issued under s. 379.367(2) or (6) may be suspended for 12 months ~~the remainder of the current license year~~.
c. For a third ~~or subsequent~~ violation of subparagraph 1. or~~,~~ subparagraph 2. that~~, or subparagraph 3. which occurs~~ within 36 months after ~~of~~ any two previous ~~two~~ such violations, the commission shall assess an additional administrative penalty of up to $5,000, and ~~may suspend~~ the spiny lobster endorsement issued under s. 379.367(2) or (6) may be suspended for ~~a period of up to~~ 24 months ~~or may revoke the spiny lobster endorsement and, if revoking the spiny lobster endorsement, may also proceed against the licenseholder's saltwater products license in accordance with the provisions of s. 379.407(2)(h)~~.
d. A fourth violation that occurs within 48 months after any three previous such violations shall result in permanent revocation of all of the violator's saltwater fishing privileges, including having the commission proceed against the endorsement holder's saltwater products license in accordance with s. 379.407.
e.~~d.~~ Within 30 days after notification, a ~~Any~~ person assessed an additional administrative penalty pursuant to this section shall ~~within 30 calendar days of notification~~:
(I) Pay the administrative penalty to the commission; or
(II) Request an administrative hearing pursuant to ~~the provisions of~~ ss. 120.569 and 120.57.
f.~~e.~~ The commission shall suspend the spiny lobster endorsement issued under s. 379.367(2) or (6) if a ~~for any~~ person fails ~~failing~~ to comply with ~~the provisions of~~ sub-subparagraph e.~~d.~~
5.a. A ~~It is unlawful for any~~ person may not ~~to~~ make, alter, forge, counterfeit, or reproduce a spiny lobster trap tag or certificate.

b. A ~~It is unlawful for any~~ person may not ~~to~~ knowingly have in his or her possession a forged, counterfeit, or imitation spiny lobster trap tag or certificate.
c. A ~~It is unlawful for any~~ person may not ~~to~~ barter, trade, sell, supply, agree to supply, aid in supplying, or give away a spiny lobster trap tag or certificate or ~~to~~ conspire to barter, trade, sell, supply, aid in supplying, or give away a spiny lobster trap tag or certificate unless such action is ~~duly~~ authorized by the commission as provided in this chapter or in the rules of the commission.
6.a. A ~~Any~~ commercial harvester who violates ~~the provisions of~~ subparagraph 5., or a ~~any~~ commercial harvester who engages in the commercial harvest, trapping, or possession of spiny lobster without a spiny lobster endorsement as required by s. 379.367(2) or (6) or during any period while such spiny lobster endorsement is under suspension or revocation, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
b. In addition to any penalty imposed pursuant to sub-subparagraph a., the commission shall assess ~~levy~~ a fine of up to twice the amount of the appropriate surcharge to be paid on the fair market value of the transferred certificates, as provided in subparagraph (a)1., on a ~~any~~ commercial harvester who violates ~~the provisions of~~ sub-subparagraph 5.c.
c. In addition to any penalty imposed pursuant to sub-subparagraph a., a ~~any~~ commercial harvester receiving any judicial disposition other than acquittal or dismissal for a violation of subparagraph 5. shall be assessed an administrative penalty of up to $5,000, and the spiny lobster endorsement under which the violation was committed may be suspended for up to ~~calendar~~ 24 months. Immediately upon issuance of a citation involving a violation of subparagraph 5. and until adjudication of such a violation, and after receipt of any judicial disposition other than acquittal or dismissal for such a violation, the commercial harvester holding the spiny lobster endorsement listed on the citation is prohibited from transferring any spiny lobster trap certificates.
d. A ~~Any other~~ person who violates ~~the provisions of~~ subparagraph 5. commits a Level Four violation under s. 379.401.
7. Before ~~Prior to~~ the 2010-2011 license year, any certificates for which the annual certificate fee is not paid for a period of 3 years shall be considered abandoned and shall revert to the commission. Beginning with the 2010-2011 license year, any certificate for which the annual certificate fee is not paid for a period of 2 consecutive years shall be considered abandoned and shall revert to the commission. During any period of trap reduction, any certificates reverting to the commission shall become permanently unavailable and be considered in that amount to be reduced during the next license-year period. Otherwise, any certificates that revert to the commission are to be reallotted in such manner as provided by the commission.
8. The proceeds of all administrative penalties collected pursuant to subparagraph 4. and all fines collected pursuant to sub-subparagraph 6.b. shall be deposited into the Marine Resources Conservation Trust Fund.
9. All traps shall be removed from the water during any period of suspension or revocation.
10. Except as otherwise provided, a ~~any~~ person who violates this paragraph commits a Level Two violation under s. 379.401.

(d) No vested rights.—The trap certificate program shall not create vested rights in licenseholders whatsoever and may be altered or terminated as necessary to protect the spiny lobster resource, the participants in the fishery, or the public interest.
(3) TRAP REDUCTION.—The objective of the overall trap certificate program is to reduce the number of traps used in the spiny lobster fishery to the lowest number that will maintain or increase overall catch levels, promote economic efficiency in the fishery, and conserve natural resources. Therefore, the 1Marine Fisheries Commission shall set an overall trap reduction goal based on maintaining or maximizing a sustained harvest from the spiny lobster fishery. To reach that goal, the 1Marine Fisheries Commission shall, by July 1, 1992, set an annual trap reduction schedule, not to exceed 10 percent per year, applicable to all certificateholders until the overall trap reduction goal is reached. All certificateholders shall have their certificate holdings reduced by the same percentage of certificates each year according to the trap reduction schedule. Until July 1, 1999, the Department of Environmental Protection shall issue the number of trap tags authorized by the 1Marine Fisheries Commission, as requested, and a revised statement of certificates held. Beginning July 1, 1999, the Fish and Wildlife Conservation Commission shall annually issue the number of trap tags authorized by the commission's schedule, as requested, and a revised statement of certificates held. Certificateholders may maintain or increase their total number of certificates held by purchasing available certificates from within the authorized total. The Fish and Wildlife Conservation Commission shall provide for an annual evaluation of the trap reduction process and shall suspend the annual percentage reductions for any period deemed necessary by the commission in order to assess the impact of the trap reduction schedule on the fishery. The Fish and Wildlife Conservation Commission may then, by rule, resume, terminate, or reverse the schedule as it deems necessary to protect the spiny lobster resource and the participants in the fishery.
(4) TRAP CERTIFICATE TECHNICAL ADVISORY AND APPEALS BOARD.—There is hereby established the Trap Certificate Technical Advisory and Appeals Board. Such board shall consider and advise the commission on disputes and other problems arising from the implementation of the spiny lobster trap certificate program. The board may also provide information to the commission on the operation of the trap certificate program.
(a) The board shall consist of the executive director of the commission or designee and nine other members appointed by the executive director, according to the following criteria:
1. All appointed members shall be certificateholders, but two shall be holders of fewer than 100 certificates, two shall be holders of at least 100 but no more than 750 certificates, three shall be holders of more than 750 but not more than 2,000 certificates, and two shall be holders of more than 2,000 certificates.
2. At least one member each shall come from Broward, Miami-Dade, and Palm Beach Counties; and five members shall come from the various regions of the Florida Keys.
3. At least one appointed member shall be a person of Hispanic origin capable of speaking English and Spanish.
(b) The term of each appointed member shall be for 4 years, and any vacancy shall be filled for the balance of the unexpired term with a person of the qualifications necessary

to maintain the requirements of paragraph (a). There shall be no limitation on successive appointments to the board.
(c) The executive director of the commission or designee shall serve as a member and shall call the organizational meeting of the board. The board shall annually elect a chair and a vice chair. There shall be no limitation on successive terms that may be served by a chair or vice chair. The board shall meet at the call of its chair, at the request of a majority of its membership, at the request of the commission, or at such times as may be prescribed by its rules. A majority of the board shall constitute a quorum, and official action of the board shall require a majority vote of the total membership of the board present at the meeting.
(d) The procedural rules adopted by the board shall conform to the requirements of chapter 120.
(e) Members of the board shall be reimbursed for per diem and travel expenses as provided in s. 112.061.
(f) Upon reaching a decision on any dispute or problem brought before it, including any decision involving the allotment of certificates under paragraph (g), the board shall submit such decision to the executive director of the commission for final approval. The executive director of the commission may alter or disapprove any decision of the board, with notice thereof given in writing to the board and to each party in the dispute explaining the reasons for the disapproval. The action of the executive director of the commission constitutes final agency action.
(g) In addition to those certificates allotted pursuant to the provisions of subparagraph (2)(a)1., up to 125,000 certificates may be allotted by the board to settle disputes or other problems arising from implementation of the trap certificate program during the 1992-1993 and 1993-1994 license years. Any certificates not allotted by March 31, 1994, shall become permanently unavailable and shall be considered as part of the 1994-1995 reduction schedule. All appeals for additional certificates or other disputes must be filed with the board before October 1, 1993.
(h) Any trap certificates issued by the Department of Environmental Protection and, effective July 1, 1999, the commission as a result of the appeals process must be added to the existing number of trap certificates for the purposes of determining the total number of certificates from which the subsequent season’s trap reduction is calculated.
(i) On and after July 1, 1994, the board shall no longer consider and advise the Fish and Wildlife Conservation Commission on disputes and other problems arising from implementation of the trap certificate program nor allot any certificates with respect thereto.
(5) DISPOSITION OF FEES AND SURCHARGES.—Transfer fees and surcharges, annual trap certificate fees, and recreational tag fees collected pursuant to paragraphs (2)(a) and (b) shall be deposited in the Marine Resources Conservation Trust Fund and used for administration of the trap certificate program, research and monitoring of the spiny lobster fishery, and enforcement and public education activities in support of the purposes of this section and shall also be for the use of the Fish and Wildlife Conservation Commission in evaluating the impact of the trap reduction schedule on the spiny lobster fishery; however, at least 15 percent of the fees and surcharges collected shall be provided to the commission for such evaluation.

(6) RULEMAKING AUTHORITY.—The Fish and Wildlife Conservation Commission may adopt rules to implement the provisions of this section.
History.—s. 1, ch. 90-317; ss. 1, 3, 4, ch. 91-154; s. 5, ch. 91-429; s. 2, ch. 92-60; ss. 10, 12, ch. 93-223; s. 229, ch. 94-356; s. 994, ch. 95-148; s. 33, ch. 96-321; s. 98, ch. 96-410; s. 7, ch. 98-203; s. 156, ch. 99-13; s. 109, ch. 99-245; s. 41, ch. 2000-364; s. 7, ch. 2002-264; s. 12, ch. 2003-143; s. 23, ch. 2006-26; s. 13, ch. 2006-304; s. 12, ch. 2007-223; s. 76, ch. 2008-4; s. 10, ch. 2008-5; s. 154, ch. 2008-247; s. 37, ch. 2009-86; s. 2, ch. 2016-208.
[1]Note.—Transferred to the Fish and Wildlife Conservation Commission by s. 3, ch. 99-245.
Note.—Former s. 370.142.

379.3751 Taking and possession of alligators; trapping licenses; fees.—
(1)(a) A person may not take or possess any alligator or the eggs thereof without having been issued an alligator license as provided in this section. The license shall be dated when issued and remain valid for 12 months after the date of issuance and shall authorize the person to whom it is issued to take or possess alligators and their eggs, and to sell, possess, and process alligators and their hides and meat, in accordance with law and commission rules. The license is not transferable and is not valid unless it bears on its face in indelible ink the name of the person to whom it is issued. The license shall be in the personal possession of the licensee while the licensee is taking alligators or their eggs or is selling, possessing, or processing alligators or their eggs, hides, or meat. The failure of the licensee to exhibit the license to a commission law enforcement officer, when the licensee is found taking alligators or their eggs or is found selling, possessing, or processing alligators or their eggs, hides, or meat, is a violation of law.
(b) A person who has been convicted of any violation of s. 379.3015 or s. 379.409 or rules of the commission relating to the illegal taking of crocodilian species may not be issued a license for a period of 5 years subsequent to such conviction. If a violation involves the unauthorized taking of an endangered crocodilian species, a license may not be issued for 10 years subsequent to the conviction.
(c) An alligator trapping license is not required for a person taking nuisance alligators pursuant to a contract with the commission. A person assisting contracted nuisance alligator trappers, unless otherwise exempt under paragraph (d) or paragraph (e), must possess an alligator trapping license or an alligator trapping agent license as provided in subsection (2).
(d) An alligator trapping agent license is not required for a child under 16 years of age taking alligators under an alligator harvest program implemented by commission rule.
(e) An alligator trapping license or alligator trapping agent license is not required for a person taking alligators under a military or disabled veterans event permit issued by the commission pursuant to s. 379.353(2)(q).
(f) An alligator trapping license or alligator trapping agent license shall be issued without fee to any disabled resident who meets the requirements of s. 379.353(1).
(g) A person engaged in the taking of alligators under any permit issued by the commission which authorizes the taking ~~take~~ of alligators is not required to possess a management area permit under s. 379.354(8).
(2) The license and issuance fee, and the activity authorized thereby, shall be as follows:

(a) The annual fee for issuance of a resident alligator trapping license, which permits a resident of the state to take alligators occurring in the wild other than alligator hatchlings, to possess and process alligators taken under authority of such alligator trapping license or otherwise legally acquired, and to possess, process, and sell their hides and meat, shall be $250.
(b) The annual fee for issuance of a nonresident alligator trapping license, which permits a person other than a resident of the state to take alligators occurring in the wild other than alligator hatchlings, to possess and process alligators taken under authority of such alligator trapping license, and to possess, process, and sell their hides and meat, shall be $1,000.
(c) The annual fee for issuance of an alligator trapping agent's license, which permits a person to act as an agent of any person who has been issued a resident or nonresident alligator trapping license as provided in paragraph (a) or paragraph (b) and to take alligators occurring in the wild other than alligator hatchlings, to possess and process alligators taken under authority of such agency relationship, and to possess, process, and sell their hides and meat, shall be $50.
(d) The annual fee for issuance of an alligator farming license, which permits a person to operate a facility for captive propagation of alligators, to possess alligators for captive propagation, to take alligator hatchlings and alligator eggs occurring in the wild, to rear such alligators, alligator hatchlings, and alligator eggs in captivity, to process alligators taken or possessed under authority of such alligator farming license or otherwise legally acquired, and to possess, process, and sell their hides and meat, shall be $250.
(e) The annual fee for issuance of an alligator farming agent's license, which permits a person to act as an agent of any person who has been issued an alligator farming license as provided in paragraph (d) and to take alligator hatchlings and alligator eggs occurring in the wild, to possess and process alligators taken under authority of such agency relationship, and to possess, process, and sell their hides and meat, shall be $50.
(f) The annual fee for issuance of an alligator processor's license, which permits a person to buy and process alligators lawfully taken by alligator trapping licenseholders and taken or possessed by alligator farming licenseholders and to sell alligator meat, hides, and other parts, shall be $250.
(3) For the purpose of this section, "process" shall mean the possession and skinning or butchering of an alligator by someone other than the holder of the alligator trapping license, alligator trapping agent's license, alligator farming license, or alligator farming agent's license who has authorized the taking and possession of such alligator.
(4) A person may not take any alligator egg occurring in the wild or possess any such egg unless the person has obtained, or is a licensed agent of another person who has obtained, an alligator egg collection permit. The alligator egg collection permit shall be required in addition to the alligator farming license provided in paragraph (2)(d). The commission may assess a fee for issuance of the alligator egg collection permit of up to $5 per egg authorized to be taken or possessed pursuant to such permit. Contingent upon an annual appropriation for alligator marketing and education activities, $1 per egg collected and retained, excluding eggs collected on private wetland management areas, shall be transferred from the alligator management program to the General Inspection Trust Fund, to be administered by the Department of Agriculture and Consumer

Services for the purpose of providing marketing and education services with respect to alligator products produced in this state, notwithstanding other provisions in this chapter.
(5) A person who violates this section commits a Level Two violation under s. 379.401.
History.—s. 4, ch. 87-199; s. 18, ch. 98-333; s. 15, ch. 2000-364; s. 7, ch. 2003-151; s. 162, ch. 2008-247; s. 38, ch. 2009-86; s. 9, ch. 2015-161; s. 40, ch. 2016-10; s. 18, ch. 2016-107.
Note.—Former s. 372.6673.

379.3752 Required tagging of alligators and hides; fees; revenues.—
The tags provided in this section shall be required in addition to any license required under s. 379.3751.
(1) A person may not take any alligator occurring in the wild or possess any such alligator unless such alligator is subsequently tagged in the manner required by commission rule. For the tag required for an alligator hatchling, the commission is authorized to assess a fee of not more than $15 for each alligator hatchling tag issued.
(2) The commission may assess a fee of up to $30 for each alligator hide validation tag issued. Contingent upon an annual appropriation for alligator marketing and education activities, $5 per validated hide, excluding those validated from public hunt programs and alligator farms, shall be transferred from the alligator management program to the General Inspection Trust Fund, to be administered by the Department of Agriculture and Consumer Services for the purpose of providing marketing and education services with respect to alligator products produced in this state, notwithstanding other provisions in this chapter.
(3) A person who violates this section commits a Level Two violation under s. 379.401.
History.—s. 5, ch. 87-199; s. 19, ch. 98-333; s. 16, ch. 2000-364; s. 163, ch. 2008-247s. 5, ch. 87-199; s. 19, ch. 98-333; s. 16, ch. 2000-364; s. 163, ch. 2008-247; s. 10, ch. 2015-161; s. 19, ch. 2016-107.
Note.—Former s. 372.6674.

379.401 Penalties and violations; civil penalties for noncriminal infractions; criminal penalties; suspension and forfeiture of licenses and permits.—
(1) LEVEL ONE VIOLATIONS.—
(a) A person commits a Level One violation if he or she violates any of the following provisions:
1. Rules or orders of the commission relating to the filing of reports or other documents required to be filed by persons who hold any recreational licenses and permits or any alligator licenses and permits issued by the commission.
2. Rules or orders of the commission relating to quota hunt permits, daily use permits, hunting zone assignments, camping, alcoholic beverages, vehicles, and check stations within wildlife management areas or other areas managed by the commission.
3. Rules or orders of the commission relating to daily use permits, alcoholic beverages, swimming, possession of firearms, operation of vehicles, and watercraft speed within fish management areas managed by the commission.
4. Rules or orders of the commission relating to vessel size or specifying motor restrictions on specified water bodies.

5. Rules or orders of the commission requiring the return of unused CITES tags issued under the Statewide Alligator Harvest Program or the Statewide Nuisance Alligator Program.
6. Section 379.3003, prohibiting deer hunting unless required clothing is worn.
7.~~5.~~ Section 379.354(1)-(15), providing for recreational licenses to hunt, fish, and trap.
8.~~6.~~ Section 379.3581, providing hunter safety course requirements.
~~7. Section 379.3003, prohibiting deer hunting unless required clothing is worn.~~
(b) A person who commits a Level One violation commits a noncriminal infraction and shall be cited to appear before the county court.
(c)1. The civil penalty for committing a Level One violation involving the license and permit requirements of s. 379.354 is $50 plus the cost of the license or permit, unless subparagraph 2. applies. Alternatively, except for a person who violates s. 379.354(6), (7), or (8)(f) or (h), a person who violates the license and permit requirements of s. 379.354 and is subject to the penalties of this subparagraph may purchase the license or permit, provide proof of such license or permit, and pay a civil penalty of $50.
2. The civil penalty for committing a Level One violation involving the license and permit requirements of s. 379.354 is $250 ~~$100~~ plus the cost of the license or permit if the person cited has previously committed the same Level One violation within the preceding 36 months. Alternatively, except for a person who violates s. 379.354(6), (7), or (8)(f) or (h), a person who violates the license and permit requirements of s. 379.354 and is subject to the penalties of this subparagraph may purchase the license or permit, provide proof of such license or permit, and pay a civil penalty of $250.
(d)1. The civil penalty for any other Level One violation is $50 unless subparagraph 2. applies.
2. The civil penalty for any other Level One violation is $250 ~~$100~~ if the person cited has previously committed the same Level One violation within the preceding 36 months.
(e) A person cited for a Level One violation shall sign and accept a citation to appear before the county court. The issuing officer may indicate on the citation the time and location of the scheduled hearing and shall indicate the applicable civil penalty.
(f) A person cited for a Level One violation may pay the civil penalty, and, if applicable, provide proof of the license or permit required under s. 379.354 by mail or in person within 30 days after receipt of the citation. If the civil penalty is paid, the person shall be deemed to have admitted committing the Level One violation and to have waived his or her right to a hearing before the county court. Such admission may not be used as evidence in any other proceedings except to determine the appropriate fine for any subsequent violations.
(g) A person who refuses to accept a citation, who fails to pay the civil penalty for a Level One violation, or who fails to appear before a county court as required commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
(h) A person who elects to appear before the county court or who is required to appear before the county court shall be deemed to have waived the limitations on civil penalties provided under paragraphs (c) and (d). After a hearing, the county court shall determine if a Level One violation has been committed, and if so, may impose a civil penalty of not less than $50 for a first-time violation, and not more than $500 for subsequent violations. A person found guilty of committing a Level One violation may appeal that

finding to the circuit court. The commission of a violation must be proved beyond a reasonable doubt.
(i) A person cited for violating the requirements of s. 379.354 relating to personal possession of a license or permit may not be convicted if, before ~~prior to~~ or at the time of a county court hearing, the person produces the required license or permit for verification by the hearing officer or the court clerk. The license or permit must have been valid at the time the person was cited. The clerk or hearing officer may assess a $10 fee for costs under this paragraph.
(2) LEVEL TWO VIOLATIONS.—
(a) A person commits a Level Two violation if he or she violates any of the following provisions:
1. Rules or orders of the commission relating to seasons or time periods for the taking of wildlife, freshwater fish, or saltwater fish.
2. Rules or orders of the commission establishing bag, possession, or size limits or restricting methods of taking wildlife, freshwater fish, or saltwater fish.
3. Rules or orders of the commission prohibiting access or otherwise relating to access to wildlife management areas or other areas managed by the commission.
4. Rules or orders of the commission relating to the feeding of saltwater fish.
5. Rules or orders of the commission relating to landing requirements for freshwater fish or saltwater fish.
6. Rules or orders of the commission relating to restricted hunting areas, critical wildlife areas, or bird sanctuaries.
7. Rules or orders of the commission relating to tagging requirements for wildlife and fur-bearing animals.
8. Rules or orders of the commission relating to the use of dogs for the taking of wildlife.
9. Rules or orders of the commission which are not otherwise classified.
10. Rules or orders of the commission prohibiting the unlawful use of ~~finfish~~ traps, unless otherwise provided by law.
11. Rules or orders of the commission requiring the maintenance of records relating to alligators.
12. Rules or orders of the commission requiring the return of unused CITES tags issued under an alligator program other than the Statewide Alligator Harvest Program or the Statewide Nuisance Alligator Program.
13.~~11.~~ All requirements or prohibitions under ~~in~~ this chapter which are not otherwise classified.
14. Section 379.105, prohibiting the intentional harassment of hunters, fishers, or trappers.
15. Section 379.2421, relating to fishers and equipment.
16. Section 379.2425, relating to spearfishing.
17. Section 379.29, prohibiting the contamination of fresh waters.
18. Section 379.295, prohibiting the use of explosives and other substances or force in fresh waters.
19. Section 379.3502, prohibiting the loan or transfer of a license or permit and the use of a borrowed or transferred license or permit.
20. Section 379.3503, prohibiting false statements in an application for a license or permit.

21. Section 379.3504, prohibiting entering false information on licenses or permits.
22. Section 379.3511, relating to the sale of hunting, fishing, and trapping licenses and permits by subagents.
23. Section 379.357(3), prohibiting the taking, killing, or possession of tarpon without purchasing a tarpon tag.
24. Section 379.363, relating to freshwater fish dealer licenses.
25. Section 379.364, relating to fur and hide dealer licenses.
26. Section 379.365(2)(b), prohibiting the theft of stone crab trap contents or trap gear.
27. Section 379.366(4)(b), prohibiting the theft of blue crab trap contents or trap gear.
28. Section 379.3671(2)(c), except s. 379.3671(2)(c)5., prohibiting the theft of spiny lobster trap contents or trap gear.
29. Section 379.3751, relating to licenses for the taking and possession of alligators.
30. Section 379.3752, relating to tagging requirements for alligators and hides.
~~12. Section 379.33, prohibiting the violation of or noncompliance with commission rules.~~
~~13. Section 379.407(7), prohibiting the sale, purchase, harvest, or attempted harvest of any saltwater product with intent to sell.~~
~~14. Section 379.2421, prohibiting the obstruction of waterways with net gear.~~
31.~~15.~~ Section 379.413, prohibiting the unlawful taking of bonefish.
~~16. Section 379.365(2)(a) and (b), prohibiting the possession or use of stone crab traps without trap tags and theft of trap contents or gear.~~
~~17. Section 379.366(4)(b), prohibiting the theft of blue crab trap contents or trap gear.~~
~~18. Section 379.3671(2)(c), prohibiting the possession or use of spiny lobster traps without trap tags or certificates and theft of trap contents or trap gear.~~
~~19. Section 379.357, prohibiting the possession of tarpon without purchasing a tarpon tag.~~
~~20. Section 379.105, prohibiting the intentional harassment of hunters, fishers, or trappers~~
(b)1. A person who commits a Level Two violation but who has not been convicted of a Level Two or higher violation within the past 3 years commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
2. Unless the stricter penalties in subparagraph 3. or subparagraph 4. apply, a person who commits a Level Two violation within 3 years after a previous conviction for a Level Two or higher violation commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, with a minimum mandatory fine of $250.
3. Unless the stricter penalties in subparagraph 4. apply, a person who commits a Level Two violation within 5 years after two previous convictions for a Level Two or higher violation, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, with a minimum mandatory fine of $500 and a suspension of any recreational license or permit issued under s. 379.354 for 1 year. Such suspension shall include the suspension of the privilege to obtain such license or permit and the suspension of the ability to exercise any privilege granted under any exemption in s. 379.353.
4. A person who commits a Level Two violation within 10 years after three previous convictions for a Level Two or higher violation commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, with a minimum mandatory fine of $750 and a suspension of any recreational license or permit issued under s.

379.354 for 3 years. Such suspension shall include the suspension of the privilege to obtain such license or permit and the suspension of the ability to exercise any privilege granted under s. 379.353. If the recreational license or permit being suspended was an annual license or permit, any privileges under ss. 379.353 and 379.354 may not be acquired for a 3-year period following the date of the violation.
(3) LEVEL THREE VIOLATIONS.—
(a) A person commits a Level Three violation if he or she violates any of the following provisions:
1. Rules or orders of the commission prohibiting the sale of saltwater fish.
2. Rules or orders of the commission prohibiting the illegal importation or possession of exotic marine plants or animals.
~~3. Section 379.407(2), establishing major violations.~~
~~4. Section 379.407(4), prohibiting the possession of certain finfish in excess of recreational daily bag limits.~~
3.~~5.~~ Section 379.28, prohibiting the importation of freshwater fish.
4. Section 379.3014, prohibiting the illegal sale or possession of alligators.
5.~~6.~~ Section 379.354(17), prohibiting the taking of game, freshwater fish, or saltwater fish while a required license is suspended or revoked.
6. Section 379.357(4), prohibiting the sale, transfer, or purchase of tarpon.
~~7. Section 379.3014, prohibiting the illegal sale or possession of alligators.~~
7.~~8.~~ Section 379.404(1), (3), and (6), prohibiting the illegal taking and possession of deer and wild turkey.
8.~~9.~~ Section 379.406, prohibiting the possession and transportation of commercial quantities of freshwater game fish.
9. Section 379.407(2), establishing major violations.
10. Section 379.407(4), prohibiting the possession of certain finfish in excess of recreational daily bag limits.
(b)1. A person who commits a Level Three violation but who has not been convicted of a Level Three or higher violation within the past 10 years commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
2. A person who commits a Level Three violation within 10 years after a previous conviction for a Level Three or higher violation commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, with a minimum mandatory fine of $750 and a suspension of any recreational license or permit issued under s. 379.354 for the remainder of the period for which the license or permit was issued up to 3 years. Such suspension shall include the suspension of the privilege to obtain such license or permit and the ability to exercise any privilege granted under s. 379.353. If the recreational license or permit being suspended was an annual license or permit, any privileges under ss. 379.353 and 379.354 may not be acquired for a 3-year period following the date of the violation.
3. A person who commits a violation of s. 379.354(17) shall receive a mandatory fine of $1,000. Any privileges under ss. 379.353 and 379.354 may not be acquired for a 5-year period following the date of the violation.
(4) LEVEL FOUR VIOLATIONS.—
(a) A person commits a Level Four violation if he or she violates any of the following provisions:

1. Section 379.354(16), prohibiting the making, forging, counterfeiting, or reproduction of a recreational license or the possession of same without authorization from the commission.
2.~~1.~~ Section 379.365(2)(c), prohibiting criminal activities relating to the taking of stone crabs.
3.~~2.~~ Section 379.366(4)(c), prohibiting criminal activities relating to the taking and harvesting of blue crabs.
4.~~3.~~ Section 379.367(4), prohibiting the willful molestation of spiny lobster gear.
5.~~4.~~ Section 379.3671(2)(c)5., prohibiting the unlawful reproduction, possession, sale, trade, or barter of spiny lobster trap tags or certificates.
~~5. Section 379.354(16), prohibiting the making, forging, counterfeiting,or reproduction of a recreational license or possession of same withoutauthorization from the commission.~~
6. Section 379.404(5), prohibiting the sale of illegally-taken deer or wild turkey.
7. Section 379.405, prohibiting the molestation or theft of freshwater fishing gear.
8. Section 379.409, prohibiting the unlawful killing, injuring, possessing, or capturing of alligators or other crocodilia or their eggs.
9. Section 379.411, prohibiting the intentional killing or wounding of any species designated as endangered, threatened, or of special concern.
10. Section 379.4115, prohibiting the killing of any Florida or wild panther.
(b) A person who commits a Level Four violation commits a felony of the third degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.
(5) ILLEGAL ACTIVITIES WHILE COMMITTING TRESPASS ~~VIOLATIONS OF CHAPTER~~.—In addition to any other penalty provided by law, a person who violates the criminal provisions of this chapter or rules or orders of the commission by illegally killing, taking, possessing, or selling fish and wildlife in or out of season while violating chapter 810 shall pay a fine of $500 for each such violation, plus court costs and any restitution ordered by the court. All fines collected under this subsection shall be remitted by the clerk of the court to the Department of Revenue to be deposited into the State Game Trust Fund. ~~Except as provided by this chapter:~~
~~(a) A person who commits a violation of any provision of this chapter commits, for the first offense, a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.~~
~~(b) A person who is convicted of a second or subsequent violation of any provision of this chapter commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.~~
(6) SUSPENSION OR FORFEITURE OF LICENSE.—The court may order the suspension or forfeiture of any license or permit issued under this chapter to a person who is found guilty of committing a violation of this chapter.
(7) CONVICTION DEFINED.—As used in this section, the term “conviction” means any judicial disposition other than acquittal or dismissal.
History.—s. 6, ch. 21945, 1943; s. 1, ch. 23750, 1947; s. 11, ch. 25035, 1949; s. 9, ch. 26766, 1951; s. 7, ch. 69-216; s. 316, ch. 71-136; s. 3, ch. 91-134; s. 586, ch. 95-148; s. 40, ch. 2000-362; s. 32, ch. 2002-46; s. 20, ch. 2006-304; s. 22, ch. 2007-223; s. 37, ch. 2008-111; s. 168, ch. 2008-247; s. 41, ch. 2009-86; s. 5, ch. 2010-185; s. 2, ch. 2014-107; s. 14, ch. 2014-136; s. 11, ch. 2015-161; s. 20, ch. 2016-107.
Note.—Former s. 372.83.

~~379.403 Illegal killing, taking, possessing, or selling wildlife or game; fines; disposition of fines.—~~

~~In addition to any other penalty provided by law, any person who violates the criminal provisions of this chapter and rules adopted pursuant to this chapter by illegally killing, taking, possessing, or selling game or fur-bearing animals as defined in s. 379.101(19) or (20) in or out of season while violating chapter 810 shall pay a fine of $250 for each such violation, plus court costs and any restitution ordered by the court. All fines collected under this section shall be remitted by the clerk of the court to the Department of Revenue to be deposited into the Fish and Wildlife Conservation Commission's State Game Trust Fund.~~

~~History.—s. 1, ch. 97-201; s. 154, ch. 99-245; s. 14, ch. 2001-122; s. 29, ch. 2002-46; s. 171, ch. 2008-247.~~

~~Note.—Former s. 372.7015.~~

379.407 Administration; rules, publications, records; penalties; injunctions.—

(1) BASE PENALTIES.—Unless otherwise provided by law, any person, firm, or corporation who violates any provision of this chapter, or any rule of the Fish and Wildlife Conservation Commission relating to the conservation of marine resources, shall be punished:

(a) Upon a first conviction, by imprisonment for a period of not more than 60 days or by a fine of not less than $100 nor more than $500, or by both such fine and imprisonment.

(b) On a second or subsequent conviction within 12 months, by imprisonment for not more than 6 months or by a fine of not less than $250 nor more than $1,000, or by both such fine and imprisonment.

Upon final disposition of any alleged offense for which a citation for any violation of this chapter or the rules of the commission has been issued, the court shall, within 10 days, certify the disposition to the commission.

(2) MAJOR VIOLATIONS.—In addition to the penalties provided in paragraphs (1)(a) and (b), the court shall assess additional penalties against any commercial harvester convicted of major violations as follows:

(a) For a violation involving more than 100 illegal blue crabs, spiny lobster, or stone crabs, an additional penalty of $10 for each illegal blue crab, spiny lobster, stone crab, or part thereof.

(b)1. For a violation involving the taking or harvesting of shrimp from a nursery or other prohibited area, or any two violations within a 12-month period involving shrimping gear, minimum size (count), or season, an additional penalty of $10 for each pound of illegal shrimp or part thereof.

2. For violations involving the taking of food shrimp in certain closed areas:

a. Any person with a saltwater products license issued by the commission who is convicted of taking food shrimp in Santa Rosa Sound in violation of commission rule designating a closed area shall have that license and the saltwater products license of the boat involved in the violation revoked and shall be ineligible to make application for such a license for a period of 2 years from the date of such conviction. If a person who does not have a saltwater products license is convicted hereunder, that person and the boat involved in the violation shall not be eligible for such a license for 5 years.

b. A third or subsequent violation by any person of the designated closure to food shrimping in Santa Rosa Sound within a 3-year period is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
c. A second or any subsequent violation by any person for taking food shrimp in a food shrimp production closed area in a portion of Monroe County designated by the commission is a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.
d. A third or any subsequent violation by the owner or master of any vessel engaged in food shrimp production in the Tortugas Shrimp Beds closed area designated by the commission within a 3-year period is a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.
e. This subparagraph does not apply to persons shrimping for live bait shrimp in the designated closed area when such persons are shrimping with a live bait shrimping license issued by the commission.
3. The owner or master of any vessel not equipped with live shrimp bait tanks dragging shrimp nets in the Tortugas Shrimp Beds without a live bait shrimping license for this area is subject to the base penalties in subsection (1) for a first or second violation. A third or subsequent violation by any person under this subparagraph within a 3-year period is a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.
(c) For a violation involving the taking or harvesting of oysters from nonapproved areas or the taking or possession of unculled oysters, an additional penalty of $10 for each bushel of illegal oysters.
(d) For a violation involving the taking or harvesting of clams from nonapproved areas, an additional penalty of $100 for each 500 count bag of illegal clams.
(e) For a violation involving the taking, harvesting, or possession of any of the following species, which are endangered, threatened, or of special concern:
1. Shortnose sturgeon (Acipenser brevirostrum);
2. Atlantic sturgeon (Acipenser oxyrhynchus);
3. Common snook (Centropomus undecimalis);
4. Atlantic loggerhead turtle (Caretta caretta caretta);
5. Atlantic green turtle (Chelonia mydas mydas);
6. Leatherback turtle (Dermochelys coriacea);
7. Atlantic hawksbill turtle (Eretmochelys imbricata imbracata);
8. Atlantic ridley turtle (Lepidochelys kempi); or
9. West Indian manatee (Trichechus manatus latirostris),
an additional penalty of $100 for each unit of marine life or part thereof.
(f) For a second or subsequent conviction within 24 months for any violation of the same law or rule involving the taking or harvesting of more than 100 pounds of any finfish, an additional penalty of $5 for each pound of illegal finfish.
(g) For any violation involving the taking, harvesting, or possession of more than 1,000 pounds of any illegal finfish, an additional penalty equivalent to the wholesale value of the illegal finfish.
(h) Permits issued to any commercial harvester by the commission to take or harvest saltwater products, or any license issued pursuant to s. 379.361 or s. 379.362 may be

suspended or revoked by the commission, pursuant to the provisions and procedures of s. 120.60, for any major violation prescribed in this subsection:
1. Upon a first conviction, for up to 30 calendar days.
2. Upon a second conviction which occurs within 12 months after a prior violation, for up to 90 calendar days.
3. Upon a third conviction which occurs within 24 months after a prior conviction, for up to 180 calendar days.
4. Upon a fourth conviction which occurs within 36 months after a prior conviction, for a period of 6 months to 3 years.
(i) Upon the arrest and conviction for a major violation involving stone crabs, the licenseholder must show just cause why his or her license should not be suspended or revoked. For the purposes of this paragraph, a “major violation” means a major violation as prescribed for illegal stone crabs; any single violation involving possession of more than 25 stone crabs during the closed season or possession of 25 or more whole-bodied or egg-bearing stone crabs; any violation for trap molestation, trap robbing, or pulling traps at night; or any combination of violations in any 3-consecutive-year period wherein more than 75 illegal stone crabs in the aggregate are involved.
(j) Upon the arrest and conviction for a major violation involving spiny lobster, the licenseholder must show just cause why his or her license should not be suspended or revoked. For the purposes of this paragraph, a “major violation” means a major violation as prescribed for illegal spiny lobster; any single violation involving possession of more than 25 spiny lobster during the closed season or possession of more than 25 wrung spiny lobster tails or more than 25 egg-bearing or stripped spiny lobster; any violation for trap molestation, trap robbing, or pulling traps at night; or any combination of violations in any 3-consecutive-year period wherein more than 75 illegal spiny lobster in the aggregate are involved.
(k) Upon the arrest and conviction for a major violation involving blue crabs, the licenseholder shall show just cause why his or her saltwater products license should not be suspended or revoked. This paragraph shall not apply to an individual fishing with no more than five traps. For the purposes of this paragraph, a “major violation” means a major violation as prescribed for illegal blue crabs, any single violation wherein 50 or more illegal blue crabs are involved; any violation for trap molestation, trap robbing, or pulling traps at night; or any combination of violations in any 3-consecutive-year period wherein more than 100 illegal blue crabs in the aggregate are involved.
(l) Upon the conviction for a major violation involving finfish, the licenseholder must show just cause why his or her saltwater products license should not be suspended or revoked. For the purposes of this paragraph, a major violation is prescribed for the taking and harvesting of illegal finfish, any single violation involving the possession of more than 100 pounds of illegal finfish, or any combination of violations in any 3-consecutive-year period wherein more than 200 pounds of illegal finfish in the aggregate are involved.
(m) For a violation involving the taking or harvesting of any marine life species, as those species are defined by rule of the commission, the harvest of which is prohibited, or the taking or harvesting of such a species out of season, or with an illegal gear or chemical, or any violation involving the possession of 25 or more individual specimens of marine life species, or any combination of violations in any 3-year period involving more than 70

such specimens in the aggregate, the suspension or revocation of the licenseholder's marine life endorsement as provided in paragraph (h).
The penalty provisions of this subsection apply to commercial harvesters and wholesale and retail dealers as defined in s. 379.362. Any other person who commits a major violation under this subsection commits a Level Three violation under s. 379.401. Notwithstanding the provisions of s. 948.01, no court may suspend, defer, or withhold adjudication of guilt or imposition of sentence for any major violation prescribed in this subsection. The proceeds from the penalties assessed pursuant to this subsection shall be deposited into the Marine Resources Conservation Trust Fund to be used for marine fisheries research.
(3) PENALTIES FOR USE OF ILLEGAL NETS.—
(a) It is a major violation pursuant to this section, punishable as provided in paragraph (b) for any person, firm, or corporation to be simultaneously in possession of any species of mullet in excess of the recreational daily bag limit and any gill or other entangling net as defined in s. 16(c), Art. X of the State Constitution. Simultaneous possession under this provision shall include possession of mullet and gill or other entangling nets on separate vessels or vehicles where such vessels or vehicles are operated in coordination with one another including vessels towed behind a main vessel. This subsection does not prohibit a resident of this state from transporting on land, from Alabama to this state, a commercial quantity of mullet together with a gill net if:
1. The person possesses a valid commercial fishing license that is issued by the State of Alabama and that allows the person to use a gill net to legally harvest mullet in commercial quantities from Alabama waters.
2. The person possesses a trip ticket issued in Alabama and filled out to match the quantity of mullet being transported, and the person is able to present such trip ticket immediately upon entering this state.
3. The mullet are to be sold to a wholesale saltwater products dealer located in Escambia County or Santa Rosa County, which dealer also possesses a valid seafood dealer's license issued by the State of Alabama. The dealer's name must be clearly indicated on the trip ticket.
4. The mullet being transported are totally removed from any net also being transported.
(b)1. A flagrant violation of any rule or statute which implements s. 16(b), Art. X of the State Constitution shall be considered a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083. For purposes of this paragraph, a flagrant violation shall be the illegal possession or use of a monofilament net or a net with a mesh area larger than 2,000 square feet. A violation means any judicial disposition other than acquittal or dismissal.
2. In addition to being subject to the other penalties provided in this chapter, any violation of s. 16(b), Art. X of the State Constitution, or any statute or rule of the commission which implements the gear prohibitions and restrictions specified therein shall be considered a major violation; and any person, firm, or corporation receiving any judicial disposition other than acquittal or dismissal of such violation shall be subject to the following additional penalties:

a. For a first major violation within a 7-year period, a civil penalty of $2,500 and suspension of all saltwater products license privileges for 90 calendar days following final disposition shall be imposed.
b. For a second major violation under this subparagraph charged within 7 years of a previous judicial disposition, which results in a second judicial disposition other than acquittal or dismissal, a civil penalty of $5,000 and suspension of all saltwater products license privileges for 12 months shall be imposed.
c. For a third or subsequent major violation under this subparagraph, charged within a 7-year period, resulting in a third or subsequent judicial disposition other than acquittal or dismissal, a civil penalty of $5,000, lifetime revocation of the saltwater products license, and forfeiture of all gear and equipment used in the violation shall be imposed.
d. For a first flagrant violation under this subparagraph, a civil penalty of $5,000 and a suspension of all saltwater license privileges for 12 months shall be imposed. For a second or subsequent flagrant violation under this subparagraph, a civil penalty of $5,000, a lifetime revocation of the saltwater products license, and the forfeiture of all gear and equipment used in the violation shall be imposed.
A court may suspend, defer, or withhold adjudication of guilt or imposition of sentence only for any first violation of s. 16, Art. X of the State Constitution, or any rule or statute implementing its restrictions, determined by a court only after consideration of competent evidence of mitigating circumstances to be a nonflagrant or minor violation of those restrictions upon the use of nets. Any violation of s. 16, Art. X of the State Constitution, or any rule or statute implementing its restrictions, occurring within a 7-year period commencing upon the conclusion of any judicial proceeding resulting in any outcome other than acquittal shall be punished as a second, third, or subsequent violation accordingly.
(c) During the period of suspension or revocation of saltwater license privileges under this subsection, the licensee shall not participate in the taking or harvesting, or attempt the taking or harvesting, of saltwater products from any vessel within the waters of the state; be aboard any vessel on which a commercial quantity of saltwater products is possessed through an activity requiring a license pursuant to this section; or engage in any other activity requiring a license, permit, or certificate issued pursuant to this chapter. Any person who is convicted of violating this paragraph:
1. Upon a first or second conviction, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
2. Upon a third or subsequent conviction, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(d) Upon reinstatement of saltwater license privileges suspended pursuant to a violation of this subsection, a licensee owning or operating a vessel containing or otherwise transporting in or on Florida waters any gill net or other entangling net, or containing or otherwise transporting in nearshore and inshore Florida waters any net containing more than 500 square feet of mesh area shall remain restricted for a period of 12 months following reinstatement, to operating under the following conditions:
1. Vessels subject to this reinstatement period shall be restricted to the corridors established by commission rule.
2. A violation of the reinstatement period provisions shall be punishable pursuant to paragraphs (1)(a) and (b).

(4) ADDITIONAL PENALTIES FOR MAJOR VIOLATIONS INVOLVING CERTAIN FINFISH.—
(a) It is a major violation under this section for any person to be in possession of any species of trout, snook, or redfish which is three fish in excess of the recreational or commercial daily bag limit.
(b) A commercial harvester who violates this subsection shall be punished as provided under paragraph (3)(b). Any other person who violates this subsection commits a Level Three violation under s. 379.401.
(5) PENALTIES FOR POSSESSION OF SPINY LOBSTER; CLOSED SEASON AND WRUNG TAILS.—
(a) It is a major violation under this section for any person, firm, or corporation to be in possession of spiny lobster during the closed season or, while on the water, to be in possession of spiny lobster tails that have been wrung or separated from the body, unless such possession is allowed by commission rule. A ~~Any~~ person, firm, or corporation that violates this paragraph ~~subsection~~ is subject to the following penalties ~~as follows~~:
1.~~(a)~~ A first violation is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. If the violation involves 25 or more lobster, the violation is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
2.~~(b)~~ A second violation is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and such person is subject to a suspension of his or her ~~all~~ license privileges under this chapter for a period not to exceed 90 days.
3.~~(c)~~ A third violation is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, with a mandatory minimum term of imprisonment of 6 months, and such person may be assessed a civil penalty of up to $2,500 and is subject to a suspension of all license privileges under this chapter for a period not to exceed 6 months.
4.~~(d)~~ A third violation within 1 year after a second violation is a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, with a mandatory minimum term of imprisonment of 1 year, and such person shall be assessed a civil penalty of $5,000 and all license privileges under this chapter shall be permanently revoked.
5.~~(e)~~ A fourth or subsequent violation is a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, with a mandatory minimum term of imprisonment of 1 year, and such person shall be assessed a civil penalty of $5,000 and all license privileges under this chapter shall be permanently revoked.
(b) It is a major violation under this section for a recreational or commercial harvester to possess an undersized spiny lobster, unless authorized by commission rule. For violations of this paragraph involving fewer than 100 undersized spiny lobsters, each undersized spiny lobster may be charged as a separate offense under subparagraphs 1. and 2. However, the total penalties assessed under subparagraphs 1. and 2. for any one scheme or course of conduct may not exceed 4 years' imprisonment and a fine of $4,000 under such subparagraphs. A person who violates this paragraph is subject to the following penalties:
1. A first violation is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

2. A second or subsequent violation is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
3. If a violation involves 100 or more undersized spiny lobsters, the violation is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 and a mandatory civil fine of at least $500. In addition, the commission shall assess the violator with an administrative penalty of up to $2,000 and may suspend the violator's license privileges under this chapter for a period of up to 12 months.
(6) SALTWATER PRODUCTS; UNLICENSED SELLERS; ILLEGALLY HARVESTED PRODUCTS.—In addition to other penalties authorized in this chapter, any violation of s. 379.361 or s. 379.362, or rules of the commission implementing s. 379.361 or s. 379.362, involving the purchase of saltwater products by a commercial wholesale dealer, retail dealer, or restaurant facility for public consumption from an unlicensed person, firm, or corporation, or the purchase or sale of any saltwater product known to be taken in violation of s. 16, Art. X of the State Constitution, or rule or statute implementing the provisions thereof, by a commercial wholesale dealer, retail dealer, or restaurant facility, for public consumption, is a major violation, and the commission may assess the following penalties:
(a) For a first violation, the commission may assess a civil penalty of up to $2,500 and may suspend the wholesale or retail dealer's license privileges for up to 90 calendar days.
(b) For a second violation occurring within 12 months of a prior violation, the commission may assess a civil penalty of up to $5,000 and may suspend the wholesale or retail dealer's license privileges for up to 180 calendar days.
(c) For a third or subsequent violation occurring within a 24-month period, the commission shall assess a civil penalty of $5,000 and shall suspend the wholesale or retail dealer's license privileges for up to 24 months.
Any proceeds from the civil penalties assessed pursuant to this subsection shall be deposited into the Marine Resources Conservation Trust Fund and shall be used as follows: 40 percent for administration and processing purposes and 60 percent for law enforcement purposes.
(7) PENALTIES FOR UNLICENSED SALE, PURCHASE, OR HARVEST.—It is a major violation and punishable as provided in this subsection for any unlicensed person, firm, or corporation who is required to be licensed under this chapter as a commercial harvester or a wholesale or retail dealer to sell or purchase any saltwater product or to harvest or attempt to harvest any saltwater product with intent to sell the saltwater product.
(a) Any person, firm, or corporation who sells or purchases any saltwater product without having purchased the licenses required by this chapter for such sale is subject to penalties as follows:
1. A first violation is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
2. A second violation is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and such person may also be assessed a civil penalty of up to $2,500 and is subject to a suspension of all license privileges under this chapter for a period not exceeding 90 days.

3. A third violation is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, with a mandatory minimum term of imprisonment of 6 months, and such person may also be assessed a civil penalty of up to $5,000 and is subject to a suspension of all license privileges under this chapter for a period not exceeding 6 months.
4. A third violation within 1 year after a second violation is a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, with a mandatory minimum term of imprisonment of 1 year, and such person shall be assessed a civil penalty of $5,000 and all license privileges under this chapter shall be permanently revoked.
5. A fourth or subsequent violation is a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, with a mandatory minimum term of imprisonment of 1 year, and such person shall be assessed a civil penalty of $5,000 and all license privileges under this chapter shall be permanently revoked.
(b) Any person whose license privileges under this chapter have been permanently revoked and who thereafter sells or purchases or who attempts to sell or purchase any saltwater product commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, with a mandatory minimum term of imprisonment of 1 year, and such person shall also be assessed a civil penalty of $5,000. All property involved in such offense shall be forfeited pursuant to s. 379.337.
(c) Any commercial harvester or wholesale or retail dealer whose license privileges under this chapter are under suspension and who during such period of suspension sells or purchases or attempts to sell or purchase any saltwater product shall be assessed the following penalties:
1. A first violation, or a second violation occurring more than 12 months after a first violation, is a first degree misdemeanor, punishable as provided in ss. 775.082 and 775.083, and such commercial harvester or wholesale or retail dealer may be assessed a civil penalty of up to $2,500 and an additional suspension of all license privileges under this chapter for a period not exceeding 90 days.
2. A second violation occurring within 12 months of a first violation is a third degree felony, punishable as provided in ss. 775.082 and 775.083, with a mandatory minimum term of imprisonment of 1 year, and such commercial harvester or wholesale or retail dealer may be assessed a civil penalty of up to $5,000 and an additional suspension of all license privileges under this chapter for a period not exceeding 180 days. All property involved in such offense shall be forfeited pursuant to s. 379.337.
3. A third violation within 24 months of the second violation or subsequent violation is a third degree felony, punishable as provided in ss. 775.082 and 775.083, with a mandatory minimum term of imprisonment of 1 year, and such commercial harvester or wholesale or retail dealer shall be assessed a mandatory civil penalty of up to $5,000 and an additional suspension of all license privileges under this chapter for a period not exceeding 24 months. All property involved in such offense shall be forfeited pursuant to s. 379.337.
(d) Any commercial harvester who harvests or attempts to harvest any saltwater product with intent to sell the saltwater product without having purchased a saltwater products license with the requisite endorsements is subject to penalties as follows:
1. A first violation is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

2. A second violation is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and such commercial harvester may also be assessed a civil penalty of up to $2,500 and is subject to a suspension of all license privileges under this chapter for a period not exceeding 90 days.
3. A third violation is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, with a mandatory minimum term of imprisonment of 6 months, and such commercial harvester may also be assessed a civil penalty of up to $5,000 and is subject to a suspension of all license privileges under this chapter for a period not exceeding 6 months.
4. A third violation within 1 year after a second violation is a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, with a mandatory minimum term of imprisonment of 1 year, and such commercial harvester shall also be assessed a civil penalty of $5,000 and all license privileges under this chapter shall be permanently revoked.
5. A fourth or subsequent violation is a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, with a mandatory minimum term of imprisonment of 1 year, and such commercial harvester shall also be assessed a mandatory civil penalty of $5,000 and all license privileges under this chapter shall be permanently revoked.
For purposes of this subsection, a violation means any judicial disposition other than acquittal or dismissal.
(8) REVOCATION OF LICENSES.—Any person licensed under this chapter who has been convicted of taking aquaculture species raised at a certified facility shall have his or her license revoked for 5 years by the commission pursuant to the provisions and procedures of s. 120.60.
(9) LICENSES AND ENTITIES SUBJECT TO PENALTIES.—For purposes of imposing license or permit suspensions or revocations authorized by this chapter, the license or permit under which the violation was committed is subject to suspension or revocation by the commission. For purposes of assessing monetary civil or administrative penalties authorized by this chapter, the commercial harvester cited and subsequently receiving a judicial disposition of other than dismissal or acquittal in a court of law is subject to the monetary penalty assessment by the commission. However, if the licensee or permitholder of record is not the commercial harvester receiving the citation and judicial disposition, the license or permit may be suspended or revoked only after the licensee or permitholder has been notified by the commission that the license or permit has been cited in a major violation and is now subject to suspension or revocation should the license or permit be cited for subsequent major violations.
History.—s. 2, ch. 61-231; s. 277, ch. 71-136; s. 2, ch. 85-234; s. 5, ch. 87-116; s. 5, ch. 88-412; s. 481, ch. 94-356; s. 980, ch. 95-148; s. 9, ch. 95-414; s. 10, ch. 96-247; s. 22, ch. 96-321; s. 57, ch. 97-100; s. 11, ch. 98-203; s. 2, ch. 98-227; s. 2, ch. 98-390; s. 95, ch. 99-245; s. 10, ch. 2000-197; s. 36, ch. 2000-364; s. 1, ch. 2001-62; s. 1, ch. 2002-264; s. 1, ch. 2003-143; s. 1, ch. 2004-61; s. 2, ch. 2006-304; s. 175, ch. 2008-247; s. 42, ch. 2009-21; s. 1, ch. 2014-107; s. 3, ch. 2016-208.
Note.—Former s. 370.021(1)-(6), (11), (12).

379.409 Illegal killing, possessing, or capturing of alligators or other crocodilia or eggs; confiscation of equipment.—
(1) A person may not ~~It is unlawful to~~ intentionally kill, injure, possess, or capture, or attempt to kill, injure, possess, or capture, an alligator or other crocodilian, or the eggs of an alligator or other crocodilian, unless authorized by ~~the~~ rules of the ~~Fish and Wildlife Conservation~~ commission. ~~Any person who violates this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, in addition to such other punishment as may be provided by law.~~ Any equipment, including, but not limited to, weapons, vehicles, boats, and lines, used by a person in ~~the commission of~~ a violation of any law, rule, regulation, or order relating to alligators or other crocodilia or the eggs of alligators or other crocodilia shall, upon conviction of such person, be confiscated by the ~~Fish and Wildlife Conservation~~ commission and disposed of according to rules and regulations of the commission. The arresting officer shall promptly make a return of the seizure, describing in detail the property seized and the facts and circumstances under which it was seized, including the names of all persons known to the officer who have an interest in the property.
(2) The commission shall promptly fix the value of the property and make return to the clerk of the circuit court of the county wherein same was seized. Upon proper showing that any such property is owned by, or titled in the name of, any innocent party, such property shall be promptly returned to such owner.
(3) The provisions of this section shall not vitiate any valid lien, retain title contract, or chattel mortgage on such property in effect as of the time of such seizure.
(4) A person who violates this section commits a Level Four violation under s. 379.401, in addition to such other punishment as provided by law.
History.—s. 1, ch. 70-1; s. 1, ch. 70-439; s. 312, ch. 71-136; s. 1, ch. 91-134; s. 144, ch. 99-245; s. 177, ch. 2008-247; s. 22, ch. 2016-107.
Note.—Former s. 372.663.

379.411 Intentional killing or wounding of any species designated as endangered, threatened, or of special concern; ~~criminal~~ penalties.—
~~It is unlawful for~~ A person may not ~~to~~ intentionally kill or wound any fish or wildlife ~~of a~~ species designated by the ~~Fish and Wildlife Conservation~~ commission as endangered, threatened, or of special concern, or ~~to~~ intentionally destroy the eggs or nest of any such fish or wildlife, unless authorized by ~~except as provided by in the~~ rules of the commission. A ~~Any~~ person who violates this section commits a Level Four violation under s. 379.401 ~~provision with regard to an endangered or threatened species is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084~~.
History.—s. 4, ch. 91-134; s. 244, ch. 94-356; s. 48, ch. 99-245; s. 178, ch. 2008-247; s. 23, ch. 2016-107.
Note.—Former s. 372.0725.

379.4115 Florida or wild panther; killing prohibited; penalty.—
(1) It is unlawful for a person to kill a member of the Florida “endangered species,” as defined in s. 379.2291(3), known as the Florida panther (Felis concolor coryi).
(2) It is unlawful for a person to kill any member of the species of panther (Felis concolor) occurring in the wild.

(3) A person who violates this section commits a Level Four violation under s. 379.401 ~~convicted of unlawfully killing a Florida panther, or unlawfully killing any member of the species of panther occurring in the wild, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084~~.

History.—s. 1, ch. 78-173; s. 1, ch. 84-99; s. 179, ch. 2008-247; s. 24, ch. 2016-107.

Note.—Former s. 372.671.

Chapter 380
Land and Water Management
Enforceable Policies

Any additions are underlined and any deletions are struck-through.

380.085 Judicial review relating to permits and licenses.
380.11 Enforcement; procedures; remedies.
380.115 Vested rights and duties; effect of size reduction, changes in guidelines and standards.
380.12 Rights unaffected by ch. 75-22.
380.20 Short title.
380.205 Definitions.
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380.502 Legislative findings and intent.
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*Sections 380.06(24)(t), .0666, and .507 are not considered enforceable policies for federal consistency purposes

**OCRM’s approval has not been sought for the inclusion of section 380.23(3)(d), F.S., in the federally approved FCMP.

Chapter 380--Land and Water Management

380.05 Areas of critical state concern.—
(1)(a) The state land planning agency may from time to time recommend to the Administration Commission specific areas of critical state concern. In its recommendation, the agency shall include recommendations with respect to the purchase of lands situated within the boundaries of the proposed area as environmentally endangered lands and outdoor recreation lands under the Land Conservation Program ~~Act of 1972~~. The agency also shall include any report or recommendation of a resource planning and management committee appointed pursuant to s. 380.045; the dangers that would result from uncontrolled or inadequate development of the area and the advantages that would be achieved from the development of the area in a coordinated manner; a detailed boundary description of the proposed area; specific principles for guiding development within the area; an inventory of lands owned by the state, federal, county, and municipal governments within the proposed area; and a list of the state agencies with programs that affect the purpose of the designation. The agency shall recommend actions which the local government and state and regional agencies must accomplish in order to implement the principles for guiding development. These actions may include, but need ~~shall~~ not be limited to, revisions of the local comprehensive plan and adoption of land development regulations, density requirements, and special permitting requirements.
(b) Within 45 days following receipt of a recommendation from the agency, the commission shall either reject the recommendation as tendered or adopt the recommendation with or without modification and by rule designate the area of critical state concern. Any rule that designates an area of critical state concern must include:
1. A detailed boundary description of the area.
2. Principles for guiding development.
3. A clear statement of the purpose for the designation.
4. A precise checklist of actions which, when implemented, will result in repeal of the designation by the Administration Commission, and the agencies or entities responsible for taking those actions.
5. A list of those issues or programs for which mechanisms must be in place to assure ongoing implementation of the actions taken to result in repeal of the designation.
6. A list of the state agencies which, in addition to those specified in subsection (22), administer programs that affect the purpose of the designation.
The rule shall become effective 20 days after being filed with the Secretary of State, except that an emergency rule adopted by the commission and designating an area of critical state concern shall become effective immediately on being filed. Any rule adopted pursuant to this paragraph shall be presented to the Legislature for review pursuant to paragraph (c). A statement of estimated regulatory costs prepared pursuant to s. 120.541 shall not be a ground for a challenge of the rule; however, a landowner shall not be precluded from using adverse economic results as grounds for challenge. Such principles for guiding development shall apply to any development undertaken subsequent to the legislative review pursuant to paragraph (c) of the designation of the area of critical state concern with or without modification but prior to the adoption of land development rules and regulations or a local comprehensive plan for the critical area

pursuant to subsections (6) and (8). No boundaries or principles for guiding development shall be adopted without a specific finding by the commission that the boundaries or principles are consistent with the purpose of the designation. The commission is not authorized to adopt any rule that would provide for a moratorium on development in any area of critical state concern.
(c) A rule adopted by the commission pursuant to paragraph (b) designating an area of critical state concern and principles for guiding development shall be submitted to the President of the Senate and the Speaker of the House of Representatives for review no later than 30 days prior to the next regular session of the Legislature. The Legislature may reject, modify, or take no action relative to the adopted rule. In its deliberations, the Legislature may consider, among other factors, whether a resource planning and management committee has established a program pursuant to s. 380.045. In addition to any other data and information required pursuant to this chapter, each rule presented to the Legislature shall include a detailed legal description of the boundary of the area of critical state concern, proposed principles for guiding development, and a detailed statement of how the area meets the criteria for designation as provided in subsection (2).
(d) If, after the repeal of the boundary designation of an area of critical state concern pursuant to subsection (15), the state land planning agency determines that the administration of the local land development regulations or a local comprehensive plan within a formerly designated area is inadequate to protect the former area of critical state concern, then the state land planning agency may recommend to the commission that the area be redesignated as an area of critical state concern. Within 45 days following the receipt of the recommendation from the agency, the commission shall either reject the recommendation as tendered or adopt the same with or without modification. The commission may, by rule, make such redesignation effective immediately, at which time the boundaries, regulations, and plans in effect at the time the previous designation was repealed shall be reinstated. Within 90 days of such redesignation, the commission shall begin rulemaking procedures to designate the area an area of critical state concern under paragraph (b).
(2) An area of critical state concern may be designated only for:
(a) An area containing, or having a significant impact upon, environmental or natural resources of regional or statewide importance, including, but not limited to, state or federal parks, forests, wildlife refuges, wilderness areas, aquatic preserves, major rivers and estuaries, state environmentally endangered lands, Outstanding Florida Waters, and aquifer recharge areas, the uncontrolled private or public development of which would cause substantial deterioration of such resources. Specific criteria which shall be considered in designating an area under this paragraph include:
1. Whether the economic value of the area, as determined by the type, variety, distribution, relative scarcity, and condition of the environmental or natural resources within the area, is of substantial regional or statewide importance.
2. Whether the ecological value of the area, as determined by the physical and biological components of the environmental system, is of substantial regional or statewide importance.
3. Whether the area is a designated critical habitat of any state or federally designated threatened or endangered plant or animal species.

4. Whether the area is inherently susceptible to substantial development due to its geographic location or natural aesthetics.
5. Whether any existing or planned substantial development within the area will directly, significantly, and deleteriously affect any or all of the environmental or natural resources of the area which are of regional or statewide importance.
(b) An area containing, or having a significant impact upon, historical or archaeological resources, sites, or statutorily defined historical or archaeological districts, the private or public development of which would cause substantial deterioration or complete loss of such resources, sites, or districts. Specific criteria which shall be considered in designating an area under this paragraph include:
1. Whether the area is associated with events that have made a significant contribution to the history of the state or region.
2. Whether the area is associated with the lives of persons who are significant to the history of the state or region.
3. Whether the area contains any structure that embodies the distinctive characteristics of a type, period, or method of construction, that represents the work of a master, that possesses high artistic values, or that represents a significant and distinguishable entity the components of which may lack individual distinction and which are of regional or statewide importance.
4. Whether the area has yielded, or will likely yield, information important to the prehistory or history of the state or region.
(c) An area having a significant impact upon, or being significantly impacted by, an existing or proposed major public facility or other area of major public investment including, but not limited to, highways, ports, airports, energy facilities, and water management projects.
(3) Each regional planning agency may recommend to the state land planning agency from time to time areas wholly or partially within its jurisdiction that meet the criteria for areas of critical state concern as defined in this section. Each regional planning agency shall solicit from the local governments within its jurisdiction suggestions as to areas to be recommended. A local government in an area where there is no regional planning agency may recommend to the state land planning agency from time to time areas wholly or partially within its jurisdiction that meet the criteria for areas of critical state concern as defined in this section. If the state land planning agency does not recommend to the commission as an area of critical state concern an area substantially similar to one that has been recommended, it shall respond in writing as to its reasons therefor.
(4) Prior to submitting any recommendation to the commission under subsection (1), the state land planning agency shall give notice to any committee appointed pursuant to s. 380.045 and to all local governments and regional planning agencies that include within their boundaries any part of any area of critical state concern proposed to be designated by the rule, in addition to any notice otherwise required under chapter 120.
(5) After the commission adopts a rule designating the boundaries of, and principles for guiding development in, an area of critical state concern and within 180 days of such adoption, the local government having jurisdiction may submit to the state land planning agency its existing land development regulations and local comprehensive plan for the area, if any, or shall prepare, adopt, and submit the new or modified regulations and

plan, the local government taking into consideration the principles set forth in the rule designating the area.
(6) Once the state land planning agency determines whether the land development regulations or local comprehensive plan or amendment submitted by a local government is consistent with the principles for guiding the development of the area specified under the rule designating the area, the state land planning agency shall approve or reject the land development regulations or portions thereof by final order, and shall determine compliance of the plan or amendment, or portions thereof, pursuant to s. 163.3184. The state land planning agency shall publish its final order to approve or reject land development regulations, which shall constitute final agency action, in the Florida Administrative Register. If the final order is challenged pursuant to s. 120.57, the state planning agency has the burden of proving the validity of the final order. Such approval or rejection of the land development regulations shall be no later than 60 days after submission of the land development regulations by the local government. No proposed land development regulation within an area of critical state concern becomes effective under this subsection until the state land planning agency issues its final order or, if the final order is challenged, until the challenge to the order is resolved pursuant to chapter 120.
(7) The state land planning agency and any applicable regional planning agency shall, to the greatest extent possible, provide technical assistance to local governments in the preparation of the land development regulations and local comprehensive plan for areas of critical state concern.
(8) If any local government fails to submit land development regulations or a local comprehensive plan, or if the regulations or plan or plan amendment submitted do not comply with the principles for guiding development set out in the rule designating the area of critical state concern, within 120 days after the adoption of the rule designating an area of critical state concern, or within 120 days after the issuance of a recommended order on the compliance of the plan or plan amendment pursuant to s. 163.3184, or within 120 days after the effective date of an order rejecting a proposed land development regulation, the state land planning agency shall submit to the commission recommended land development regulations and a local comprehensive plan or portions thereof applicable to that local government’s portion of the area of critical state concern. Within 45 days following receipt of the recommendation from the agency, the commission shall either reject the recommendation as tendered or adopt the recommendation with or without modification, and by rule establish land development regulations and a local comprehensive plan applicable to that local government’s portion of the area of critical state concern. However, such rule shall not become effective prior to legislative review of an area of critical state concern pursuant to paragraph (1)(c). In the rule, the commission shall specify the extent to which its land development regulations, plans, or plan amendments will supersede, or will be supplementary to, local land development regulations and plans. Notice of any proposed rule issued under this section shall be given to all local governments and regional planning agencies in the area of critical state concern, in addition to any other notice required under chapter 120. The land development regulations and local comprehensive plan adopted by the commission under this section may include any type of regulation and plan that could have been adopted by the local government. Any

land development regulations or local comprehensive plan or plan amendments adopted by the commission under this section shall be administered by the local government as part of, or in the absence of, the local land development regulations and local comprehensive plan.
(9) If, within 12 months after the commission adopts a rule designating an area of critical state concern, land development regulations or local comprehensive plans for the area have not become effective under either subsection (6) or subsection (8), the designation of the area as an area of critical state concern terminates. No part of such area may be recommended for redesignation until at least 12 months after the date the designation terminates pursuant to this subsection. The running of the 12-month period subsequent to the initial designation shall be tolled upon challenge pursuant to the provisions of chapter 120 to either the designation of the area of critical state concern or the adoption of land development regulations and local comprehensive plans under subsection (6) or subsection (8).
(10) At any time after the adoption of land development regulations and plans by the commission under this section, a local government may propose land development regulations or a local comprehensive plan which, if approved by the state land planning agency as provided in subsection (6), will supersede any regulations or plans adopted under subsection (8).
(11) Land development regulations or a local comprehensive plan submitted by a local government in an area of critical state concern and approved pursuant to subsection (6) may be amended or rescinded by the local government, but the amendment or rescission becomes effective only upon approval thereof by the state land planning agency. The state land planning agency shall either approve or reject the requested changes within 60 days of receipt thereof. Land development regulations or local comprehensive plans for an area of critical state concern adopted by the commission under subsection (8) may be amended or rescinded by rule by the commission in the same manner as for original adoption.
(12) Upon the request of a substantially interested person pursuant to s. 120.54(7), a local government or regional planning agency within the designated area, or the state land planning agency, the commission may by rule remove, contract, or expand any designated boundary. Boundary expansions are subject to legislative review pursuant to paragraph (1)(c). No boundary may be modified without a specific finding by the commission that such changes are consistent with necessary resource protection. The total boundaries of an entire area of critical state concern shall not be removed by the commission unless a minimum time of 1 year has elapsed from the adoption of regulations and a local comprehensive plan pursuant to subsection (1), subsection (6), subsection (8), or subsection (10). Before totally removing such boundaries, the commission shall make findings that the regulations and plans adopted pursuant to subsection (1), subsection (6), subsection (8), or subsection (10) are being effectively implemented by local governments within the area of critical state concern to protect the area and that adopted local government comprehensive plans within the area have been conformed to principles for guiding development for the area.
(13) If the state land planning agency determines that the administration of the local land development regulations or local comprehensive plans within the area is inadequate to protect the state or regional interest prior to the repeal of the critical state

concern designation pursuant to subsection (15), the state land planning agency may institute appropriate judicial proceedings, as provided in s. 380.11, to compel proper enforcement of the land development regulations or plans.
(14) Any local government which lies either wholly or partially within an area of critical state concern and which has previously adopted a local government comprehensive plan pursuant to chapter 163 shall conform such plan to the principles for guiding development for the area of critical state concern. No later than January 1, 1984, or any other time as agreed upon in writing by the state land planning agency and the governing body of the local government, these plans shall be submitted to the state land planning agency for review and action as provided in subsection (6) or subsection (8).
(15) Any rule adopted pursuant to this section designating the boundaries of an area of critical state concern and the principles for guiding development therein shall be repealed by the commission no earlier than 12 months and no later than 3 years after approval by the state land planning agency or adoption by the commission of all land development regulations and local comprehensive plans pursuant to subsection (6), subsection (8), or subsection (10), and the implementation of all the actions listed in the designation rule for repeal of the designation. Any repeal pursuant to this subsection may be limited to any portion of the area of critical state concern. The repeal must be contingent upon approval by the state land planning agency of local land development regulations and plans pursuant to subsection (6) or subsection (10) and upon such regulations and plans being effective for a period of 12 months.
(16) No person shall undertake any development within any area of critical state concern except in accordance with this chapter.
(17) If an area of critical state concern has been designated under subsection (1) and if land development regulations for the area of critical state concern have not yet become effective under subsection (6) or subsection (8), a local government may grant development permits in accordance with such land development regulations as were in effect immediately prior to the designation of the area as an area of critical state concern.
(18) Neither the designation of an area of critical state concern nor the adoption of any regulations for such an area shall in any way limit or modify the rights of any person to complete any development that was authorized by registration of a subdivision pursuant to former chapter 498 or former chapter 478, by recordation pursuant to local subdivision plat law, or by a building permit or other authorization to commence development on which there has been reliance and a change of position, and which registration or recordation was accomplished, or which permit or authorization was issued, prior to the approval under subsection (6), or the adoption under subsection (8), of land development regulations for the area of critical state concern. If a developer has by his or her actions in reliance on prior regulations obtained vested or other legal rights that in law would have prevented a local government from changing those regulations in a way adverse to the developer’s interests, nothing in this chapter authorizes any governmental agency to abridge those rights.
(19) In addition to any other notice required to be given under the local land development regulations, the local government shall give notice to the state land planning agency of any application for a development permit in any area of critical state concern, except to the extent that the state land planning agency has in writing waived

its right to such notice in regard to all or certain classes of such applications. The state land planning agency may by rule specify additional classes of persons who shall have the right to receive notices of, and participate in, hearings under this section.
(20) At no time shall a land area be designated an area of critical state concern if the effect of such designation would be to subject more than 5 percent of the land of the state to supervision under this section; except that, if any supervision by the state is retained, the area shall be considered to be included within the limitations of this subsection. If 5 percent of the lands of the state are designated as areas of critical state concern pursuant to this section, a redesignation pursuant to paragraph (1)(d) will not be prohibited by this subsection.
(21) Within 30 days after the effective date of the designation of an area of critical state concern pursuant to paragraph (1)(c) or paragraph (1)(d), the state land planning agency shall record a legal description of the boundaries of the area of critical state concern in the public records of the county or counties in which the area of critical state concern is located.
(22) All state agencies with rulemaking authority for programs that affect a designated area of critical state concern shall review those programs for consistency with the purpose of the designation and principles for guiding development, and shall adopt specific permitting standards and criteria applicable in the designated area, or otherwise amend the program, as necessary to further the purpose of the designation.
(a)1. Within 6 months after the effective date of the rule or statute that designates an area of critical state concern, and at any time thereafter as directed by the Administration Commission, the Department of Environmental Protection, the Department of Health, the water management districts with jurisdiction over any portion of the area of critical state concern, and any other state agency specified in the designation rule, shall each submit a report to the Administration Commission, and a copy of the report to the state land planning agency. The report shall evaluate the effect of the reporting agency’s programs upon the purpose of the designation.
2. If different permitting standards or criteria, or other changes to the program, are necessary in order to further the purpose of the designation, the report shall recommend rules which further that purpose and which are consistent with the principles for guiding development. The report shall explain and justify the reasons for any different permitting standards or criteria that may be recommended. The commission shall reject the agency’s recommendation, or accept it with or without modification and direct the agency to adopt rules, including any changes. Any rule adopted pursuant to this paragraph shall be consistent with the principles for guiding development, and shall apply only within the boundary of the designated area. The agency shall file a copy of the adopted rule with the Administration Commission and the state land planning agency.
3. If statutory changes are required in order to implement the permitting standards or criteria that are necessary to further the purpose of the designation, the report shall recommend statutory amendments. The Administration Commission shall submit any report that recommends statutory amendments to the President of the Senate and the Speaker of the House of Representatives, together with the Administration Commission’s recommendation on the proposed amendments.

(b) The Administration Commission has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this subsection.
History.—s. 5, ch. 72-317; s. 1, ch. 74-326; s. 1, ch. 76-190; s. 4, ch. 79-73; s. 235, ch. 81-259; s. 3, ch. 83-308; s. 2, ch. 84-281; s. 50, ch. 93-206; s. 340, ch. 94-356; s. 1027, ch. 95-148; s. 113, ch. 96-410; s. 5, ch. 97-253; s. 92, ch. 98-200; s. 27, ch. 99-5; s. 71, ch. 99-8; s. 16, ch. 2008-240; s. 39, ch. 2013-14; s. 41, ch. 2016-233.

380.055 Big Cypress Area.—
(1) SHORT TITLE.—This section shall be known and may be cited as "The Big Cypress Conservation Act of 1973."
(2) LEGISLATIVE INTENT.—It is the intent of the Legislature to conserve and protect the natural resources and scenic beauty of the Big Cypress Area of Florida. It is the finding of the Legislature that the Big Cypress Area is an area containing and having a significant impact upon environmental and natural resources of regional and statewide importance and that designation of the area as an area of critical state concern is desirable and necessary to accomplish the purposes of "The Florida Environmental Land and Water Management Act of 1972" and to implement s. 7, Art. II of the State Constitution.
(3) DESIGNATION AS AREA OF CRITICAL STATE CONCERN.—The "Big Cypress Area," as defined in this subsection, is hereby designated as an area of critical state concern. "Big Cypress Area" means the area generally depicted on the map entitled "Boundary Map, Big Cypress National Freshwater Reserve, Florida," numbered BC-91,001 and dated November 1971, which is on file and available for public inspection in the office of the National Park Service, Department of the Interior, Washington, D.C., and in the office of the Board of Trustees of the Internal Improvement Trust Fund, which is the area proposed as the Federal Big Cypress National Freshwater Reserve, Florida, and that area described as follows: Sections 1, 2, 11, 12 and 13 in Township 49 South, Range 31 East; and Township 49 South, Range 32 East, less Sections 19, 30 and 31; and Township 49 South, Range 33 East; and Township 49 South, Range 34 East; and Sections 1 through 5 and 10 through 14 in Township 50 South, Range 32 East; and Sections 1 through 18 and 20 through 25 in Township 50 South, Range 33 East; and Township 50 South, Range 34 East, less Section 31; and Sections 1 and 2 in Township 51 South, Range 34 East; All in Collier County, Florida, which described area shall be known as the "Big Cypress National Preserve Addition, Florida," together with such contiguous land and water areas as are ecologically linked with the Everglades National Park, certain of the estuarine fisheries of South Florida, or the freshwater aquifer of South Florida, the definitive boundaries of which shall be set in the following manner: Within 120 days following the effective date of this act, the state land planning agency shall recommend definitive boundaries for the Big Cypress Area to the Administration Commission, after giving notice to all local governments and regional planning agencies which include within their boundaries any part of the area proposed to be included in the Big Cypress Area and holding such hearings as the state land planning agency deems appropriate. Within 45 days following receipt of the recommended boundaries, the Administration Commission shall adopt, modify, or reject the recommendation and shall by rule establish the boundaries of the area defined as the Big Cypress Area.
(4) ADOPTION OF LAND DEVELOPMENT REGULATIONS.—The provisions of s. 380.05(5)-(11), (17), and (20) shall not apply to the Big Cypress Area. All other

provisions of this chapter shall apply to the Big Cypress Area. Any provision of this chapter to the contrary notwithstanding, the state land planning agency has the right, and its duty shall be, to submit recommended land development regulations applicable to the Big Cypress Area to the Administration Commission concurrent with the boundaries recommended pursuant to subsection (3). The Administration Commission shall either reject the recommendation as tendered or adopt the same by rule with or without modification. The commission shall specify the extent to which regulations adopted pursuant to this section supersede local land development regulations.

(5) ACQUISITION OF BIG CYPRESS NATIONAL PRESERVE.—

(a) It is the intent of the Legislature to provide the means to accomplish an agreement between the State of Florida and the Government of the United States, whereby the state will contribute toward the cost of a program of acquisition of land and water areas and related rights and interests within the area proposed as the Federal Big Cypress National Preserve, Florida. It is the intent of the Legislature that the Board of Trustees of the Internal Improvement Trust Fund begin immediately an acquisition program within the area proposed as the Federal Big Cypress National Preserve, Florida, on behalf of the state pending action by the Government of the United States in the Big Cypress Area.

(b) The Board of Trustees of the Internal Improvement Trust Fund shall set aside from the proceeds of the full faith and credit bonds authorized by the Land Conservation Program ~~Act of 1972~~, or from other funds authorized, appropriated, or allocated for the acquisition of environmentally endangered lands, or from both sources, $40 million for acquisition of the area proposed as the Federal Big Cypress National Preserve, Florida, or portions thereof.

(c) The Board of Trustees of the Internal Improvement Trust Fund is empowered to acquire land and water areas within the Federal Big Cypress National Preserve, Florida, created by Pub. L. No. 93-440, in order to conserve and protect the natural resources and scenic beauty therein and to donate and convey title in land and water areas so acquired or currently owned by the state to the Government of the United States or its agency upon the expenditure by the United States of an amount of federal funds at least equal to the acquisition cost of the land and water areas donated by the state. The intent of this condition for the donation of land and water areas by the state is to ensure that the investment of federal funds in the acquisition of land and water areas for the Big Cypress National Preserve will be not less than the investment of state funds in the land and water areas so donated. In making such acquisitions, the Board of Trustees of the Internal Improvement Trust Fund shall give priority to those land and water areas within the area proposed as the Federal Big Cypress National Preserve, Florida, which are essential to the integrity of the environment, the destruction of which would cause irreparable damage to the Everglades National Park, the estuarine fisheries of South Florida, or the underlying freshwater aquifer.

(6) FUNCTION OF WATER MANAGEMENT DISTRICT.—It is the finding of the Legislature that the Big Cypress Area, as a water storage and recharge area, is an integral part of the water resources of any water management district of which the Big Cypress Area is or may be a part. It is the legislative intent that there be close cooperation and coordination of efforts between the water management district and the Department of Environmental Protection in carrying out the intent and purposes of this

section. The secretary is authorized to delegate to the water management district, or to a board therein, any power authorized in this section to be exercised by the department, and the district or basin is authorized to accept the powers delegated to it and shall have the power and duty to carry out the intent and purposes of this section to the fullest extent possible within its capabilities and resources.
(7) EMINENT DOMAIN WITHIN BIG CYPRESS AREA AND BIG CYPRESS NATIONAL PRESERVE ADDITION.—The Board of Trustees of the Internal Improvement Trust Fund is empowered and authorized to acquire by the exercise of the power of eminent domain any land or water areas and related resources and property, and any and all rights, title, and interest in such land or water areas and related resources and other property, lying within the boundaries of the Big Cypress Area and Big Cypress National Preserve Addition. The Legislature finds that the exercise of the power of eminent domain within the Big Cypress Area and Big Cypress National Preserve Addition to accomplish the purposes of this section is necessary and for a public purpose.
(8) INDIAN RIGHTS.—Notwithstanding any provision of this section to the contrary, members of the Miccosukee Tribe of Indians of Florida and members of the Seminole Tribe of Florida may continue their usual and customary use and occupancy of lands and waters within the Big Cypress Area, including hunting, fishing, and trapping on a subsistence basis and traditional tribal ceremonials. Nothing in this section shall be construed to deny or impair, or authorize the denial or impairment, of any rights granted by or pursuant to chapter 285 relative to Indian reservation and affairs, and the lands of the Seminole Tribe of Florida and of the Miccosukee Tribe of Indians of Florida, as described in s. 285.061(1), shall be excluded from the Big Cypress Area as defined in this section.
(9) ACQUISITION OF BIG CYPRESS NATIONAL PRESERVE ADDITION.—
(a) It is the intent of the Legislature to provide the means to accomplish an agreement between the State of Florida and the Government of the United States whereby the state will contribute toward the cost of a program of acquisition of land and water areas and related rights and interests within the area proposed as the Federal Big Cypress National Preserve Addition, Florida. It is the intent of the Legislature that the Governor and the Cabinet begin an acquisition program within the area designated as the Big Cypress National Preserve Addition on behalf of the state pending action by the Government of the United States in the Big Cypress Area.
(b) The Governor and Cabinet are empowered to acquire land and water areas within the Federal Big Cypress National Preserve Addition, in order to conserve and protect the natural resources and scenic beauty therein and to donate and convey title in land and water areas so acquired or currently owned by the state to the Government of the United States or its agency upon the expenditure by the United States of an amount of federal funds sufficient to pay the remaining 80 percent of the cost of acquiring such lands. The intent of this condition for the donation of land and water areas by the state is to ensure that the investment of federal funds in the acquisition of land and water areas for the Big Cypress National Preserve Addition will amount to 80 percent of the cost thereof and the state’s investment shall amount to 20 percent of such costs in total. In making such acquisitions, the Governor and Cabinet shall give priority to those land and water areas within the area proposed as the Federal Big Cypress National Preserve Addition, Florida, which are essential to the integrity of the environment, the destruction

of which would cause irreparable damage to the Everglades National Park, the Big Cypress National Preserve, the estuarine fisheries of South Florida, or the underlying freshwater aquifer.
(10) ACQUISITION OF BIG CYPRESS NATIONAL PRESERVE AND ADDITION BY ALTERNATE METHODS.—For purposes of acquisition in the Big Cypress Area and Big Cypress National Preserve Addition, the acquisition procedures provided in chapter 337 may be utilized in lieu of chapter 253 where appropriate. The Board of Trustees of the Internal Improvement Trust Fund is authorized to enter into an interagency agreement with the Department of Transportation wherein the Department of Transportation may acquire lands in the Big Cypress Area and Big Cypress National Preserve Addition on behalf of the board of trustees and be reimbursed therefor in a share proportionate to the value of the interest acquired. Such acquired property shall be titled in the name of the Board of Trustees of the Internal Improvement Trust Fund, except that the Department of Transportation shall retain title to that portion of the property needed for highway right-of-way.
History.—ss. 1, 2, 3, 4, 5, ch. 73-131; s. 1, ch. 75-175; s. 4, ch. 78-95; s. 89, ch. 79-164; s. 236, ch. 81-259; s. 1, ch. 85-346; s. 64, ch. 86-186; s. 31, ch. 87-225; s. 342, ch. 94-356; s. 42, ch. 2016-233.

[1]380.0552 Florida Keys Area; protection and designation as area of critical state concern.—
(1) SHORT TITLE.—This section may be cited as the “Florida Keys Area Protection Act.”
(2) LEGISLATIVE INTENT.—It is the intent of the Legislature to:
(a) Establish a land use management system that protects the natural environment of the Florida Keys.
(b) Establish a land use management system that conserves and promotes the community character of the Florida Keys.
(c) Establish a land use management system that promotes orderly and balanced growth in accordance with the capacity of available and planned public facilities and services.
(d) Provide affordable housing in close proximity to places of employment in the Florida Keys.
(e) Establish a land use management system that promotes and supports a diverse and sound economic base.
(f) Protect the constitutional rights of property owners to own, use, and dispose of their real property.
(g) Promote coordination and efficiency among governmental agencies that have permitting jurisdiction over land use activities in the Florida Keys.
(h) Promote an appropriate land acquisition and protection strategy for environmentally sensitive lands within the Florida Keys.
(i) Protect and improve the nearshore water quality of the Florida Keys through federal, state, and local funding of water quality improvement projects, including the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(l) and 403.086(10), as applicable.
(j) Ensure that the population of the Florida Keys can be safely evacuated.

(3) RATIFICATION OF DESIGNATION.—The designation of the Florida Keys Area as an area of critical state concern, the boundaries of which are described in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, is hereby ratified.
(4) REMOVAL OF DESIGNATION.—
(a) The designation of the Florida Keys Area as an area of critical state concern under this section may be recommended for removal upon fulfilling the legislative intent under subsection (2) and completion of all the work program tasks specified in rules of the Administration Commission.
(b) Beginning November 30, 2010, the state land planning agency shall annually submit a written report to the Administration Commission describing the progress of the Florida Keys Area toward completing the work program tasks specified in commission rules. The land planning agency shall recommend removing the Florida Keys Area from being designated as an area of critical state concern to the commission if it determines that:
1. All of the work program tasks have been completed, including construction of, operation of, and connection to central wastewater management facilities pursuant to s. 403.086(10) and upgrade of onsite sewage treatment and disposal systems pursuant to s. 381.0065(4)(l);
2. All local comprehensive plans and land development regulations and the administration of such plans and regulations are adequate to protect the Florida Keys Area, fulfill the legislative intent specified in subsection (2), and are consistent with and further the principles guiding development; and
3. A local government has adopted a resolution at a public hearing recommending the removal of the designation.
(c) After receipt of the state land planning agency report and recommendation, the Administration Commission shall determine whether the requirements have been fulfilled and may remove the designation of the Florida Keys as an area of critical state concern. If the commission removes the designation, it shall initiate rulemaking to repeal any rules relating to such designation within 60 days. If, after receipt of the state land planning agency's report and recommendation, the commission finds that the requirements for recommending removal of designation have not been met, the commission shall provide a written report to the local governments within 30 days after making such a finding detailing the tasks that must be completed by the local government.
(d) The Administration Commission's determination concerning the removal of the designation of the Florida Keys as an area of critical state concern may be reviewed pursuant to chapter 120. All proceedings shall be conducted by the Division of Administrative Hearings and must be initiated within 30 days after the commission issues its determination.
(e) After removal of the designation of the Florida Keys as an area of critical state concern, the state land planning agency shall review proposed local comprehensive plans, and any amendments to existing comprehensive plans, which are applicable to the Florida Keys Area, the boundaries of which were described in chapter 28-29, Florida Administrative Code, as of January 1, 2006, for compliance as defined in s. 163.3184. All procedures and penalties described in s. 163.3184 apply to the review conducted pursuant to this paragraph.

(f) The Administration Commission may adopt rules or revise existing rules as necessary to administer this subsection.
(5) APPLICATION OF THIS CHAPTER.—Section 380.05(1)-(5), (9)-(11), (15), (17), and (21) shall not apply to the area designated by this section for so long as the designation remains in effect. Except as otherwise provided in this section, s. 380.045 shall not apply to the area designated by this section. All other provisions of this chapter shall apply, including s. 380.07.
(6) RESOURCE PLANNING AND MANAGEMENT COMMITTEE.—The Governor, acting as the chief planning officer of the state, shall appoint a resource planning and management committee for the Florida Keys Area with the membership as specified in s. 380.045(2). Meetings shall be called as needed by the chair or on the demand of three or more members of the committee. The committee shall:
(a) Serve as a liaison between the state and local governments within Monroe County.
(b) Develop, with local government officials in the Florida Keys Area, recommendations to the state land planning agency as to the sufficiency of the Florida Keys Area's comprehensive plan and land development regulations.
(c) Recommend to the state land planning agency changes to state and regional plans and regulatory programs affecting the Florida Keys Area.
(d) Assist units of local government within the Florida Keys Area in carrying out the planning functions and other responsibilities required by this section.
(e) Review, at a minimum, all reports and other materials provided to it by the state land planning agency or other governmental agencies.
(7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional, and local agencies and units of government in the Florida Keys Area shall coordinate their plans and conduct their programs and regulatory activities consistent with the principles for guiding development as specified in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, which is adopted and incorporated herein by reference. For the purposes of reviewing the consistency of the adopted plan, or any amendments to that plan, with the principles for guiding development, and any amendments to the principles, the principles shall be construed as a whole and specific provisions may not be construed or applied in isolation from the other provisions. However, the principles for guiding development are repealed 18 months from July 1, 1986. After repeal, any plan amendments must be consistent with the following principles:
(a) Strengthening local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing the area of critical state concern designation.
(b) Protecting shoreline and marine resources, including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife, and their habitat.
(c) Protecting upland resources, tropical biological communities, freshwater wetlands, native tropical vegetation (for example, hardwood hammocks and pinelands), dune ridges and beaches, wildlife, and their habitat.
(d) Ensuring the maximum well-being of the Florida Keys and its citizens through sound economic development.
(e) Limiting the adverse impacts of development on the quality of water throughout the Florida Keys.

(f) Enhancing natural scenic resources, promoting the aesthetic benefits of the natural environment, and ensuring that development is compatible with the unique historic character of the Florida Keys.
(g) Protecting the historical heritage of the Florida Keys.
(h) Protecting the value, efficiency, cost-effectiveness, and amortized life of existing and proposed major public investments, including:
1. The Florida Keys Aqueduct and water supply facilities;
2. Sewage collection, treatment, and disposal facilities;
3. Solid waste treatment, collection, and disposal facilities;
4. Key West Naval Air Station and other military facilities;
5. Transportation facilities;
6. Federal parks, wildlife refuges, and marine sanctuaries;
7. State parks, recreation facilities, aquatic preserves, and other publicly owned properties;
8. City electric service and the Florida Keys Electric Co-op; and
9. Other utilities, as appropriate.
(i) Protecting and improving water quality by providing for the construction, operation, maintenance, and replacement of stormwater management facilities; central sewage collection; treatment and disposal facilities; ~~and~~ the installation and proper operation and maintenance of onsite sewage treatment and disposal systems; and other water quality and water supply projects, including direct and indirect potable reuse.
(j) Ensuring the improvement of nearshore water quality by requiring the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(l) and 403.086(10), as applicable, and by directing growth to areas served by central wastewater treatment facilities through permit allocation systems.
(k) Limiting the adverse impacts of public investments on the environmental resources of the Florida Keys.
(l) Making available adequate affordable housing for all sectors of the population of the Florida Keys.
(m) Providing adequate alternatives for the protection of public safety and welfare in the event of a natural or manmade disaster and for a postdisaster reconstruction plan.
(n) Protecting the public health, safety, and welfare of the citizens of the Florida Keys and maintaining the Florida Keys as a unique Florida resource.
(8) COMPREHENSIVE PLAN ELEMENTS AND LAND DEVELOPMENT REGULATIONS.—The comprehensive plan elements and land development regulations approved pursuant to s. 380.05(6), (8), and (14) shall be the comprehensive plan elements and land development regulations for the Florida Keys Area.
(9) MODIFICATION TO PLANS AND REGULATIONS.—
(a) Any land development regulation or element of a local comprehensive plan in the Florida Keys Area may be enacted, amended, or rescinded by a local government, but the enactment, amendment, or rescission becomes effective only upon approval by the state land planning agency. The state land planning agency shall review the proposed change to determine if it is in compliance with the principles for guiding development specified in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, and must approve or reject the requested changes within 60 days after

receipt. Amendments to local comprehensive plans in the Florida Keys Area must also be reviewed for compliance with the following:
1. Construction schedules and detailed capital financing plans for wastewater management improvements in the annually adopted capital improvements element, and standards for the construction of wastewater treatment and disposal facilities or collection systems that meet or exceed the criteria in s. 403.086(10) for wastewater treatment and disposal facilities or s. 381.0065(4)(l) for onsite sewage treatment and disposal systems.
2. Goals, objectives, and policies to protect public safety and welfare in the event of a natural disaster by maintaining a hurricane evacuation clearance time for permanent residents of no more than 24 hours. The hurricane evacuation clearance time shall be determined by a hurricane evacuation study conducted in accordance with a professionally accepted methodology and approved by the state land planning agency.
(b) The state land planning agency, after consulting with the appropriate local government, may, no more than once per year, recommend to the Administration Commission the enactment, amendment, or rescission of a land development regulation or element of a local comprehensive plan. Within 45 days following the receipt of such recommendation, the commission shall reject the recommendation, or accept it with or without modification and adopt it by rule, including any changes. Such local development regulation or plan must be in compliance with the principles for guiding development.
History.—s. 6, ch. 79-73; s. 4, ch. 86-170; s. 1, ch. 89-342; s. 641, ch. 95-148; s. 3, ch. 2006-223; s. 34, ch. 2010-205; s. 26, ch. 2011-4; s. 7, ch. 2016-225.
[1]Note.—Section 7, ch. 2006-223, provides that "[i]f the designation of the Florida Keys Area as an area of critical state concern is removed, the state shall be liable in any inverse condemnation action initiated as a result of Monroe County land use regulations applicable to the Florida Keys Area as described in chapter 28-29, Florida Administrative Code, and adopted pursuant to instructions from the Administration Commission or pursuant to administrative rule of the Administration Commission, to the same extent that the state was liable on the date the Administration Commission determined that substantial progress had been made toward accomplishing the tasks of the work program as defined in s. 380.0552(4)(c), Florida Statutes. If, after the designation of the Florida Keys Area as an area of critical state concern is removed, an inverse condemnation action is initiated based upon land use regulations that were not adopted pursuant to instructions from the Administration Commission or pursuant to administrative rule of the Administration Commission and in effect on the date of the designation's removal, the state's liability in the inverse condemnation action shall be determined by the courts in the manner in which the state's liability is determined in areas that are not areas of critical state concern. The state shall have standing to appear in any inverse condemnation action."

380.0555 Apalachicola Bay Area; protection and designation as area of critical state concern.—

(1) SHORT TITLE.—This act shall be known and cited as the "Apalachicola Bay Area Protection Act."
(2) LEGISLATIVE INTENT.—It is hereby declared that the intent of the Legislature is:
(a) To protect the water quality of the Apalachicola Bay Area to ensure a healthy environment and a thriving economy for the residents of the area and the state.

(b) To financially assist Franklin County and its municipalities in upgrading and expanding their sewerage systems.
(c) To protect the Apalachicola Bay Area's natural and economic resources by implementing and enforcing comprehensive plans and land development regulations.
(d) To assist Franklin County and its municipalities with technical and advisory assistance in formulating additional land development regulations and modifications to comprehensive plans.
(e) To monitor activities within the Apalachicola Bay Area to ensure the long-term protection of all the area's resources.
(f) To promote a broad base of economic growth which is compatible with the protection and conservation of the natural resources of the Apalachicola Bay Area.
(g) To educate the residents of the Apalachicola Bay Area in order to protect and preserve its natural resources.
(3) DESIGNATION.—Franklin County, as described in s. 7.19, less all federally owned lands, less all lands lying east of the line formed by the eastern boundary of State Road 319 running from the Ochlockonee River to the intersection of State Road 319 and State Road 98 and thence due south to the Gulf of Mexico, and less any lands removed under subsection (4), is hereby designated an area of critical state concern on June 18, 1985. State road, for the purpose of this section, shall be defined as in s. 334.03. For the purposes of this act, this area shall be known as the Apalachicola Bay Area.
(4) REMOVAL OF DESIGNATION.—The state land planning agency may recommend to the Administration Commission the removal of the designation from all or part of the area specified in subsection (3), if it determines that all local land development regulations and local comprehensive plans and the administration of such regulations and plans are adequate to protect the Apalachicola Bay Area, continue to carry out the legislative intent set forth in subsection (2), and are in compliance with the principles for guiding development set forth in subsection (7). If the Administration Commission concurs with the recommendations of the state land planning agency to remove any area from the designation, it shall, within 45 days after receipt of the recommendation, initiate rulemaking to remove the designation. The state land planning agency shall make recommendations to the Administration Commission annually.
(5) APPLICATION OF CHAPTER 380 PROVISIONS.—Section 380.05(1)-(5) ~~(6)~~, (8), (9),-(12), (15), (17), and (21), shall not apply to the area designated by this act for so long as the designation remains in effect. Except as otherwise provided in this act, s. 380.045 shall not apply to the area designated by this act. All other provisions of this chapter shall apply, including ss. 380.07 and 380.11, except that the "local development regulations" in s. 380.05(13) shall include the regulations set forth in subsection (8) for purposes of s. 380.05(13), and the plan or plans submitted pursuant to s. 380.05(14) shall be submitted no later than February 1, 1986. All or part of the area designated by this act may be redesignated pursuant to s. 380.05 as if it had been initially designated pursuant to that section.
(6) VESTED RIGHTS OF DEVELOPER.—If a developer has by his or her actions in reliance on prior regulations obtained vested or other legal rights including rights obtained by approval of a development of regional impact or a substantial deviation thereof pursuant to s. 380.06 that would have prevented a local government from

changing those regulations in a way adverse to the developer's interests, nothing in this act authorizes any governmental agency to abridge those rights.
(7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional, and local agencies and units of government in the Apalachicola Bay Area shall coordinate their plans and conduct their programs and regulatory activities consistently with the following principles for guiding the development of the area:
(a) Land development shall be guided so that the basic functions and productivity of the Apalachicola Bay Area's natural land and water systems will be conserved to reduce or avoid health, safety, and economic problems for present and future residents of the Apalachicola Bay Area.
(b) Land development shall be consistent with a safe environment, adequate community facilities, a superior quality of life, and a desire to minimize environmental hazards.
(c) Growth and diversification of the local economy shall be fostered only if it is consistent with protecting the natural resources of the Apalachicola Bay Area through appropriate management of the land and water systems.
(d) Aquatic habitats and wildlife resources of the Apalachicola Bay Area shall be conserved and protected.
(e) Water quantity shall be managed to conserve and protect the natural resources and the scenic beauty of the Apalachicola Bay Area.
(f) The quality of water shall be protected, maintained, and improved for public water supplies, the propagation of aquatic life, and recreational and other uses which are consistent with these uses.
(g) No wastes shall be discharged into any waters of the Apalachicola Bay Area without first being given the degree of treatment necessary to protect the water uses as set forth in paragraph (f).
(h) Stormwater discharges shall be managed in order to minimize their impacts on the bay system and protect the uses as set forth in paragraph (f).
(i) Coastal dune systems, specifically the area extending landward from the extreme high-tide line to the beginning of the pinelands of the Apalachicola Bay Area, shall be protected.
(j) Public lands shall be managed, enhanced, and protected so that the public may continue to enjoy the traditional use of such lands.
(8) COMPREHENSIVE PLAN ELEMENTS AND LAND DEVELOPMENT REGULATIONS.—
(a) Local governments to administer plan elements and regulations.—The following comprehensive plan elements and land development regulations shall be administered by local governments within their jurisdiction in the Apalachicola Bay Area, as part of their local comprehensive plan and land development regulations. If a local government within the Apalachicola Bay Area has a provision in its local comprehensive plan or its land development regulations which conflicts with a provision of this paragraph or has no comparable provision, the provision of this paragraph shall control.
1. Comprehensive plan.—Chapter 1 of Volume I, and chapters 4, 5, 7, and 9 of Volume II of the Franklin County Comprehensive Land Use Plan adopted by Ordinance No. 81-4 on June 22, 1981, by the Franklin County Board of County Commissioners and filed with the Secretary of State on June 30, 1981, are incorporated by reference and adopted herein.

2. Zoning ordinances.—Ordinance No. 81-5 adopted June 22, 1981, by the Franklin County Board of County Commissioners and filed with the Secretary of State on June 30, 1981, and the following amendments are incorporated by reference and adopted herein:
a. Ordinance 82-4, adopted June 18, 1982, and filed with the Secretary of State on July 28, 1982.
b. Ordinance 83-4, adopted July 19, 1983, and filed with the Secretary of State on July 25, 1983.
c. Ordinance 83-7, adopted October 4, 1983, and filed with the Secretary of State on October 6, 1983.
d. Ordinance 84-2, adopted April 24, 1984, and filed with the Secretary of State on April 27, 1984.
3. Subdivision regulations.—Ordinance No. 74-1 adopted November 15, 1974, by the Franklin County Board of County Commissioners and filed with the Secretary of State on December 4, 1974, and December 5, 1974, and the following amendment are incorporated by reference and adopted herein: Ordinance 79-5, filed with the Secretary of State on May 30, 1979.
4. Flood plain management ordinance.—Ordinance No. 83-5 adopted on July 7, 1983, by the Franklin County Board of County Commissioners and filed with the Secretary of State on July 15, 1983, is incorporated by reference and adopted herein.
5. Septic tank ordinance.—Ordinance 79-8 adopted on June 22, 1979, by the Franklin County Board of County Commissioners and filed with the Secretary of State on June 27, 1979, is incorporated by reference and adopted herein.
6. Construction; electrical connection.—Ordinance No. 73-5A adopted July 3, 1973, by the Franklin County Board of County Commissioners and filed with the Secretary of State on March 6, 1981, is incorporated by reference and adopted herein.
7. Alligator Point Water Resource District Act.—Ordinance No. 76-7 adopted on November 16, 1976, by the Franklin County Board of County Commissioners and filed with the Secretary of State on March 6, 1981, is incorporated by reference and adopted herein.
8. Coastal area building codes.—Ordinance No. 84-1 establishing building codes for coastal areas adopted by the Franklin County Board of County Commissioners on February 8, 1984, and filed with the Secretary of State on February 2, 1984, is incorporated by reference and adopted herein.
9. Standard building code.—Ordinance adopting the 1976 Standard Building Code, Ordinance No. 83-1, adopted January 18, 1983, by the Franklin County Board of County Commissioners and filed with the Secretary of State January 20, 1983, is incorporated by reference and adopted herein.
10. Local planning agency.—Ordinance No. 77-6 adopted on June 21, 1977, by the Franklin County Board of County Commissioners and filed with the Secretary of State on June 22, 1977, is incorporated by reference and adopted herein.
11. Coastal high-hazard zones.—Ordinance No. 80-5 adopted on May 29, 1980, by the Franklin County Board of County Commissioners and filed with the Secretary of State on May 30, 1980, is incorporated by reference and adopted herein.
(b) Conflicting regulations.—In the event of any inconsistency between subparagraph (a)1. and subparagraphs (a)2.-11., subparagraph (a)1. shall control. Further, in the

event of any inconsistency between subsection (7) and paragraph (a) of this subsection and a development order issued pursuant to s. 380.06, which has become final prior to June 18, 1985, or between subsection (7) and paragraph (a) and an amendment to a final development order, which amendment has been requested prior to April 2, 1985, the development order or amendment thereto shall control. However, any modification to paragraph (a) enacted by a local government and approved by the state land planning agency ~~Administration Commission~~ pursuant to subsection (9) may provide whether it shall control over an inconsistent provision of a development order or amendment thereto. A development order or any amendment thereto referred to in this paragraph shall not be subject to approval by the state land planning agency ~~Administration Commission~~ pursuant to subsection (9).

(c) Effect of existing plans and regulations.—Legally adopted comprehensive plans and land development regulations other than those listed in this subsection shall remain in full force and effect unless inconsistent with the principles for guiding development set forth in subsection (7), the elements of the comprehensive plan listed in this subsection, or the land development regulations listed in this subsection.

(d) Developments of regional impact.—A local government shall approve a development subject to the provisions of s. 380.06 only if it also complies with the provisions of this subsection.

(9) MODIFICATION TO PLANS AND REGULATIONS.—Any land development regulation or element of a local comprehensive plan in the Apalachicola Bay Area may be enacted, amended, or rescinded by a local government, but the enactment, amendment, or rescission becomes effective only upon the approval thereof by the state land planning agency ~~Administration Commission~~. The state land planning agency shall review the proposed change to determine if it complies with the principles for guiding development specified in subsection (7) and must approve or reject the requested change as provided in s. 380.05. Further, the state land planning agency, after consulting with the appropriate local government, may, from time to time, recommend the enactment, amendment, or rescission of a land development regulation or element of a comprehensive plan. Within 45 days following the receipt of such recommendation by the state land planning agency or enactment, amendment, or rescission by a local government the commission shall reject the recommendation, enactment, amendment, or rescission or accept it with or without modification and adopt, by rule, any changes. Any such local land development regulation or comprehensive plan or part of such regulation or plan may be adopted by the commission if it finds that it is in compliance with the principles for guiding development.

(10) REQUIREMENTS; LOCAL GOVERNMENTS.—

(a) As used in this subsection:

1. “Alternative onsite system” means any approved onsite disposal system used in lieu of a standard subsurface system.

2. “Critical shoreline zone” means all land within a distance of 150 feet landward of the mean high-water line in tidal areas, the ordinary high-water line in nontidal areas, or the inland wetland areas existing along the streams, lakes, rivers, bays, and sounds within the Apalachicola Bay Area.

3. “Pollution-sensitive segment of the critical shoreline” means an area which, due to its proximity to highly sensitive resources, including, but not limited to, productive shellfish beds and nursery areas, requires special regulatory attention.
4. “Low-income family” means a group of persons residing together whose combined income does not exceed 200 percent of the 1985 Poverty Income Guidelines for all states and the District of Columbia, promulgated by the United States Department of Health and Human Services, as published in Volume 50, No. 46 of the Federal Register, pages 9517-18. Income shall be as defined in said guidelines.
(b) Franklin County and the municipalities within it shall, within 60 days after a sewerage system is available for use, notify all owners and users of onsite sewage disposal systems of the availability of such a system and that connection is required within 180 days of the notice. Failure to connect to an available system within the time prescribed shall be a misdemeanor of the second degree, punishable as provided in ss. 775.082 and 775.083. Further, Franklin County and the municipalities within it shall have the right to make the connection if it is not made within the prescribed time and to assess the owner of the real property on which the connection is made for the cost of such connection. Such assessments shall be levied according to law and shall become a lien against the real property, enforced according to law. Franklin County and the municipalities within it shall develop a program and implement ordinances to make available to low-income families the sewer services available upon completion of the proposed sewer projects being funded by this act.
(c)1. The Department of Health shall survey all septic tank soil-absorption systems in the Apalachicola Bay Area to determine their suitability as onsite sewage treatment systems. Within 6 months from June 18, 1985, Franklin County and the municipalities within it, after consultation with the Department of Health and the Department of Environmental Protection, shall develop a program designed to correct any onsite sewage treatment systems that might endanger the water quality of the bay.
2. Franklin County and the municipalities within it shall, within 9 months from June 18, 1985, enact by ordinance procedures implementing this program. These procedures shall include notification to owners of unacceptable septic tanks and procedures for correcting unacceptable septic tanks. These ordinances shall not be effective until approved by the Department of Health and the Department of Environmental Protection.
(d) Franklin County and the municipalities within it shall, within 12 months from June 18, 1985, establish by ordinance a map of “pollution-sensitive segments of the critical shoreline” within the Apalachicola Bay Area, which ordinance shall not be effective until approved by the Department of Health and the Department of Environmental Protection. Franklin County and the municipalities within it, after the effective date of these ordinances, shall no longer grant permits for onsite wastewater disposal systems in pollution-sensitive segments of the critical shoreline, except for those onsite wastewater systems that will not degrade water quality in the river or bay. These ordinances shall not become effective until approved by the resource planning and management committee. Until such ordinances become effective, the Franklin County Health Department shall not give a favorable recommendation to the granting of a septic tank variance pursuant to section (1) of Ordinance 79-8, adopted on June 22, 1979, by the Franklin County Board of County Commissioners and filed with the Secretary of State on June 27, 1979, or issue a permit for a septic tank or alternative waste disposal

system pursuant to Ordinance 81-5, adopted on June 22, 1981, by the Franklin County Board of County Commissioners and filed with the Secretary of State on June 30, 1981, as amended as set forth in subparagraph (8)(a)2., unless the Franklin County Health Department certifies, in writing, that the use of such system will be consistent with paragraph (7)(f) and subsection (8).
(e) Franklin County and the municipalities within it shall, within 9 months from June 18, 1985, enact land development regulations to protect the Apalachicola Bay Area from stormwater pollution, including provisions for development approval, before the issuance of building permits pursuant to chapter 17-25, Florida Administrative Code, Franklin County and the municipalities within it shall, within 90 days following the above deadline, survey existing stormwater management systems and discharges to determine their effect on the bay and develop a comprehensive stormwater management plan to minimize such effects. The plan will include recommendations and financing options for the retrofitting of existing systems. Franklin County and the municipalities within it shall, as part of an overall stormwater management program, inform its citizens about stormwater, its relationship to land use, and its effect upon the resources of the Apalachicola Bay Area.
(f) Franklin County and the municipalities within it shall, beginning 12 months from June 18, 1985, prepare semiannual reports on the implementation of paragraphs (b)-(e) on the environmental status of the Apalachicola Bay Area. The state land planning agency may prescribe additional detailed information required to be reported. Each report shall be delivered to the resource planning and management committee and the state land planning agency for review and recommendations. The state land planning agency shall review each report and consider such reports when making recommendations to the Administration Commission pursuant to subsection (9).
History.—ss. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, ch. 85-360; s. 1, ch. 93-135; s. 51, ch. 93-206; s. 343, ch. 94-356; s. 1028, ch. 95-148; s. 57, ch. 96-321; s. 31, ch. 98-176; s. 72, ch. 99-8; s. 185, ch. 99-13; s. 15, ch. 2001-62; s. 6, ch. 2016-148.

380.06 Developments of regional impact.—
(1) DEFINITION.—The term “development of regional impact,” as used in this section, means any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county.
(2) STATEWIDE GUIDELINES AND STANDARDS.—
(a) The state land planning agency shall recommend to the Administration Commission specific statewide guidelines and standards for adoption pursuant to this subsection. The Administration Commission shall by rule adopt statewide guidelines and standards to be used in determining whether particular developments shall undergo development-of-regional-impact review. The statewide guidelines and standards previously adopted by the Administration Commission and approved by the Legislature shall remain in effect unless revised pursuant to this section or superseded by other provisions of law.
(b) In adopting its guidelines and standards, the Administration Commission shall consider and shall be guided by:
1. The extent to which the development would create or alleviate environmental problems such as air or water pollution or noise.
2. The amount of pedestrian or vehicular traffic likely to be generated.

3. The number of persons likely to be residents, employees, or otherwise present.
4. The size of the site to be occupied.
5. The likelihood that additional or subsidiary development will be generated.
6. The extent to which the development would create an additional demand for, or additional use of, energy, including the energy requirements of subsidiary developments.
7. The unique qualities of particular areas of the state.
(c) With regard to the changes in the guidelines and standards authorized pursuant to this act, in determining whether a proposed development must comply with the review requirements of this section, the state land planning agency shall apply the guidelines and standards which were in effect when the developer received authorization to commence development from the local government. If a developer has not received authorization to commence development from the local government prior to the effective date of new or amended guidelines and standards, the new or amended guidelines and standards shall apply.
(d) The guidelines and standards shall be applied as follows:
1. Fixed thresholds.—
a. A development that is below 100 percent of all numerical thresholds in the guidelines and standards is not required to undergo development-of-regional-impact review.
b. A development that is at or above 120 percent of any numerical threshold shall be required to undergo development-of-regional-impact review.
c. Projects certified under s. 403.973 which create at least 100 jobs and meet the criteria of the Department of Economic Opportunity as to their impact on an area's economy, employment, and prevailing wage and skill levels that are at or below 100 percent of the numerical thresholds for industrial plants, industrial parks, distribution, warehousing or wholesaling facilities, office development or multiuse projects other than residential, as described in s. 380.0651(3)(c) and (f) are not required to undergo development-of-regional-impact review.
2. Rebuttable presumption.—It shall be presumed that a development that is at 100 percent or between 100 and 120 percent of a numerical threshold shall be required to undergo development-of-regional-impact review.
(e) With respect to residential, hotel, motel, office, and retail developments, the applicable guidelines and standards shall be increased by 50 percent in urban central business districts and regional activity centers of jurisdictions whose local comprehensive plans are in compliance with part II of chapter 163. With respect to multiuse developments, the applicable individual use guidelines and standards for residential, hotel, motel, office, and retail developments and multiuse guidelines and standards shall be increased by 100 percent in urban central business districts and regional activity centers of jurisdictions whose local comprehensive plans are in compliance with part II of chapter 163, if one land use of the multiuse development is residential and amounts to not less than 35 percent of the jurisdiction's applicable residential threshold. With respect to resort or convention hotel developments, the applicable guidelines and standards shall be increased by 150 percent in urban central business districts and regional activity centers of jurisdictions whose local comprehensive plans are in compliance with part II of chapter 163 and where the increase is specifically for a proposed resort or convention hotel located in a county with

a population greater than 500,000 and the local government specifically designates that the proposed resort or convention hotel development will serve an existing convention center of more than 250,000 gross square feet built before July 1, 1992. The applicable guidelines and standards shall be increased by 150 percent for development in any area designated by the Governor as a rural area of opportunity pursuant to s. 288.0656 during the effectiveness of the designation.

(3) VARIATION OF THRESHOLDS IN STATEWIDE GUIDELINES AND STANDARDS.—The state land planning agency, a regional planning agency, or a local government may petition the Administration Commission to increase or decrease the numerical thresholds of any statewide guideline and standard. The state land planning agency or the regional planning agency may petition for an increase or decrease for a particular local government's jurisdiction or a part of a particular jurisdiction. A local government may petition for an increase or decrease within its jurisdiction or a part of its jurisdiction. A number of requests may be combined in a single petition.

(a) When a petition is filed, the state land planning agency shall have no more than 180 days to prepare and submit to the Administration Commission a report and recommendations on the proposed variation. The report shall evaluate, and the Administration Commission shall consider, the following criteria:

1. Whether the local government has adopted and effectively implemented a comprehensive plan that reflects and implements the goals and objectives of an adopted state comprehensive plan.
2. Any applicable policies in an adopted strategic regional policy plan.
3. Whether the local government has adopted and effectively implemented both a comprehensive set of land development regulations, which regulations shall include a planned unit development ordinance, and a capital improvements plan that are consistent with the local government comprehensive plan.
4. Whether the local government has adopted and effectively implemented the authority and the fiscal mechanisms for requiring developers to meet development order conditions.
5. Whether the local government has adopted and effectively implemented and enforced satisfactory development review procedures.

(b) The affected regional planning agency, adjoining local governments, and the local government shall be given a reasonable opportunity to submit recommendations to the Administration Commission regarding any such proposed variations.

(c) The Administration Commission shall have authority to increase or decrease a threshold in the statewide guidelines and standards up to 50 percent above or below the statewide presumptive threshold. The commission may from time to time reconsider changed thresholds and make additional variations as it deems necessary.

(d) The Administration Commission shall adopt rules setting forth the procedures for submission and review of petitions filed pursuant to this subsection.

(e) Variations to guidelines and standards adopted by the Administration Commission under this subsection shall be transmitted on or before March 1 to the President of the Senate and the Speaker of the House of Representatives for presentation at the next regular session of the Legislature. Unless approved as submitted by general law, the revisions shall not become effective.

(4) BINDING LETTER.—

(a) If any developer is in doubt whether his or her proposed development must undergo development-of-regional-impact review under the guidelines and standards, whether his or her rights have vested pursuant to subsection (20), or whether a proposed substantial change to a development of regional impact concerning which rights had previously vested pursuant to subsection (20) would divest such rights, the developer may request a determination from the state land planning agency. The developer or the appropriate local government having jurisdiction may request that the state land planning agency determine whether the amount of development that remains to be built in an approved development of regional impact meets the criteria of subparagraph (15)(g)3.
(b) Unless a developer waives the requirements of this paragraph by agreeing to undergo development-of-regional-impact review pursuant to this section, the state land planning agency or local government with jurisdiction over the land on which a development is proposed may require a developer to obtain a binding letter if the development is at a presumptive numerical threshold or up to 20 percent above a numerical threshold in the guidelines and standards.
(c) Any local government may petition the state land planning agency to require a developer of a development located in an adjacent jurisdiction to obtain a binding letter of interpretation. The petition shall contain facts to support a finding that the development as proposed is a development of regional impact. This paragraph shall not be construed to grant standing to the petitioning local government to initiate an administrative or judicial proceeding pursuant to this chapter.
(d) A request for a binding letter of interpretation shall be in writing and in such form and content as prescribed by the state land planning agency. Within 15 days of receiving an application for a binding letter of interpretation or a supplement to a pending application, the state land planning agency shall determine and notify the applicant whether the information in the application is sufficient to enable the agency to issue a binding letter or shall request any additional information needed. The applicant shall either provide the additional information requested or shall notify the state land planning agency in writing that the information will not be supplied and the reasons therefor. If the applicant does not respond to the request for additional information within 120 days, the application for a binding letter of interpretation shall be deemed to be withdrawn. Within 35 days after acknowledging receipt of a sufficient application, or of receiving notification that the information will not be supplied, the state land planning agency shall issue a binding letter of interpretation with respect to the proposed development. A binding letter of interpretation issued by the state land planning agency shall bind all state, regional, and local agencies, as well as the developer.
(e) In determining whether a proposed substantial change to a development of regional impact concerning which rights had previously vested pursuant to subsection (20) would divest such rights, the state land planning agency shall review the proposed change within the context of:
1. Criteria specified in paragraph (19)(b);
2. Its conformance with any adopted state comprehensive plan and any rules of the state land planning agency;
3. All rights and obligations arising out of the vested status of such development;

4. Permit conditions or requirements imposed by the Department of Environmental Protection or any water management district created by s. 373.069 or any of their successor agencies or by any appropriate federal regulatory agency; and
5. Any regional impacts arising from the proposed change.
(f) If a proposed substantial change to a development of regional impact concerning which rights had previously vested pursuant to subsection (20) would result in reduced regional impacts, the change shall not divest rights to complete the development pursuant to subsection (20). Furthermore, where all or a portion of the development of regional impact for which rights had previously vested pursuant to subsection (20) is demolished and reconstructed within the same approximate footprint of buildings and parking lots, so that any change in the size of the development does not exceed the criteria of paragraph (19)(b), such demolition and reconstruction shall not divest the rights which had vested.
(g) Every binding letter determining that a proposed development is not a development of regional impact, but not including binding letters of vested rights or of modification of vested rights, shall expire and become void unless the plan of development has been substantially commenced within:
1. Three years from October 1, 1985, for binding letters issued prior to the effective date of this act; or
2. Three years from the date of issuance of binding letters issued on or after October 1, 1985.
(h) The expiration date of a binding letter, established pursuant to paragraph (g), shall begin to run after final disposition of all administrative and judicial appeals of the binding letter and may be extended by mutual agreement of the state land planning agency, the local government of jurisdiction, and the developer.
(i) In response to an inquiry from a developer or the appropriate local government having jurisdiction, the state land planning agency may issue an informal determination in the form of a clearance letter as to whether a development is required to undergo development-of-regional-impact review or whether the amount of development that remains to be built in an approved development of regional impact meets the criteria of subparagraph (15)(g)3. A clearance letter may be based solely on the information provided by the developer, and the state land planning agency is not required to conduct an investigation of that information. If any material information provided by the developer is incomplete or inaccurate, the clearance letter is not binding upon the state land planning agency. A clearance letter does not constitute final agency action.
(5) AUTHORIZATION TO DEVELOP.—
(a)1. A developer who is required to undergo development-of-regional-impact review may undertake a development of regional impact if the development has been approved under the requirements of this section.
2. If the land on which the development is proposed is within an area of critical state concern, the development must also be approved under the requirements of s. 380.05.
(b) State or regional agencies may inquire whether a proposed project is undergoing or will be required to undergo development-of-regional-impact review. If a project is undergoing or will be required to undergo development-of-regional-impact review, any state or regional permit necessary for the construction or operation of the project that is valid for 5 years or less shall take effect, and the period of time for which the permit is

valid shall begin to run, upon expiration of the time allowed for an administrative appeal of the development or upon final action following an administrative appeal or judicial review, whichever is later. However, if the application for development approval is not filed within 18 months after the issuance of the permit, the time of validity of the permit shall be considered to be from the date of issuance of the permit. If a project is required to obtain a binding letter under subsection (4), any state or regional agency permit necessary for the construction or operation of the project that is valid for 5 years or less shall take effect, and the period of time for which the permit is valid shall begin to run, only after the developer obtains a binding letter stating that the project is not required to undergo development-of-regional-impact review or after the developer obtains a development order pursuant to this section.

(c) Prior to the issuance of a final development order, the developer may elect to be bound by the rules adopted pursuant to chapters 373 and 403 in effect when such development order is issued. The rules adopted pursuant to chapters 373 and 403 in effect at the time such development order is issued shall be applicable to all applications for permits pursuant to those chapters and which are necessary for and consistent with the development authorized in such development order, except that a later adopted rule shall be applicable to an application if:

1. The later adopted rule is determined by the rule-adopting agency to be essential to the public health, safety, or welfare;
2. The later adopted rule is adopted pursuant to s. 403.061(27);
3. The later adopted rule is being adopted pursuant to a subsequently enacted statutorily mandated program;
4. The later adopted rule is mandated in order for the state to maintain delegation of a federal program; or
5. The later adopted rule is required by state or federal law.

(d) The provision of day care service facilities in developments approved pursuant to this section is permissible but is not required.

Further, in order for any developer to apply for permits pursuant to this provision, the application must be filed within 5 years from the issuance of the final development order and the permit shall not be effective for more than 8 years from the issuance of the final development order. Nothing in this paragraph shall be construed to alter or change any permitting agency’s authority to approve permits or to determine applicable criteria for longer periods of time.

(6) APPLICATION FOR APPROVAL OF DEVELOPMENT; CONCURRENT PLAN AMENDMENTS.—

(a) Prior to undertaking any development, a developer that is required to undergo development-of-regional-impact review shall file an application for development approval with the appropriate local government having jurisdiction. The application shall contain, in addition to such other matters as may be required, a statement that the developer proposes to undertake a development of regional impact as required under this section.

(b) Any local government comprehensive plan amendments related to a proposed development of regional impact, including any changes proposed under subsection (19), may be initiated by a local planning agency or the developer and must be considered by the local governing body at the same time as the application for

development approval using the procedures provided for local plan amendment in s. 163.3184 and applicable local ordinances, without regard to local limits on the frequency of consideration of amendments to the local comprehensive plan. This paragraph does not require favorable consideration of a plan amendment solely because it is related to a development of regional impact. The procedure for processing such comprehensive plan amendments is as follows:

1. If a developer seeks a comprehensive plan amendment related to a development of regional impact, the developer must so notify in writing the regional planning agency, the applicable local government, and the state land planning agency no later than the date of preapplication conference or the submission of the proposed change under subsection (19).

2. When filing the application for development approval or the proposed change, the developer must include a written request for comprehensive plan amendments that would be necessitated by the development-of-regional-impact approvals sought. That request must include data and analysis upon which the applicable local government can determine whether to transmit the comprehensive plan amendment pursuant to s. 163.3184.

3. The local government must advertise a public hearing on the transmittal within 30 days after filing the application for development approval or the proposed change and must make a determination on the transmittal within 60 days after the initial filing unless that time is extended by the developer.

4. If the local government approves the transmittal, procedures set forth in [1]s. 163.3184 must be followed.

[2]5. Notwithstanding subsection (11) or subsection (19), the local government may not hold a public hearing on the application for development approval or the proposed change or on the comprehensive plan amendments sooner than 30 days after reviewing agency comments are due to the local government pursuant to s. 163.3184.

6. The local government must hear both the application for development approval or the proposed change and the comprehensive plan amendments at the same hearing. However, the local government must take action separately on the application for development approval or the proposed change and on the comprehensive plan amendments.

7. Thereafter, the appeal process for the local government development order must follow the provisions of s. 380.07, and the compliance process for the comprehensive plan amendments must follow the provisions of s. 163.3184.

(7) PREAPPLICATION PROCEDURES.—

(a) Before filing an application for development approval, the developer shall contact the regional planning agency having jurisdiction over the proposed development to arrange a preapplication conference. Upon the request of the developer or the regional planning agency, other affected state and regional agencies shall participate in this conference and shall identify the types of permits issued by the agencies, the level of information required, and the permit issuance procedures as applied to the proposed development. The levels of service required in the transportation methodology shall be the same levels of service used to evaluate concurrency in accordance with s. 163.3180. The regional planning agency shall provide the developer information about the development-of-regional-impact process and the use of preapplication conferences to

identify issues, coordinate appropriate state and local agency requirements, and otherwise promote a proper and efficient review of the proposed development. If an agreement is reached regarding assumptions and methodology to be used in the application for development approval, the reviewing agencies may not subsequently object to those assumptions and methodologies unless subsequent changes to the project or information obtained during the review make those assumptions and methodologies inappropriate. The reviewing agencies may make only recommendations or comments regarding a proposed development which are consistent with the statutes, rules, or adopted local government ordinances that are applicable to developments in the jurisdiction where the proposed development is located.

(b) The regional planning agency shall establish by rule a procedure by which a developer may enter into binding written agreements with the regional planning agency to eliminate questions from the application for development approval when those questions are found to be unnecessary for development-of-regional-impact review. It is the legislative intent of this subsection to encourage reduction of paperwork, to discourage unnecessary gathering of data, and to encourage the coordination of the development-of-regional-impact review process with federal, state, and local environmental reviews when such reviews are required by law.

(c) If the application for development approval is not submitted within 1 year after the date of the preapplication conference, the regional planning agency, the local government having jurisdiction, or the applicant may request that another preapplication conference be held.

(8) PRELIMINARY DEVELOPMENT AGREEMENTS.—

(a) A developer may enter into a written preliminary development agreement with the state land planning agency to allow a developer to proceed with a limited amount of the total proposed development, subject to all other governmental approvals and solely at the developer's own risk, prior to issuance of a final development order. All owners of the land in the total proposed development shall join the developer as parties to the agreement. Each agreement shall include and be subject to the following conditions:

1. The developer shall comply with the preapplication conference requirements pursuant to subsection (7) within 45 days after the execution of the agreement.

2. The developer shall file an application for development approval for the total proposed development within 3 months after execution of the agreement, unless the state land planning agency agrees to a different time for good cause shown. Failure to timely file an application and to otherwise diligently proceed in good faith to obtain a final development order shall constitute a breach of the preliminary development agreement.

3. The agreement shall include maps and legal descriptions of both the preliminary development area and the total proposed development area and shall specifically describe the preliminary development in terms of magnitude and location. The area approved for preliminary development must be included in the application for development approval and shall be subject to the terms and conditions of the final development order.

4. The preliminary development shall be limited to lands that the state land planning agency agrees are suitable for development and shall only be allowed in areas where adequate public infrastructure exists to accommodate the preliminary development,

when such development will utilize public infrastructure. The developer must also demonstrate that the preliminary development will not result in material adverse impacts to existing resources or existing or planned facilities.
5. The preliminary development agreement may allow development which is:
a. [3]Less than 100 percent of any applicable threshold if the developer demonstrates that such development is consistent with subparagraph 4.; or
b. Less than 120 percent of any applicable threshold if the developer demonstrates that such development is part of a proposed downtown development of regional impact specified in subsection (22) or part of any areawide development of regional impact specified in subsection (25) and that the development is consistent with subparagraph 4.
6. The developer and owners of the land may not claim vested rights, or assert equitable estoppel, arising from the agreement or any expenditures or actions taken in reliance on the agreement to continue with the total proposed development beyond the preliminary development. The agreement shall not entitle the developer to a final development order approving the total proposed development or to particular conditions in a final development order.
7. The agreement shall not prohibit the regional planning agency from reviewing or commenting on any regional issue that the regional agency determines should be included in the regional agency's report on the application for development approval.
8. The agreement shall include a disclosure by the developer and all the owners of the land in the total proposed development of all land or development within 5 miles of the total proposed development in which they have an interest and shall describe such interest.
9. In the event of a breach of the agreement or failure to comply with any condition of the agreement, or if the agreement was based on materially inaccurate information, the state land planning agency may terminate the agreement or file suit to enforce the agreement as provided in this section and s. 380.11, including a suit to enjoin all development.
10. A notice of the preliminary development agreement shall be recorded by the developer in accordance with s. 28.222 with the clerk of the circuit court for each county in which land covered by the terms of the agreement is located. The notice shall include a legal description of the land covered by the agreement and shall state the parties to the agreement, the date of adoption of the agreement and any subsequent amendments, the location where the agreement may be examined, and that the agreement constitutes a land development regulation applicable to portions of the land covered by the agreement. The provisions of the agreement shall inure to the benefit of and be binding upon successors and assigns of the parties in the agreement.
11. Except for those agreements which authorize preliminary development for substantial deviations pursuant to subsection (19), a developer who no longer wishes to pursue a development of regional impact may propose to abandon any preliminary development agreement executed after January 1, 1985, including those pursuant to s. 380.032(3), provided at the time of abandonment:
a. A final development order under this section has been rendered that approves all of the development actually constructed; or

b. The amount of development is less than 100 percent of all numerical thresholds of the guidelines and standards, and the state land planning agency determines in writing that the development to date is in compliance with all applicable local regulations and the terms and conditions of the preliminary development agreement and otherwise adequately mitigates for the impacts of the development to date.
In either event, when a developer proposes to abandon said agreement, the developer shall give written notice and state that he or she is no longer proposing a development of regional impact and provide adequate documentation that he or she has met the criteria for abandonment of the agreement to the state land planning agency. Within 30 days of receipt of adequate documentation of such notice, the state land planning agency shall make its determination as to whether or not the developer meets the criteria for abandonment. Once the state land planning agency determines that the developer meets the criteria for abandonment, the state land planning agency shall issue a notice of abandonment which shall be recorded by the developer in accordance with s. 28.222 with the clerk of the circuit court for each county in which land covered by the terms of the agreement is located.
(b) The state land planning agency may enter into other types of agreements to effectuate the provisions of this act as provided in s. 380.032.
(c) The provisions of this subsection shall also be available to a developer who chooses to seek development approval of a Florida Quality Development pursuant to s. 380.061.
(9) CONCEPTUAL AGENCY REVIEW.—
(a) 1. In order to facilitate the planning and preparation of permit applications for projects that undergo development-of-regional-impact review, and in order to coordinate the information required to issue such permits, a developer may elect to request conceptual agency review under this subsection either concurrently with development-of-regional-impact review and comprehensive plan amendments, if applicable, or subsequent to a preapplication conference held pursuant to subsection (7).
2. “Conceptual agency review” means general review of the proposed location, densities, intensity of use, character, and major design features of a proposed development required to undergo review under this section for the purpose of considering whether these aspects of the proposed development comply with the issuing agency’s statutes and rules.
3. Conceptual agency review is a licensing action subject to chapter 120, and approval or denial constitutes final agency action, except that the 90-day time period specified in s. 120.60(1) shall be tolled for the agency when the affected regional planning agency requests information from the developer pursuant to paragraph (10)(b). If proposed agency action on the conceptual approval is the subject of a proceeding under ss. 120.569 and 120.57, final agency action shall be conclusive as to any issues actually raised and adjudicated in the proceeding, and such issues may not be raised in any subsequent proceeding under ss. 120.569 and 120.57 on the proposed development by any parties to the prior proceeding.
4. A conceptual agency review approval shall be valid for up to 10 years, unless otherwise provided in a state or regional agency rule, and may be reviewed and reissued for additional periods of time under procedures established by the agency.
(b) The Department of Environmental Protection, each water management district, and each other state or regional agency that requires construction or operation permits shall

establish by rule a set of procedures necessary for conceptual agency review for the following permitting activities within their respective regulatory jurisdictions:
1. The construction and operation of potential sources of water pollution, including industrial wastewater, domestic wastewater, and stormwater.
2. Dredging and filling activities.
3. The management and storage of surface waters.
4. The construction and operation of works of the district, only if a conceptual agency review approval is requested under subparagraph 3.
Any state or regional agency may establish rules for conceptual agency review for any other permitting activities within its respective regulatory jurisdiction.
(c)1. Each agency participating in conceptual agency reviews shall determine and establish by rule its information and application requirements and furnish these requirements to the state land planning agency and to any developer seeking conceptual agency review under this subsection.
2. Each agency shall cooperate with the state land planning agency to standardize, to the extent possible, review procedures, data requirements, and data collection methodologies among all participating agencies, consistent with the requirements of the statutes that establish the permitting programs for each agency.
(d) At the conclusion of the conceptual agency review, the agency shall give notice of its proposed agency action as required by s. 120.60(3) and shall forward a copy of the notice to the appropriate regional planning council with a report setting out the agency's conclusions on potential development impacts and stating whether the agency intends to grant conceptual approval, with or without conditions, or to deny conceptual approval. If the agency intends to deny conceptual approval, the report shall state the reasons therefor. The agency may require the developer to publish notice of proposed agency action in accordance with s. 403.815.
(e) An agency's decision to grant conceptual approval shall not relieve the developer of the requirement to obtain a permit and to meet the standards for issuance of a construction or operation permit or to meet the agency's information requirements for such a permit. Nevertheless, there shall be a rebuttable presumption that the developer is entitled to receive a construction or operation permit for an activity for which the agency granted conceptual review approval, to the extent that the project for which the applicant seeks a permit is in accordance with the conceptual approval and with the agency's standards and criteria for issuing a construction or operation permit. The agency may revoke or appropriately modify a valid conceptual approval if the agency shows:
1. That an applicant or his or her agent has submitted materially false or inaccurate information in the application for conceptual approval;
2. That the developer has violated a condition of the conceptual approval; or
3. That the development will cause a violation of the agency's applicable laws or rules.
(f) Nothing contained in this subsection shall modify or abridge the law of vested rights or estoppel.
(g) Nothing contained in this subsection shall be construed to preclude an agency from adopting rules for conceptual review for developments which are not developments of regional impact.
(10) APPLICATION; SUFFICIENCY.—

(a) When an application for development approval is filed with a local government, the developer shall also send copies of the application to the appropriate regional planning agency and the state land planning agency.
(b) If a regional planning agency determines that the application for development approval is insufficient for the agency to discharge its responsibilities under subsection (12), it shall provide in writing to the appropriate local government and the applicant a statement of any additional information desired within 30 days of the receipt of the application by the regional planning agency. The applicant may supply the information requested by the regional planning agency and shall communicate its intention to do so in writing to the appropriate local government and the regional planning agency within 5 working days of the receipt of the statement requesting such information, or the applicant shall notify the appropriate local government and the regional planning agency in writing that the requested information will not be supplied. Within 30 days after receipt of such additional information, the regional planning agency shall review it and may request only that information needed to clarify the additional information or to answer new questions raised by, or directly related to, the additional information. The regional planning agency may request additional information no more than twice, unless the developer waives this limitation. If an applicant does not provide the information requested by a regional planning agency within 120 days of its request, or within a time agreed upon by the applicant and the regional planning agency, the application shall be considered withdrawn.
(c) The regional planning agency shall notify the local government that a public hearing date may be set when the regional planning agency determines that the application is sufficient or when it receives notification from the developer that the additional requested information will not be supplied, as provided for in paragraph (b).
(11) LOCAL NOTICE.—Upon receipt of the sufficiency notification from the regional planning agency required by paragraph (10)(c), the appropriate local government shall give notice and hold a public hearing on the application in the same manner as for a rezoning as provided under the appropriate special or local law or ordinance, except that such hearing proceedings shall be recorded by tape or a certified court reporter and made available for transcription at the expense of any interested party. When a development of regional impact is proposed within the jurisdiction of more than one local government, the local governments, at the request of the developer, may hold a joint public hearing. The local government shall comply with the following additional requirements:
(a) The notice of public hearing shall state that the proposed development is undergoing a development-of-regional-impact review.
(b) The notice shall be published at least 60 days in advance of the hearing and shall specify where the information and reports on the development-of-regional-impact application may be reviewed.
(c) The notice shall be given to the state land planning agency, to the applicable regional planning agency, to any state or regional permitting agency participating in a conceptual agency review process under subsection (9), and to such other persons as may have been designated by the state land planning agency as entitled to receive such notices.

(d) A public hearing date shall be set by the appropriate local government at the next scheduled meeting. The public hearing shall be held no later than 90 days after issuance of notice by the regional planning agency that a public hearing may be set, unless an extension is requested by the applicant.
(12) REGIONAL REPORTS.—
(a) Within 50 days after receipt of the notice of public hearing required in paragraph (11)(c), the regional planning agency, if one has been designated for the area including the local government, shall prepare and submit to the local government a report and recommendations on the regional impact of the proposed development. In preparing its report and recommendations, the regional planning agency shall identify regional issues based upon the following review criteria and make recommendations to the local government on these regional issues, specifically considering whether, and the extent to which:
1. The development will have a favorable or unfavorable impact on state or regional resources or facilities identified in the applicable state or regional plans. As used in this subsection, the term “applicable state plan” means the state comprehensive plan. As used in this subsection, the term “applicable regional plan” means an adopted strategic regional policy plan.
2. The development will significantly impact adjacent jurisdictions. At the request of the appropriate local government, regional planning agencies may also review and comment upon issues that affect only the requesting local government.
3. As one of the issues considered in the review in subparagraphs 1. and 2., the development will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment if the regional planning agency has adopted an affordable housing policy as part of its strategic regional policy plan. The determination should take into account information on factors that are relevant to the availability of reasonably accessible adequate housing. Adequate housing means housing that is available for occupancy and that is not substandard.
(b) The regional planning agency report must contain recommendations that are consistent with the standards required by the applicable state permitting agencies or the water management district.
(c) At the request of the regional planning agency, other appropriate agencies shall review the proposed development and shall prepare reports and recommendations on issues that are clearly within the jurisdiction of those agencies. Such agency reports shall become part of the regional planning agency report; however, the regional planning agency may attach dissenting views. When water management district and Department of Environmental Protection permits have been issued pursuant to chapter 373 or chapter 403, the regional planning council may comment on the regional implications of the permits but may not offer conflicting recommendations.
(d) The regional planning agency shall afford the developer or any substantially affected party reasonable opportunity to present evidence to the regional planning agency head relating to the proposed regional agency report and recommendations.
(e) If the location of a proposed development involves land within the boundaries of multiple regional planning councils, the state land planning agency shall designate a lead regional planning council. The lead regional planning council shall prepare the regional report.

(13) CRITERIA IN AREAS OF CRITICAL STATE CONCERN.—If the development is in an area of critical state concern, the local government shall approve it only if it complies with the land development regulations therefor under s. 380.05 and the provisions of this section. The provisions of this section shall not apply to developments in areas of critical state concern which had pending applications and had been noticed or agendaed by local government after September 1, 1985, and before October 1, 1985, for development order approval. In all such cases, the state land planning agency may consider and address applicable regional issues contained in subsection (12) as part of its area-of-critical-state-concern review pursuant to ss. 380.05, 380.07, and 380.11.
(14) CRITERIA OUTSIDE AREAS OF CRITICAL STATE CONCERN.— If the development is not located in an area of critical state concern, in considering whether the development is ~~shall be~~ approved, denied, or approved subject to conditions, restrictions, or limitations, the local government shall consider whether, and the extent to which:
(a) The development is consistent with the local comprehensive plan and local land development regulations.~~;~~
(b) The development is consistent with the report and recommendations of the regional planning agency submitted pursuant to subsection (12).~~; and~~
(c) The development is consistent with the State Comprehensive Plan. In consistency determinations, the plan shall be construed and applied in accordance with s. 187.101(3).
However, a local government may approve a change to a development authorized as a development of regional impact if the change has the effect of reducing the originally approved height, density, or intensity of the development and if the revised development would have been consistent with the comprehensive plan in effect when the development was originally approved. If the revised development is approved, the developer may proceed as provided in s. 163.3167(5).
(15) LOCAL GOVERNMENT DEVELOPMENT ORDER.—
(a) The appropriate local government shall render a decision on the application within 30 days after the hearing unless an extension is requested by the developer.
(b) When possible, local governments shall issue development orders concurrently with any other local permits or development approvals that may be applicable to the proposed development.
(c) The development order shall include findings of fact and conclusions of law consistent with subsections (13) and (14). The development order:
1. Shall specify the monitoring procedures and the local official responsible for assuring compliance by the developer with the development order.
2. Shall establish compliance dates for the development order, including a deadline for commencing physical development and for compliance with conditions of approval or phasing requirements, and shall include a buildout date that reasonably reflects the time anticipated to complete the development.
3. Shall establish a date until which the local government agrees that the approved development of regional impact shall not be subject to downzoning, unit density reduction, or intensity reduction, unless the local government can demonstrate that substantial changes in the conditions underlying the approval of the development order have occurred or the development order was based on substantially inaccurate

information provided by the developer or that the change is clearly established by local government to be essential to the public health, safety, or welfare. The date established pursuant to this subparagraph shall be no sooner than the buildout date of the project.
4. Shall specify the requirements for the biennial report designated under subsection (18), including the date of submission, parties to whom the report is submitted, and contents of the report, based upon the rules adopted by the state land planning agency. Such rules shall specify the scope of any additional local requirements that may be necessary for the report.
5. May specify the types of changes to the development which shall require submission for a substantial deviation determination or a notice of proposed change under subsection (19).
6. Shall include a legal description of the property.
(d) Conditions of a development order that require a developer to contribute land for a public facility or construct, expand, or pay for land acquisition or construction or expansion of a public facility, or portion thereof, shall meet the following criteria:
1. The need to construct new facilities or add to the present system of public facilities must be reasonably attributable to the proposed development.
2. Any contribution of funds, land, or public facilities required from the developer shall be comparable to the amount of funds, land, or public facilities that the state or the local government would reasonably expect to expend or provide, based on projected costs of comparable projects, to mitigate the impacts reasonably attributable to the proposed development.
3. Any funds or lands contributed must be expressly designated and used to mitigate impacts reasonably attributable to the proposed development.
4. Construction or expansion of a public facility by a nongovernmental developer as a condition of a development order to mitigate the impacts reasonably attributable to the proposed development is not subject to competitive bidding or competitive negotiation for selection of a contractor or design professional for any part of the construction or design.
(e)1. A local government shall not include, as a development order condition for a development of regional impact, any requirement that a developer contribute or pay for land acquisition or construction or expansion of public facilities or portions thereof unless the local government has enacted a local ordinance which requires other development not subject to this section to contribute its proportionate share of the funds, land, or public facilities necessary to accommodate any impacts having a rational nexus to the proposed development, and the need to construct new facilities or add to the present system of public facilities must be reasonably attributable to the proposed development.
2. A local government shall not approve a development of regional impact that does not make adequate provision for the public facilities needed to accommodate the impacts of the proposed development unless the local government includes in the development order a commitment by the local government to provide these facilities consistently with the development schedule approved in the development order; however, a local government’s failure to meet the requirements of subparagraph 1. and this subparagraph shall not preclude the issuance of a development order where adequate provision is made by the developer for the public facilities needed to accommodate the

impacts of the proposed development. Any funds or lands contributed by a developer must be expressly designated and used to accommodate impacts reasonably attributable to the proposed development.
3. The Department of Economic Opportunity and other state and regional agencies involved in the administration and implementation of this act shall cooperate and work with units of local government in preparing and adopting local impact fee and other contribution ordinances.
(f) Notice of the adoption of a development order or the subsequent amendments to an adopted development order shall be recorded by the developer, in accordance with s. 28.222, with the clerk of the circuit court for each county in which the development is located. The notice shall include a legal description of the property covered by the order and shall state which unit of local government adopted the development order, the date of adoption, the date of adoption of any amendments to the development order, the location where the adopted order with any amendments may be examined, and that the development order constitutes a land development regulation applicable to the property. The recording of this notice shall not constitute a lien, cloud, or encumbrance on real property, or actual or constructive notice of any such lien, cloud, or encumbrance. This paragraph applies only to developments initially approved under this section after July 1, 1980.
(g) A local government may ~~shall~~ not issue a permit ~~permits~~ for a development subsequent to the buildout date contained in the development order unless:
1. The proposed development has been evaluated cumulatively with existing development under the substantial deviation provisions of subsection (19) after ~~subsequent to~~ the termination or expiration date;
2. The proposed development is consistent with an abandonment of development order that has been issued in accordance with ~~the provisions of~~ subsection (26);
3. The development of regional impact is essentially built out, in that all the mitigation requirements in the development order have been satisfied, all developers are in compliance with all applicable terms and conditions of the development order except the buildout date, and the amount of proposed development that remains to be built is less than 40 percent of any applicable development-of-regional-impact threshold; or
4. The project has been determined to be an essentially built-out development of regional impact through an agreement executed by the developer, the state land planning agency, and the local government, in accordance with s. 380.032, which will establish the terms and conditions under which the development may be continued. If the project is determined to be essentially built out, development may proceed pursuant to the s. 380.032 agreement after the termination or expiration date contained in the development order without further development-of-regional-impact review subject to the local government comprehensive plan and land development regulations ~~or subject to a modified development of regional impact analysis~~. The parties may amend the agreement without submission, review, or approval of a notification of proposed change pursuant to subsection (19). For the purposes of ~~As used in~~ this paragraph, a ~~an "essentially built out"~~ development of regional impact is considered essentially built out, if ~~means~~:
a. The developers are in compliance with all applicable terms and conditions of the development order except the buildout date or reporting requirements; and

b.(I) The amount of development that remains to be built is less than the substantial deviation threshold specified in paragraph (19)(b) for each individual land use category, or, for a multiuse development, the sum total of all unbuilt land uses as a percentage of the applicable substantial deviation threshold is equal to or less than 100 percent; or
(II) The state land planning agency and the local government have agreed in writing that the amount of development to be built does not create the likelihood of any additional regional impact not previously reviewed.
The single-family residential portions of a development may be considered essentially built out if all of the workforce housing obligations and all of the infrastructure and horizontal development have been completed, at least 50 percent of the dwelling units have been completed, and more than 80 percent of the lots have been conveyed to third-party individual lot owners or to individual builders who own no more than 40 lots at the time of the determination. The mobile home park portions of a development may be considered essentially built out if all the infrastructure and horizontal development has been completed, and at least 50 percent of the lots are leased to individual mobile home owners. In order to accommodate changing market demands and achieve maximum land use efficiency in an essentially built out project, when a developer is building out a project, a local government, without the concurrence of the state land planning agency, may adopt a resolution authorizing the developer to exchange one approved land use for another approved land use as specified in the agreement. Before the issuance of a building permit pursuant to an exchange, the developer must demonstrate to the local government that the exchange ratio will not result in a net increase in impacts to public facilities and will meet all applicable requirements of the comprehensive plan and land development code. For developments previously determined to impact strategic intermodal facilities as defined in s. 339.63, the local government shall consult with the Department of Transportation before approving the exchange.
(h) If the property is annexed by another local jurisdiction, the annexing jurisdiction shall adopt a new development order that incorporates all previous rights and obligations specified in the prior development order.
(16) CREDITS AGAINST LOCAL IMPACT FEES.—
(a) If the development order requires the developer to contribute land or a public facility or construct, expand, or pay for land acquisition or construction or expansion of a public facility, or portion thereof, and the developer is also subject by local ordinance to impact fees or exactions to meet the same needs, the local government shall establish and implement a procedure that credits a development order exaction or fee toward an impact fee or exaction imposed by local ordinance for the same need; however, if the Florida Land and Water Adjudicatory Commission imposes any additional requirement, the local government shall not be required to grant a credit toward the local exaction or impact fee unless the local government determines that such required contribution, payment, or construction meets the same need that the local exaction or impact fee would address. The nongovernmental developer need not be required, by virtue of this credit, to competitively bid or negotiate any part of the construction or design of the facility, unless otherwise requested by the local government.
(b) If the local government imposes or increases an impact fee or exaction by local ordinance after a development order has been issued, the developer may petition the

local government, and the local government shall modify the affected provisions of the development order to give the developer credit for any contribution of land for a public facility, or construction, expansion, or contribution of funds for land acquisition or construction or expansion of a public facility, or a portion thereof, required by the development order toward an impact fee or exaction for the same need.
(c) The local government and the developer may enter into capital contribution front-ending agreements as part of a development-of-regional-impact development order to reimburse the developer, or the developer's successor, for voluntary contributions paid in excess of his or her fair share.
(d) This subsection does not apply to internal, onsite facilities required by local regulations or to any offsite facilities to the extent such facilities are necessary to provide safe and adequate services to the development.
(17) LOCAL MONITORING.—The local government issuing the development order is primarily responsible for monitoring the development and enforcing the provisions of the development order. Local governments shall not issue any permits or approvals or provide any extensions of services if the developer fails to act in substantial compliance with the development order.
(18) BIENNIAL REPORTS.—The developer shall submit a biennial report on the development of regional impact to the local government, the regional planning agency, the state land planning agency, and all affected permit agencies in alternate years on the date specified in the development order, unless the development order by its terms requires more frequent monitoring. If the report is not received, the state land planning agency shall notify the local government. If the local government does not receive the report or receives notification that the state land planning agency has not received the report, the local government shall request in writing that the developer submit the report within 30 days. The failure to submit the report after 30 days shall result in the temporary suspension of the development order by the local government. If no additional development pursuant to the development order has occurred since the submission of the previous report, then a letter from the developer stating that no development has occurred shall satisfy the requirement for a report. Development orders that require annual reports may be amended to require biennial reports at the option of the local government.
(19) SUBSTANTIAL DEVIATIONS.—
(a) Any proposed change to a previously approved development which creates a reasonable likelihood of additional regional impact, or any type of regional impact created by the change not previously reviewed by the regional planning agency, shall constitute a substantial deviation and shall cause the proposed change to be subject to further development-of-regional-impact review. There are a variety of reasons why a developer may wish to propose changes to an approved development of regional impact, including changed market conditions. The procedures set forth in this subsection are for that purpose.
(b) Any proposed change to a previously approved development of regional impact or development order condition which, either individually or cumulatively with other changes, exceeds any of the ~~following~~ criteria in subparagraphs 1.-11. constitutes ~~shall constitute~~ a substantial deviation and shall cause the development to be subject to further development-of-regional-impact review through the notice of proposed change

process under this section. ~~without the necessity for finding of same by the local government:~~

1. An increase in the number of parking spaces at an attraction or recreational facility by 15 percent or 500 spaces, whichever is greater, or an increase in the number of spectators that may be accommodated at such a facility by 15 percent or 1,500 spectators, whichever is greater.
2. A new runway, a new terminal facility, a 25 percent lengthening of an existing runway, or a 25 percent increase in the number of gates of an existing terminal, but only if the increase adds at least three additional gates.
3. An increase in land area for office development by 15 percent or an increase of gross floor area of office development by 15 percent or 100,000 gross square feet, whichever is greater.
4. An increase in the number of dwelling units by 10 percent or 55 dwelling units, whichever is greater.
5. An increase in the number of dwelling units by 50 percent or 200 units, whichever is greater, provided that 15 percent of the proposed additional dwelling units are dedicated to affordable workforce housing, subject to a recorded land use restriction that shall be for a period of not less than 20 years and that includes resale provisions to ensure long-term affordability for income-eligible homeowners and renters and provisions for the workforce housing to be commenced before ~~prior to~~ the completion of 50 percent of the market rate dwelling. For purposes of this subparagraph, the term “affordable workforce housing” means housing that is affordable to a person who earns less than 120 percent of the area median income, or less than 140 percent of the area median income if located in a county in which the median purchase price for a single-family existing home exceeds the statewide median purchase price of a single-family existing home. For purposes of this subparagraph, the term “statewide median purchase price of a single-family existing home” means the statewide purchase price as determined in the Florida Sales Report, Single-Family Existing Homes, released each January by the Florida Association of Realtors and the University of Florida Real Estate Research Center.
6. An increase in commercial development by 60,000 square feet of gross floor area or of parking spaces provided for customers for 425 cars or a 10 percent increase, whichever is greater.
7. An increase in a recreational vehicle park area by 10 percent or 110 vehicle spaces, whichever is less.
8. A decrease in the area set aside for open space of 5 percent or 20 acres, whichever is less.
9. A proposed increase to an approved multiuse development of regional impact where the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria is equal to or exceeds 110 percent. The percentage of any decrease in the amount of open space shall be treated as an increase for purposes of determining when 110 percent has been reached or exceeded.
10. A 15 percent increase in the number of external vehicle trips generated by the development above that which was projected during the original development-of-regional-impact review.
11. Any change that would result in development of any area which was specifically set aside in the application for development approval or in the development order for

preservation or special protection of endangered or threatened plants or animals designated as endangered, threatened, or species of special concern and their habitat, any species protected by 16 U.S.C. ss. 668a-668d, primary dunes, or archaeological and historical sites designated as significant by the Division of Historical Resources of the Department of State. The refinement of the boundaries and configuration of such areas shall be considered under sub-subparagraph (e)2.j.

The substantial deviation numerical standards in subparagraphs 3., 6., and 9., excluding residential uses, and in subparagraph 10., are increased by 100 percent for a project certified under s. 403.973 which creates jobs and meets criteria established by the Department of Economic Opportunity as to its impact on an area's economy, employment, and prevailing wage and skill levels. The substantial deviation numerical standards in subparagraphs 3., 4., 5., 6., 9., and 10. are increased by 50 percent for a project located wholly within an urban infill and redevelopment area designated on the applicable adopted local comprehensive plan future land use map and not located within the coastal high hazard area.

[4](c) An extension of the date of buildout of a development, or any phase thereof, by more than 7 years is presumed to create a substantial deviation subject to further development-of-regional-impact review.

1. An extension of the date of buildout, or any phase thereof, of more than 5 years but not more than 7 years is presumed not to create a substantial deviation. The extension of the date of buildout of an areawide development of regional impact by more than 5 years but less than 10 years is presumed not to create a substantial deviation. These presumptions may be rebutted by clear and convincing evidence at the public hearing held by the local government. An extension of 5 years or less is not a substantial deviation.

2. In recognition of the 2011 real estate market conditions, at the option of the developer, all commencement, phase, buildout, and expiration dates for projects that are currently valid developments of regional impact are extended for 4 years regardless of any previous extension. Associated mitigation requirements are extended for the same period unless, before December 1, 2011, a governmental entity notifies a developer that has commenced any construction within the phase for which the mitigation is required that the local government has entered into a contract for construction of a facility with funds to be provided from the development's mitigation funds for that phase as specified in the development order or written agreement with the developer. The 4-year extension is not a substantial deviation, is not subject to further development-of-regional-impact review, and may not be considered when determining whether a subsequent extension is a substantial deviation under this subsection. The developer must notify the local government in writing by December 31, 2011, in order to receive the 4-year extension.

For the purpose of calculating when a buildout or phase date has been exceeded, the time shall be tolled during the pendency of administrative or judicial proceedings relating to development permits. Any extension of the buildout date of a project or a phase thereof shall automatically extend the commencement date of the project, the termination date of the development order, the expiration date of the development of regional impact, and the phases thereof if applicable by a like period of time.

(d) A change in the plan of development of an approved development of regional impact resulting from requirements imposed by the Department of Environmental Protection or any water management district created by s. 373.069 or any of their successor agencies or by any appropriate federal regulatory agency shall be submitted to the local government pursuant to this subsection. The change shall be presumed not to create a substantial deviation subject to further development-of-regional-impact review. The presumption may be rebutted by clear and convincing evidence at the public hearing held by the local government.
(e)1. Except for a development order rendered pursuant to subsection (22) or subsection (25), a proposed change to a development order which individually or cumulatively with any previous change is less than any numerical criterion contained in subparagraphs (b)1.-10. and does not exceed any other criterion, or which involves an extension of the buildout date of a development, or any phase thereof, of less than 5 years is not subject to the public hearing requirements of subparagraph (f)3., and is not subject to a determination pursuant to subparagraph (f)5. Notice of the proposed change shall be made to the regional planning council and the state land planning agency. Such notice must include a description of previous individual changes made to the development, including changes previously approved by the local government, and must include appropriate amendments to the development order.
2. The following changes, individually or cumulatively with any previous changes, are not substantial deviations:
a. Changes in the name of the project, developer, owner, or monitoring official.
b. Changes to a setback which do not affect noise buffers, environmental protection or mitigation areas, or archaeological or historical resources.
c. Changes to minimum lot sizes.
d. Changes in the configuration of internal roads which do not affect external access points.
e. Changes to the building design or orientation which stay approximately within the approved area designated for such building and parking lot, and which do not affect historical buildings designated as significant by the Division of Historical Resources of the Department of State.
f. Changes to increase the acreage in the development, if no development is proposed on the acreage to be added.
g. Changes to eliminate an approved land use, if there are no additional regional impacts.
h. Changes required to conform to permits approved by any federal, state, or regional permitting agency, if these changes do not create additional regional impacts.
i. Any renovation or redevelopment of development within a previously approved development of regional impact which does not change land use or increase density or intensity of use.
j. Changes that modify boundaries and configuration of areas described in subparagraph (b)11. due to science-based refinement of such areas by survey, by habitat evaluation, by other recognized assessment methodology, or by an environmental assessment. In order for changes to qualify under this sub-subparagraph, the survey, habitat evaluation, or assessment must occur before the time that a conservation easement protecting such lands is recorded and must not result in

any net decrease in the total acreage of the lands specifically set aside for permanent preservation in the final development order.
k. Changes that do not increase the number of external peak hour trips and do not reduce open space and conserved areas within the project except as otherwise permitted by sub-subparagraph j.
l. A phase date extension, if the state land planning agency, in consultation with the regional planning council and subject to the written concurrence of the Department of Transportation, agrees that the traffic impact is not significant and adverse under applicable state agency rules.
m.~~l.~~ Any other change that the state land planning agency, in consultation with the regional planning council, agrees in writing is similar in nature, impact, or character to the changes enumerated in sub-subparagraphs a.-l. ~~a.-k.~~ and that does not create the likelihood of any additional regional impact.
This subsection does not require the filing of a notice of proposed change but requires an application to the local government to amend the development order in accordance with the local government's procedures for amendment of a development order. In accordance with the local government's procedures, including requirements for notice to the applicant and the public, the local government shall either deny the application for amendment or adopt an amendment to the development order which approves the application with or without conditions. Following adoption, the local government shall render to the state land planning agency the amendment to the development order. The state land planning agency may appeal, pursuant to s. 380.07(3), the amendment to the development order if the amendment involves sub-subparagraph g., sub-subparagraph h., sub-subparagraph j., sub-subparagraph k., or sub-subparagraph m.~~l.~~ and if the agency believes that the change creates a reasonable likelihood of new or additional regional impacts.
3. Except for the change authorized by sub-subparagraph 2.f., any addition of land not previously reviewed or any change not specified in paragraph (b) or paragraph (c) shall be presumed to create a substantial deviation. This presumption may be rebutted by clear and convincing evidence.
4. Any submittal of a proposed change to a previously approved development must include a description of individual changes previously made to the development, including changes previously approved by the local government. The local government shall consider the previous and current proposed changes in deciding whether such changes cumulatively constitute a substantial deviation requiring further development-of-regional-impact review.
5. The following changes to an approved development of regional impact shall be presumed to create a substantial deviation. Such presumption may be rebutted by clear and convincing evidence:~~.~~
a. A change proposed for 15 percent or more of the acreage to a land use not previously approved in the development order. Changes of less than 15 percent shall be presumed not to create a substantial deviation.
b. Notwithstanding any provision of paragraph (b) to the contrary, a proposed change consisting of simultaneous increases and decreases of at least two of the uses within an authorized multiuse development of regional impact which was originally approved with three or more uses specified in s. 380.0651(3)(c) and (d) and residential use.

6. If a local government agrees to a proposed change, a change in the transportation proportionate share calculation and mitigation plan in an adopted development order as a result of recalculation of the proportionate share contribution meeting the requirements of s. 163.3180(5)(h) in effect as of the date of such change shall be presumed not to create a substantial deviation. For purposes of this subsection, the proposed change in the proportionate share calculation or mitigation plan may not be considered an additional regional transportation impact.

(f)1. The state land planning agency shall establish by rule standard forms for submittal of proposed changes to a previously approved development of regional impact which may require further development-of-regional-impact review. At a minimum, the standard form shall require the developer to provide the precise language that the developer proposes to delete or add as an amendment to the development order.

2. The developer shall submit, simultaneously, to the local government, the regional planning agency, and the state land planning agency the request for approval of a proposed change.

3. No sooner than 30 days but no later than 45 days after submittal by the developer to the local government, the state land planning agency, and the appropriate regional planning agency, the local government shall give 15 days' notice and schedule a public hearing to consider the change that the developer asserts does not create a substantial deviation. This public hearing shall be held within 60 days after submittal of the proposed changes, unless that time is extended by the developer.

4. The appropriate regional planning agency or the state land planning agency shall review the proposed change and, no later than 45 days after submittal by the developer of the proposed change, unless that time is extended by the developer, and prior to the public hearing at which the proposed change is to be considered, shall advise the local government in writing whether it objects to the proposed change, shall specify the reasons for its objection, if any, and shall provide a copy to the developer.

5. At the public hearing, the local government shall determine whether the proposed change requires further development-of-regional-impact review. The provisions of paragraphs (a) and (e), the thresholds set forth in paragraph (b), and the presumptions set forth in paragraphs (c) and (d) and subparagraph (e)3. shall be applicable in determining whether further development-of-regional-impact review is required. The local government may also deny the proposed change based on matters relating to local issues, such as if the land on which the change is sought is plat restricted in a way that would be incompatible with the proposed change, and the local government does not wish to change the plat restriction as part of the proposed change.

6. If the local government determines that the proposed change does not require further development-of-regional-impact review and is otherwise approved, or if the proposed change is not subject to a hearing and determination pursuant to subparagraphs 3. and 5. and is otherwise approved, the local government shall issue an amendment to the development order incorporating the approved change and conditions of approval relating to the change. The requirement that a change be otherwise approved shall not be construed to require additional local review or approval if the change is allowed by applicable local ordinances without further local review or approval. The decision of the local government to approve, with or without conditions, or to deny the proposed change that the developer asserts does not require further review

shall be subject to the appeal provisions of s. 380.07. However, the state land planning agency may not appeal the local government decision if it did not comply with subparagraph 4. The state land planning agency may not appeal a change to a development order made pursuant to subparagraph (e)1. or subparagraph (e)2. for developments of regional impact approved after January 1, 1980, unless the change would result in a significant impact to a regionally significant archaeological, historical, or natural resource not previously identified in the original development-of-regional-impact review.

(g) If a proposed change requires further development-of-regional-impact review pursuant to this section, the review shall be conducted subject to the following additional conditions:

1. The development-of-regional-impact review conducted by the appropriate regional planning agency shall address only those issues raised by the proposed change except as provided in subparagraph 2.

2. The regional planning agency shall consider, and the local government shall determine whether to approve, approve with conditions, or deny the proposed change as it relates to the entire development. If the local government determines that the proposed change, as it relates to the entire development, is unacceptable, the local government shall deny the change.

3. If the local government determines that the proposed change should be approved, any new conditions in the amendment to the development order issued by the local government shall address only those issues raised by the proposed change and require mitigation only for the individual and cumulative impacts of the proposed change.

4. Development within the previously approved development of regional impact may continue, as approved, during the development-of-regional-impact review in those portions of the development which are not directly affected by the proposed change.

(h) When further development-of-regional-impact review is required because a substantial deviation has been determined or admitted by the developer, the amendment to the development order issued by the local government shall be consistent with the requirements of subsection (15) and shall be subject to the hearing and appeal provisions of s. 380.07. The state land planning agency or the appropriate regional planning agency need not participate at the local hearing in order to appeal a local government development order issued pursuant to this paragraph.

(i) An increase in the number of residential dwelling units shall not constitute a substantial deviation and shall not be subject to development-of-regional-impact review for additional impacts, provided that all the residential dwelling units are dedicated to affordable workforce housing and the total number of new residential units does not exceed 200 percent of the substantial deviation threshold. The affordable workforce housing shall be subject to a recorded land use restriction that shall be for a period of not less than 20 years and that includes resale provisions to ensure long-term affordability for income-eligible homeowners and renters. For purposes of this paragraph, the term “affordable workforce housing” means housing that is affordable to a person who earns less than 120 percent of the area median income, or less than 140 percent of the area median income if located in a county in which the median purchase price for a single-family existing home exceeds the statewide median purchase price of a single-family existing home. For purposes of this paragraph, the term “statewide

median purchase price of a single-family existing home" means the statewide purchase price as determined in the Florida Sales Report, Single-Family Existing Homes, released each January by the Florida Association of Realtors and the University of Florida Real Estate Research Center.

(20) VESTED RIGHTS.—Nothing in this section shall limit or modify the rights of any person to complete any development that was authorized by registration of a subdivision pursuant to former chapter 498, by recordation pursuant to local subdivision plat law, or by a building permit or other authorization to commence development on which there has been reliance and a change of position and which registration or recordation was accomplished, or which permit or authorization was issued, prior to July 1, 1973. If a developer has, by his or her actions in reliance on prior regulations, obtained vested or other legal rights that in law would have prevented a local government from changing those regulations in a way adverse to the developer's interests, nothing in this chapter authorizes any governmental agency to abridge those rights.

(a) For the purpose of determining the vesting of rights under this subsection, approval pursuant to local subdivision plat law, ordinances, or regulations of a subdivision plat by formal vote of a county or municipal governmental body having jurisdiction after August 1, 1967, and prior to July 1, 1973, is sufficient to vest all property rights for the purposes of this subsection; and no action in reliance on, or change of position concerning, such local governmental approval is required for vesting to take place. Anyone claiming vested rights under this paragraph must notify the department in writing by January 1, 1986. Such notification shall include information adequate to document the rights established by this subsection. When such notification requirements are met, in order for the vested rights authorized pursuant to this paragraph to remain valid after June 30, 1990, development of the vested plan must be commenced prior to that date upon the property that the state land planning agency has determined to have acquired vested rights following the notification or in a binding letter of interpretation. When the notification requirements have not been met, the vested rights authorized by this paragraph shall expire June 30, 1986, unless development commenced prior to that date.

(b) For the purpose of this act, the conveyance of, or the agreement to convey, property to the county, state, or local government as a prerequisite to zoning change approval shall be construed as an act of reliance to vest rights as determined under this subsection, provided such zoning change is actually granted by such government.

(21) COMPREHENSIVE APPLICATION; MASTER PLAN DEVELOPMENT ORDER.—

(a) If a development project includes two or more developments of regional impact, a developer may file a comprehensive development-of-regional-impact application.

(b) If a proposed development is planned for development over an extended period of time, the developer may file an application for master development approval of the project and agree to present subsequent increments of the development for preconstruction review. This agreement shall be entered into by the developer, the regional planning agency, and the appropriate local government having jurisdiction. The provisions of subsection (9) do not apply to this subsection, except that a developer may elect to utilize the review process established in subsection (9) for review of the increments of a master plan.

1. Prior to adoption of the master plan development order, the developer, the landowner, the appropriate regional planning agency, and the local government having jurisdiction shall review the draft of the development order to ensure that anticipated regional impacts have been adequately addressed and that information requirements for subsequent incremental application review are clearly defined. The development order for a master application shall specify the information which must be submitted with an incremental application and shall identify those issues which can result in the denial of an incremental application.
2. The review of subsequent incremental applications shall be limited to that information specifically required and those issues specifically raised by the master development order, unless substantial changes in the conditions underlying the approval of the master plan development order are demonstrated or the master development order is shown to have been based on substantially inaccurate information.
(c) The state land planning agency, by rule, shall establish uniform procedures to implement this subsection.
(22) DOWNTOWN DEVELOPMENT AUTHORITIES.—
(a) A downtown development authority may submit a development-of-regional-impact application for development approval pursuant to this section. The area described in the application may consist of any or all of the land over which a downtown development authority has the power described in s. 380.031(5). For the purposes of this subsection, a downtown development authority shall be considered the developer whether or not the development will be undertaken by the downtown development authority.
(b) In addition to information required by the development-of-regional-impact application, the application for development approval submitted by a downtown development authority shall specify the total amount of development planned for each land use category. In addition to the requirements of subsection (15), the development order shall specify the amount of development approved within each land use category. Development undertaken in conformance with a development order issued under this section does not require further review.
(c) If a development is proposed within the area of a downtown development plan approved pursuant to this section which would result in development in excess of the amount specified in the development order for that type of activity, changes shall be subject to the provisions of subsection (19), except that the percentages and numerical criteria shall be double those listed in paragraph (19)(b).
(d) The provisions of subsection (9) do not apply to this subsection.
(23) ADOPTION OF RULES BY STATE LAND PLANNING AGENCY.—
(a) The state land planning agency shall adopt rules to ensure uniform review of developments of regional impact by the state land planning agency and regional planning agencies under this section. These rules shall be adopted pursuant to chapter 120 and shall include all forms, application content, and review guidelines necessary to implement development-of-regional-impact reviews. The state land planning agency, in consultation with the regional planning agencies, may also designate types of development or areas suitable for development in which reduced information requirements for development-of-regional-impact review shall apply.
(b) Regional planning agencies shall be subject to rules adopted by the state land planning agency. At the request of a regional planning council, the state land planning

agency may adopt by rule different standards for a specific comprehensive planning district upon a finding that the statewide standard is inadequate to protect or promote the regional interest at issue. If such a regional standard is adopted by the state land planning agency, the regional standard shall be applied to all pertinent development-of-regional-impact reviews conducted in that region until rescinded.
(c) Within 6 months of the effective date of this section, the state land planning agency shall adopt rules which:
1. Establish uniform statewide standards for development-of-regional-impact review.
2. Establish a short application for development approval form which eliminates issues and questions for any project in a jurisdiction with an adopted local comprehensive plan that is in compliance.
(d) Regional planning agencies that perform development-of-regional-impact and Florida Quality Development review are authorized to assess and collect fees to fund the costs, direct and indirect, of conducting the review process. The state land planning agency shall adopt rules to provide uniform criteria for the assessment and collection of such fees. The rules providing uniform criteria shall not be subject to rule challenge under s. 120.56(2) or to drawout proceedings under s. 120.54(3)(c)2., but, once adopted, shall be subject to an invalidity challenge under s. 120.56(3) by substantially affected persons. Until the state land planning agency adopts a rule implementing this paragraph, rules of the regional planning councils currently in effect regarding fees shall remain in effect. Fees may vary in relation to the type and size of a proposed project, but shall not exceed $75,000, unless the state land planning agency, after reviewing any disputed expenses charged by the regional planning agency, determines that said expenses were reasonable and necessary for an adequate regional review of the impacts of a project.
(24) STATUTORY EXEMPTIONS.—
(a) Any proposed hospital is exempt from this section.
(b) Any proposed electrical transmission line or electrical power plant is exempt from this section.
(c) Any proposed addition to an existing sports facility complex is exempt from this section if the addition meets the following characteristics:
1. It would not operate concurrently with the scheduled hours of operation of the existing facility.
2. Its seating capacity would be no more than 75 percent of the capacity of the existing facility.
3. The sports facility complex property is owned by a public body before July 1, 1983. This exemption does not apply to any pari-mutuel facility.
(d) Any proposed addition or cumulative additions subsequent to July 1, 1988, to an existing sports facility complex owned by a state university is exempt if the increased seating capacity of the complex is no more than 30 percent of the capacity of the existing facility.
(e) Any addition of permanent seats or parking spaces for an existing sports facility located on property owned by a public body before July 1, 1973, is exempt from this section if future additions do not expand existing permanent seating or parking capacity more than 15 percent annually in excess of the prior year’s capacity.

(f) Any increase in the seating capacity of an existing sports facility having a permanent seating capacity of at least 50,000 spectators is exempt from this section, provided that such an increase does not increase permanent seating capacity by more than 5 percent per year and not to exceed a total of 10 percent in any 5-year period, and provided that the sports facility notifies the appropriate local government within which the facility is located of the increase at least 6 months before the initial use of the increased seating, in order to permit the appropriate local government to develop a traffic management plan for the traffic generated by the increase. Any traffic management plan shall be consistent with the local comprehensive plan, the regional policy plan, and the state comprehensive plan.

(g) Any expansion in the permanent seating capacity or additional improved parking facilities of an existing sports facility is exempt from this section, if the following conditions exist:

1.a. The sports facility had a permanent seating capacity on January 1, 1991, of at least 41,000 spectator seats;

b. The sum of such expansions in permanent seating capacity does not exceed a total of 10 percent in any 5-year period and does not exceed a cumulative total of 20 percent for any such expansions; or

c. The increase in additional improved parking facilities is a one-time addition and does not exceed 3,500 parking spaces serving the sports facility; and

2. The local government having jurisdiction of the sports facility includes in the development order or development permit approving such expansion under this paragraph a finding of fact that the proposed expansion is consistent with the transportation, water, sewer and stormwater drainage provisions of the approved local comprehensive plan and local land development regulations relating to those provisions.

Any owner or developer who intends to rely on this statutory exemption shall provide to the department a copy of the local government application for a development permit. Within 45 days after receipt of the application, the department shall render to the local government an advisory and nonbinding opinion, in writing, stating whether, in the department’s opinion, the prescribed conditions exist for an exemption under this paragraph. The local government shall render the development order approving each such expansion to the department. The owner, developer, or department may appeal the local government development order pursuant to s. 380.07, within 45 days after the order is rendered. The scope of review shall be limited to the determination of whether the conditions prescribed in this paragraph exist. If any sports facility expansion undergoes development-of-regional-impact review, all previous expansions which were exempt under this paragraph shall be included in the development-of-regional-impact review.

(h) Expansion to port harbors, spoil disposal sites, navigation channels, turning basins, harbor berths, and other related inwater harbor facilities of ports listed in s. 403.021(9)(b), port transportation facilities and projects listed in s. 311.07(3)(b), and intermodal transportation facilities identified pursuant to s. 311.09(3) are exempt from this section when such expansions, projects, or facilities are consistent with comprehensive master plans that are in compliance with s. 163.3178.

(i) Any proposed facility for the storage of any petroleum product or any expansion of an existing facility is exempt from this section.
(j) Any renovation or redevelopment within the same land parcel which does not change land use or increase density or intensity of use.
(k) Waterport and marina development, including dry storage facilities, are exempt from this section.
(l) Any proposed development within an urban service boundary established under s. 163.3177(14), Florida Statutes (2010), which is not otherwise exempt pursuant to subsection (29), is exempt from this section if the local government having jurisdiction over the area where the development is proposed has adopted the urban service boundary and has entered into a binding agreement with jurisdictions that would be impacted and with the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities.
(m) Any proposed development within a rural land stewardship area created under s. 163.3248.
(n) The establishment, relocation, or expansion of any military installation as defined in s. 163.3175, is exempt from this section.
(o) Any self-storage warehousing that does not allow retail or other services is exempt from this section.
(p) Any proposed nursing home or assisted living facility is exempt from this section.
(q) Any development identified in an airport master plan and adopted into the comprehensive plan pursuant to [5]s. 163.3177(6)(b)4. is exempt from this section.
(r) Any development identified in a campus master plan and adopted pursuant to s. 1013.30 is exempt from this section.
(s) Any development in a detailed specific area plan which is prepared and adopted pursuant to s. 163.3245 is exempt from this section.
(t) Any proposed solid mineral mine and any proposed addition to, expansion of, or change to an existing solid mineral mine is exempt from this section. A mine owner will enter into a binding agreement with the Department of Transportation to mitigate impacts to strategic intermodal system facilities pursuant to the transportation thresholds in subsection (19) or rule 9J-2.045(6), Florida Administrative Code. Proposed changes to any previously approved solid mineral mine development-of-regional-impact development orders having vested rights are is not subject to further review or approval as a development-of-regional-impact or notice-of-proposed-change review or approval pursuant to subsection (19), except for those applications pending as of July 1, 2011, which shall be governed by s. 380.115(2). Notwithstanding the foregoing, however, pursuant to s. 380.115(1), previously approved solid mineral mine development-of-regional-impact development orders shall continue to enjoy vested rights and continue to be effective unless rescinded by the developer. All local government regulations of proposed solid mineral mines shall be applicable to any new solid mineral mine or to any proposed addition to, expansion of, or change to an existing solid mineral mine.
(u) Notwithstanding any provisions in an agreement with or among a local government, regional agency, or the state land planning agency or in a local government’s comprehensive plan to the contrary, a project no longer subject to development-of-regional-impact review under revised thresholds is not required to undergo such review.

(v) Any development within a county with a research and education authority created by special act and that is also within a research and development park that is operated or managed by a research and development authority pursuant to part V of chapter 159 is exempt from this section.
(w) Any development in an energy economic zone designated pursuant to s. 377.809 is exempt from this section upon approval by its local governing body.
(x) Any proposed development that is located in a local government jurisdiction that does not qualify for an exemption based on the population and density criteria in paragraph (29)(a), that is approved as a comprehensive plan amendment adopted pursuant to s. 163.3184(4), and that is the subject of an agreement pursuant to s. 288.106(5) is exempt from this section. This exemption shall only be effective upon a written agreement executed by the applicant, the local government, and the state land planning agency. The state land planning agency shall only be a party to the agreement upon a determination that the development is the subject of an agreement pursuant to s. 288.106(5) and that the local government has the capacity to adequately assess the impacts of the proposed development. The local government shall only be a party to the agreement upon approval by the governing body of the local government and upon providing at least 21 days' notice to adjacent local governments that includes, at a minimum, information regarding the location, density and intensity of use, and timing of the proposed development. This exemption does not apply to areas within the boundary of any area of critical state concern designated pursuant to s. 380.05, within the boundary of the Wekiva Study Area as described in s. 369.316, or within 2 miles of the boundary of the Everglades Protection Area as defined in s. 373.4592(2).
If a use is exempt from review as a development of regional impact under paragraphs (a)-(u), but will be part of a larger project that is subject to review as a development of regional impact, the impact of the exempt use must be included in the review of the larger project, unless such exempt use involves a development of regional impact that includes a landowner, tenant, or user that has entered into a funding agreement with the Department of Economic Opportunity under the Innovation Incentive Program and the agreement contemplates a state award of at least $50 million.
(25) AREAWIDE DEVELOPMENT OF REGIONAL IMPACT.—
(a) An authorized developer may submit an areawide development of regional impact to be reviewed pursuant to the procedures and standards set forth in this section. The areawide development-of-regional-impact review shall include an areawide development plan in addition to any other information required under this section. After review and approval of an areawide development of regional impact under this section, all development within the defined planning area shall conform to the approved areawide development plan and development order. Individual developments that conform to the approved areawide development plan shall not be required to undergo further development-of-regional-impact review, unless otherwise provided in the development order. As used in this subsection, the term:
1. "Areawide development plan" means a plan of development that, at a minimum:
a. Encompasses a defined planning area approved pursuant to this subsection that will include at least two or more developments;
b. Maps and defines the land uses proposed, including the amount of development by use and development phasing;

c. Integrates a capital improvements program for transportation and other public facilities to ensure development staging contingent on availability of facilities and services;
d. Incorporates land development regulation, covenants, and other restrictions adequate to protect resources and facilities of regional and state significance; and
e. Specifies responsibilities and identifies the mechanisms for carrying out all commitments in the areawide development plan and for compliance with all conditions of any areawide development order.
2. “Developer” means any person or association of persons, including a governmental agency as defined in s. 380.031(6), that petitions for authorization to file an application for development approval for an areawide development plan.
(b) A developer may petition for authorization to submit a proposed areawide development of regional impact for a defined planning area in accordance with the following requirements:
1. A petition shall be submitted to the local government, the regional planning agency, and the state land planning agency.
2. A public hearing or joint public hearing shall be held if required by paragraph (e), with appropriate notice, before the affected local government.
3. The state land planning agency shall apply the following criteria for evaluating a petition:
a. Whether the developer is financially capable of processing the application for development approval through final approval pursuant to this section.
b. Whether the defined planning area and anticipated development therein appear to be of a character, magnitude, and location that a proposed areawide development plan would be in the public interest. Any public interest determination under this criterion is preliminary and not binding on the state land planning agency, regional planning agency, or local government.
4. The state land planning agency shall develop and make available standard forms for petitions and applications for development approval for use under this subsection.
(c) Any person may submit a petition to a local government having jurisdiction over an area to be developed, requesting that government to approve that person as a developer, whether or not any or all development will be undertaken by that person, and to approve the area as appropriate for an areawide development of regional impact.
(d) A general purpose local government with jurisdiction over an area to be considered in an areawide development of regional impact shall not have to petition itself for authorization to prepare and consider an application for development approval for an areawide development plan. However, such a local government shall initiate the preparation of an application only:
1. After scheduling and conducting a public hearing as specified in paragraph (e); and
2. After conducting such hearing, finding that the planning area meets the standards and criteria pursuant to subparagraph (b)3. for determining that an areawide development plan will be in the public interest.
(e) The local government shall schedule a public hearing within 60 days after receipt of the petition. The public hearing shall be advertised at least 30 days prior to the hearing. In addition to the public hearing notice by the local government, the petitioner, except when the petitioner is a local government, shall provide actual notice to each person

owning land within the proposed areawide development plan at least 30 days prior to the hearing. If the petitioner is a local government, or local governments pursuant to an interlocal agreement, notice of the public hearing shall be provided by the publication of an advertisement in a newspaper of general circulation that meets the requirements of this paragraph. The advertisement must be no less than one-quarter page in a standard size or tabloid size newspaper, and the headline in the advertisement must be in type no smaller than 18 point. The advertisement shall not be published in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement must be published in a newspaper of general paid circulation in the county and of general interest and readership in the community, not one of limited subject matter, pursuant to chapter 50. Whenever possible, the advertisement must appear in a newspaper that is published at least 5 days a week, unless the only newspaper in the community is published less than 5 days a week. The advertisement must be in substantially the form used to advertise amendments to comprehensive plans pursuant to s. 163.3184. The local government shall specifically notify in writing the regional planning agency and the state land planning agency at least 30 days prior to the public hearing. At the public hearing, all interested parties may testify and submit evidence regarding the petitioner's qualifications, the need for and benefits of an areawide development of regional impact, and such other issues relevant to a full consideration of the petition. If more than one local government has jurisdiction over the defined planning area in an areawide development plan, the local governments shall hold a joint public hearing. Such hearing shall address, at a minimum, the need to resolve conflicting ordinances or comprehensive plans, if any. The local government holding the joint hearing shall comply with the following additional requirements:

1. The notice of the hearing shall be published at least 60 days in advance of the hearing and shall specify where the petition may be reviewed.
2. The notice shall be given to the state land planning agency, to the applicable regional planning agency, and to such other persons as may have been designated by the state land planning agency as entitled to receive such notices.
3. A public hearing date shall be set by the appropriate local government at the next scheduled meeting.

(f) Following the public hearing, the local government shall issue a written order, appealable under s. 380.07, which approves, approves with conditions, or denies the petition. It shall approve the petitioner as the developer if it finds that the petitioner and defined planning area meet the standards and criteria, consistent with applicable law, pursuant to subparagraph (b)3.

(g) The local government shall submit any order which approves the petition, or approves the petition with conditions, to the petitioner, to all owners of property within the defined planning area, to the regional planning agency, and to the state land planning agency within 30 days after the order becomes effective.

(h) The petitioner, an owner of property within the defined planning area, the appropriate regional planning agency by vote at a regularly scheduled meeting, or the state land planning agency may appeal the decision of the local government to the Florida Land and Water Adjudicatory Commission by filing a notice of appeal with the commission. The procedures established in s. 380.07 shall be followed for such an appeal.

(i) After the time for appeal of the decision has run, an approved developer may submit an application for development approval for a proposed areawide development of regional impact for land within the defined planning area, pursuant to subsection (6). Development undertaken in conformance with an areawide development order issued under this section shall not require further development-of-regional-impact review.
(j) In reviewing an application for a proposed areawide development of regional impact, the regional planning agency shall evaluate, and the local government shall consider, the following criteria, in addition to any other criteria set forth in this section:
1. Whether the developer has demonstrated its legal, financial, and administrative ability to perform any commitments it has made in the application for a proposed areawide development of regional impact.
2. Whether the developer has demonstrated that all property owners within the defined planning area consent or do not object to the proposed areawide development of regional impact.
3. Whether the area and the anticipated development are consistent with the applicable local, regional, and state comprehensive plans, except as provided for in paragraph (k).
(k) In addition to the requirements of subsection (14), a development order approving, or approving with conditions, a proposed areawide development of regional impact shall specify the approved land uses and the amount of development approved within each land use category in the defined planning area. The development order shall incorporate by reference the approved areawide development plan. The local government shall not approve an areawide development plan that is inconsistent with the local comprehensive plan, except that a local government may amend its comprehensive plan pursuant to paragraph (6)(b).
(l) Any owner of property within the defined planning area may withdraw his or her consent to the areawide development plan at any time prior to local government approval, with or without conditions, of the petition; and the plan, the areawide development order, and the exemption from development-of-regional-impact review of individual projects under this section shall not thereafter apply to the owner’s property. After the areawide development order is issued, a landowner may withdraw his or her consent only with the approval of the local government.
(m) If the developer of an areawide development of regional impact is a general purpose local government with jurisdiction over the land area included within the areawide development proposal and if no interest in the land within the land area is owned, leased, or otherwise controlled by a person, corporate or natural, for the purpose of mining or beneficiation of minerals, then:
1. Demonstration of property owner consent or lack of objection to an areawide development plan shall not be required; and
2. The option to withdraw consent does not apply, and all property and development within the areawide development planning area shall be subject to the areawide plan and to the development order conditions.
(n) After a development order approving an areawide development plan is received, changes shall be subject to the provisions of subsection (19), except that the percentages and numerical criteria shall be double those listed in paragraph (19)(b).
(26) ABANDONMENT OF DEVELOPMENTS OF REGIONAL IMPACT.—

(a) There is hereby established a process to abandon a development of regional impact and its associated development orders. A development of regional impact and its associated development orders may be proposed to be abandoned by the owner or developer. The local government in which the development of regional impact is located also may propose to abandon the development of regional impact, provided that the local government gives individual written notice to each development-of-regional-impact owner and developer of record, and provided that no such owner or developer objects in writing to the local government prior to or at the public hearing pertaining to abandonment of the development of regional impact. The state land planning agency is authorized to promulgate rules that shall include, but not be limited to, criteria for determining whether to grant, grant with conditions, or deny a proposal to abandon, and provisions to ensure that the developer satisfies all applicable conditions of the development order and adequately mitigates for the impacts of the development. If there is no existing development within the development of regional impact at the time of abandonment and no development within the development of regional impact is proposed by the owner or developer after such abandonment, an abandonment order shall not require the owner or developer to contribute any land, funds, or public facilities as a condition of such abandonment order. The rules shall also provide a procedure for filing notice of the abandonment pursuant to s. 28.222 with the clerk of the circuit court for each county in which the development of regional impact is located. Any decision by a local government concerning the abandonment of a development of regional impact shall be subject to an appeal pursuant to s. 380.07. The issues in any such appeal shall be confined to whether the provisions of this subsection or any rules promulgated thereunder have been satisfied.

(b) Upon receipt of written confirmation from the state land planning agency that any required mitigation applicable to completed development has occurred, an industrial development of regional impact located within the coastal high-hazard area of a rural area of opportunity which was approved before the adoption of the local government’s comprehensive plan required under s. 163.3167 and which plan’s future land use map and zoning designates the land use for the development of regional impact as commercial may be unilaterally abandoned without the need to proceed through the process described in paragraph (a) if the developer or owner provides a notice of abandonment to the local government and records such notice with the applicable clerk of court. Abandonment shall be deemed to have occurred upon the recording of the notice. All development following abandonment shall be fully consistent with the current comprehensive plan and applicable zoning.

(27) RIGHTS, RESPONSIBILITIES, AND OBLIGATIONS UNDER A DEVELOPMENT ORDER.—If a developer or owner is in doubt as to his or her rights, responsibilities, and obligations under a development order and the development order does not clearly define his or her rights, responsibilities, and obligations, the developer or owner may request participation in resolving the dispute through the dispute resolution process outlined in s. 186.509. The Department of Economic Opportunity shall be notified by certified mail of any meeting held under the process provided for by this subsection at least 5 days before the meeting.

(28) PARTIAL STATUTORY EXEMPTIONS.—

(a) If the binding agreement referenced under paragraph (24)(l) for urban service boundaries is not entered into within 12 months after establishment of the urban service boundary, the development-of-regional-impact review for projects within the urban service boundary must address transportation impacts only.
(b) If the binding agreement referenced under paragraph (24)(m) for rural land stewardship areas is not entered into within 12 months after the designation of a rural land stewardship area, the development-of-regional-impact review for projects within the rural land stewardship area must address transportation impacts only.
(c) If the binding agreement for designated urban infill and redevelopment areas is not entered into within 12 months after the designation of the area or July 1, 2007, whichever occurs later, the development-of-regional-impact review for projects within the urban infill and redevelopment area must address transportation impacts only.
(d) A local government that does not wish to enter into a binding agreement or that is unable to agree on the terms of the agreement referenced under paragraph (24)(l) or paragraph (24)(m) shall provide written notification to the state land planning agency of the decision to not enter into a binding agreement or the failure to enter into a binding agreement within the 12-month period referenced in paragraphs (a), (b) and (c). Following the notification of the state land planning agency, development-of-regional-impact review for projects within an urban service boundary under paragraph (24)(l), or a rural land stewardship area under paragraph (24)(m), must address transportation impacts only.
(e) The vesting provision of s. 163.3167(5) relating to an authorized development of regional impact does not apply to those projects partially exempt from the development-of-regional-impact review process under paragraphs (a)-(d).
(29) EXEMPTIONS FOR DENSE URBAN LAND AREAS.—
(a) The following are exempt from this section:
1. Any proposed development in a municipality that has an average of at least 1,000 people per square mile of land area and a minimum total population of at least 5,000;
2. Any proposed development within a county, including the municipalities located in the county, that has an average of at least 1,000 people per square mile of land area and is located within an urban service area as defined in s. 163.3164 which has been adopted into the comprehensive plan;
3. Any proposed development within a county, including the municipalities located therein, which has a population of at least 900,000, that has an average of at least 1,000 people per square mile of land area, but which does not have an urban service area designated in the comprehensive plan; or
4. Any proposed development within a county, including the municipalities located therein, which has a population of at least 1 million and is located within an urban service area as defined in s. 163.3164 which has been adopted into the comprehensive plan.
The Office of Economic and Demographic Research within the Legislature shall annually calculate the population and density criteria needed to determine which jurisdictions meet the density criteria in subparagraphs 1.-4. by using the most recent land area data from the decennial census conducted by the Bureau of the Census of the United States Department of Commerce and the latest available population estimates determined pursuant to s. 186.901. If any local government has had an annexation,

contraction, or new incorporation, the Office of Economic and Demographic Research shall determine the population density using the new jurisdictional boundaries as recorded in accordance with s. 171.091. The Office of Economic and Demographic Research shall annually submit to the state land planning agency by July 1 a list of jurisdictions that meet the total population and density criteria. The state land planning agency shall publish the list of jurisdictions on its Internet website within 7 days after the list is received. The designation of jurisdictions that meet the criteria of subparagraphs 1.-4. is effective upon publication on the state land planning agency's Internet website. If a municipality that has previously met the criteria no longer meets the criteria, the state land planning agency shall maintain the municipality on the list and indicate the year the jurisdiction last met the criteria. However, any proposed development of regional impact not within the established boundaries of a municipality at the time the municipality last met the criteria must meet the requirements of this section until such time as the municipality as a whole meets the criteria. Any county that meets the criteria shall remain on the list in accordance with the provisions of this paragraph. Any jurisdiction that was placed on the dense urban land area list before June 2, 2011, shall remain on the list in accordance with the provisions of this paragraph.

(b) If a municipality that does not qualify as a dense urban land area [6]pursuant to paragraph (a) designates any of the following areas in its comprehensive plan, any proposed development within the designated area is exempt from the development-of-regional-impact process:

1. Urban infill as defined in s. 163.3164;
2. Community redevelopment areas as defined in s. 163.340;
3. Downtown revitalization areas as defined in s. 163.3164;
4. Urban infill and redevelopment under s. 163.2517; or
5. Urban service areas as defined in s. 163.3164 or areas within a designated urban service boundary under s. 163.3177(14), Florida Statutes (2010).

(c) If a county that does not qualify as a dense urban land area designates any of the following areas in its comprehensive plan, any proposed development within the designated area is exempt from the development-of-regional-impact process:

1. Urban infill as defined in s. 163.3164;
2. Urban infill and redevelopment under s. 163.2517; or
3. Urban service areas as defined in s. 163.3164.

(d) A development that is located partially outside an area that is exempt from the development-of-regional-impact program must undergo development-of-regional-impact review pursuant to this section. However, if the total acreage that is included within the area exempt from development-of-regional-impact review exceeds 85 percent of the total acreage and square footage of the approved development of regional impact, the development-of-regional-impact development order may be rescinded in both local governments pursuant to s. 380.115(1), unless the portion of the development outside the exempt area meets the threshold criteria of a development-of-regional-impact.

(e) In an area that is exempt under paragraphs (a)-(c), any previously approved development-of-regional-impact development orders shall continue to be effective, but the developer has the option to be governed by s. 380.115(1). A pending application for development approval shall be governed by s. 380.115(2).

(f) Local governments must submit by mail a development order to the state land planning agency for projects that would be larger than 120 percent of any applicable development-of-regional-impact threshold and would require development-of-regional-impact review but for the exemption from the program under paragraphs (a)-(c). For such development orders, the state land planning agency may appeal the development order pursuant to s. 380.07 for inconsistency with the comprehensive plan adopted under chapter 163.
(g) If a local government that qualifies as a dense urban land area under this subsection is subsequently found to be ineligible for designation as a dense urban land area, any development located within that area which has a complete, pending application for authorization to commence development may maintain the exemption if the developer is continuing the application process in good faith or the development is approved.
(h) This subsection does not limit or modify the rights of any person to complete any development that has been authorized as a development of regional impact pursuant to this chapter.
(i) This subsection does not apply to areas:
1. Within the boundary of any area of critical state concern designated pursuant to s. 380.05;
2. Within the boundary of the Wekiva Study Area as described in s. 369.316; or
3. Within 2 miles of the boundary of the Everglades Protection Area as described in s. 373.4592(2).
(30) ~~NEW~~ PROPOSED DEVELOPMENTS.—A ~~new~~ proposed development otherwise subject to the review requirements of this section shall be approved by a local government pursuant to s. 163.3184(4) in lieu of proceeding in accordance with this section. However, if the proposed development is consistent with the comprehensive plan as provided in s. 163.3194(3)(b), the development is not required to undergo review pursuant to s. 163.3184(4) or this section. This subsection does not apply to amendments to a development order governing an existing development of regional impact.

History.—s. 6, ch. 72-317; s. 2, ch. 74-326; s. 5, ch. 75-167; s. 1, ch. 76-69; s. 2, ch. 77-215; s. 148, ch. 79-400; s. 3, ch. 80-313; s. 22, ch. 83-222; s. 4, ch. 83-308; s. 1, ch. 84-331; s. 43, ch. 85-55; s. 15, ch. 86-191; s. 1, ch. 88-164; s. 1, ch. 89-375; s. 1, ch. 89-536; s. 52, ch. 90-331; s. 20, ch. 91-192; s. 20, ch. 91-305; s. 1, ch. 91-309; s. 15, ch. 92-129; s. 2, ch. 93-95; s. 52, ch. 93-206; s. 345, ch. 94-356; s. 1029, ch. 95-148; s. 11, ch. 95-149; s. 9, ch. 95-322; s. 3, ch. 95-412; s. 114, ch. 96-410; s. 10, ch. 96-416; s. 1, ch. 97-28; s. 7, ch. 97-253; s. 52, ch. 97-278; s. 8, ch. 98-146; ss. 26, 31, ch. 98-176; s. 71, ch. 99-251; s. 7, ch. 99-378; s. 27, ch. 2001-201; s. 95, ch. 2002-20; s. 30, ch. 2002-296; s. 1, ch. 2004-10; s. 16, ch. 2005-157; s. 4, ch. 2005-166; s. 13, ch. 2005-281; s. 17, ch. 2005-290; s. 12, ch. 2006-69; s. 8, ch. 2006-220; s. 73, ch. 2007-5; ss. 8, 9, ch. 2007-198; s. 6, ch. 2007-204; s. 17, ch. 2008-240; s. 12, ch. 2009-96; s. 16, ch. 2010-4; s. 73, ch. 2010-5; s. 90, ch. 2010-102; s. 11, ch. 2011-14; ss. 54, 80, ch. 2011-139; s. 258, ch. 2011-142; s. 4, ch. 2011-223; s. 2, ch. 2012-75; s. 60, ch. 2012-96; s. 17, ch. 2012-99; s. 40, ch. 2014-218; s. 35, ch. 2015-2; s. 18, ch. 2015-30; s. 7, ch. 2016-148.

[1]Note.—As amended by s. 17, ch. 2012-99. The amendment by s. 60, ch. 2012-96, used “s. 163.3184(3)(b) and (c)” instead of “s. 163.3184.”

[2]Note.—As amended by s. 17, ch. 2012-99. For a description of multiple acts in the same session affecting a statutory provision, see preface to the Florida Statutes, “Statutory Construction.” Subparagraph (6)(b)5. was also amended by s. 60, ch. 2012-96, and that version reads:

5. Notwithstanding subsection (11) or subsection (19), the local government may not hold a public hearing on the application for development approval or the proposed change or on the comprehensive plan amendments sooner than 30 days after receipt of the response from the state land planning agency pursuant to s. 163.3184(3)(c)1.

[3]Note.—As amended by s. 95, ch. 2002-20. The amendment by s. 30, ch. 2002-296, provides for less than or equal to 100 percent.

[4]Note.—

A. Section 14, ch. 2009-96, as reenacted by s. 12, ch. 2011-14, provides that:

"(1) Except as provided in subsection (4), and in recognition of 2009 real estate market conditions, any permit issued by the Department of Environmental Protection or a water management district pursuant to part IV of chapter 373, Florida Statutes, that has an expiration date of September 1, 2008, through January 1, 2012, is extended and renewed for a period of 2 years following its date of expiration. This extension includes any local government-issued development order or building permit. The 2-year extension also applies to build out dates including any build out date extension previously granted under s. 380.06(19)(c), Florida Statutes. This section shall not be construed to prohibit conversion from the construction phase to the operation phase upon completion of construction.

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

"(3) The holder of a valid permit or other authorization that is eligible for the 2-year extension shall notify the authorizing agency in writing no later than December 31, 2009, identifying the specific authorization for which the holder intends to use the extension and the anticipated timeframe for acting on the authorization.

"(4) The extension provided for in subsection (1) does not apply to:

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

"(b) A permit or other authorization held by an owner or operator determined to be in significant noncompliance with the conditions of the permit or authorization as established through the issuance of a warning letter or notice of violation, the initiation of formal enforcement, or other equivalent action by the authorizing agency.

"(c) A permit or other authorization, if granted an extension, that would delay or prevent compliance with a court order.

"(5) Permits extended under this section shall continue to be governed by rules in effect at the time the permit was issued, except when it can be demonstrated that the rules in effect at the time the permit was issued would create an immediate threat to public safety or health. This provision shall apply to any modification of the plans, terms, and conditions of the permit that lessens the environmental impact, except that any such modification shall not extend the time limit beyond 2 additional years.

"(6) Nothing in this section shall impair the authority of a county or municipality to require the owner of a property, that has notified the county or municipality of the owner's intention to receive the extension of time granted by this section, to maintain and secure the property in a safe and sanitary condition in compliance with applicable laws and ordinances."

B. Section 46, ch. 2010-147, provides that:

"(1) Except as provided in subsection (4), a development order issued by a local government, a building permit, and any permit issued by the Department of Environmental Protection or by a water management district pursuant to part IV of chapter 373, Florida Statutes, which has an expiration date from September 1, 2008, through January 1, 2012, is extended and renewed for a period of 2 years after its previously scheduled date of expiration. This 2-year extension also applies to buildout dates, including any extension of a buildout date that was previously granted under s. 380.06(19)(c), Florida Statutes. This section does not prohibit conversion from the

construction phase to the operation phase upon completion of construction. This extension is in addition to the 2-year permit extension provided under section 14 of chapter 2009-96, Laws of Florida.
"(2) The commencement and completion dates for any required mitigation associated with a phased construction project are extended so that mitigation takes place in the same timeframe relative to the phase as originally permitted.
"(3) The holder of a valid permit or other authorization that is eligible for the 2-year extension must notify the authorizing agency in writing by December 31, 2010, identifying the specific authorization for which the holder intends to use the extension and the anticipated timeframe for acting on the authorization.
"(4) The extension provided for in subsection (1) does not apply to:
"(a) A permit or other authorization under any programmatic or regional general permit issued by the Army Corps of Engineers.
"(b) A permit or other authorization held by an owner or operator determined to be in significant noncompliance with the conditions of the permit or authorization as established through the issuance of a warning letter or notice of violation, the initiation of formal enforcement, or other equivalent action by the authorizing agency.
"(c) A permit or other authorization, if granted an extension that would delay or prevent compliance with a court order.
"(5) Permits extended under this section shall continue to be governed by the rules in effect at the time the permit was issued, except if it is demonstrated that the rules in effect at the time the permit was issued would create an immediate threat to public safety or health. This provision applies to any modification of the plans, terms, and conditions of the permit which lessens the environmental impact, except that any such modification does not extend the time limit beyond 2 additional years.
"(6) This section does not impair the authority of a county or municipality to require the owner of a property that has notified the county or municipality of the owner's intent to receive the extension of time granted pursuant to this section to maintain and secure the property in a safe and sanitary condition in compliance with applicable laws and ordinances."
C. Section 47, ch. 2010-147, provides that:
"(1) The Legislature hereby reauthorizes:
"(a) Any exemption granted for any project for which an application for development approval has been approved or filed pursuant to s. 380.06, Florida Statutes, or for which a complete development application or rescission request has been approved or is pending, and the application or rescission process is continuing in good faith, within a development that is located within an area that qualified for an exemption under s. 380.06, Florida Statutes, as amended by chapter 2009-96, Laws of Florida.
"(b) Any 2-year extension authorized and timely applied for pursuant to section 14 of chapter 2009-96, Laws of Florida.
"(c) Any amendment to a local comprehensive plan adopted pursuant to s. 163.3184, Florida Statutes, as amended by chapter 2009-96, Laws of Florida, and in effect pursuant to s. 163.3189, Florida Statutes, which authorizes and implements a transportation concurrency exception area pursuant to s. 163.3180, Florida Statutes, as amended by chapter 2009-96, Laws of Florida.
"(2) Subsection (1) is intended to be remedial in nature and to reenact provisions of existing law. This section shall apply retroactively to all actions specified in subsection (1) and therefore to any such actions lawfully undertaken in accordance with chapter 2009-96, Laws of Florida."
Section 163.3189, referenced in s. 47(1)(c), ch. 2010-147, above, was repealed by s. 19, chapter 2011-139.
D. Section 73, ch. 2011-139, provides that:

“(1) Any permit or any other authorization that was extended under section 14 of chapter 2009-96, Laws of Florida, as reauthorized by section 47 of chapter 2010-147, Laws of Florida, is extended and renewed for an additional period of 2 years after its previously scheduled expiration date. This extension is in addition to the 2-year permit extension provided under section 14 of chapter 2009-96, Laws of Florida, as reauthorized by section 47 of chapter 2010-147, Laws of Florida. This section does not prohibit conversion from the construction phase to the operation phase upon completion of construction. Permits that were extended by a total of 4 years pursuant to section 14 of chapter 2009-96, Laws of Florida, as reauthorized by section 47 of chapter 2010-147, Laws of Florida, and by section 46 of chapter 2010-147, Laws of Florida, cannot be further extended under this provision.
“(2) The commencement and completion dates for any required mitigation associated with a phased construction project shall be extended such that mitigation takes place in the same timeframe relative to the phase as originally permitted.
“(3) The holder of a valid permit or other authorization that is eligible for the 2-year extension shall notify the authorizing agency in writing by December 31, 2011, identifying the specific authorization for which the holder intends to use the extension and the anticipated timeframe for acting on the authorization.
“(4) The extension provided for in subsection (1) does not apply to:
“(a) A permit or other authorization under any programmatic or regional general permit issued by the Army Corps of Engineers.
“(b) A permit or other authorization held by an owner or operator determined to be in significant noncompliance with the conditions of the permit or authorization as established through the issuance of a warning letter or notice of violation, the initiation of formal enforcement, or other equivalent action by the authorizing agency.
“(c) A permit or other authorization, if granted an extension, that would delay or prevent compliance with a court order.
“(5) Permits extended under this section shall continue to be governed by rules in effect at the time the permit was issued, except if it is demonstrated that the rules in effect at the time the permit was issued would create an immediate threat to public safety or health. This subsection applies to any modification of the plans, terms, and conditions of the permit that lessens the environmental impact, except that any such modification may not extend the time limit beyond 2 additional years.
“(6) This section does not impair the authority of a county or municipality to require the owner of a property that has notified the county or municipality of the owner’s intention to receive the extension of time granted pursuant to this section to maintain and secure the property in a safe and sanitary condition in compliance with applicable laws and ordinances.”
E. Section 79, ch. 2011-139, provides that:
“(1) Except as provided in subsection (4), and in recognition of 2011 real estate market conditions, any building permit, and any permit issued by the Department of Environmental Protection or by a water management district pursuant to part IV of chapter 373, Florida Statutes, which has an expiration date from January 1, 2012, through January 1, 2014, is extended and renewed for a period of 2 years after its previously scheduled date of expiration. This extension includes any local government-issued development order or building permit including certificates of levels of service. This section does not prohibit conversion from the construction phase to the operation phase upon completion of construction. This extension is in addition to any existing permit extension. Extensions granted pursuant to this section; section 14 of chapter 2009-96, Laws of Florida, as reauthorized by section 47 of chapter 2010-147, Laws of Florida; section 46 of chapter 2010-147, Laws of Florida; or section 74 of this act shall not exceed 4 years in total. Further, specific development order extensions granted pursuant to s. 380.06(19)(c)2., Florida Statutes, cannot be further extended by this section.

“(2) The commencement and completion dates for any required mitigation associated with a phased construction project are extended so that mitigation takes place in the same timeframe relative to the phase as originally permitted.
“(3) The holder of a valid permit or other authorization that is eligible for the 2-year extension must notify the authorizing agency in writing by December 31, 2011, identifying the specific authorization for which the holder intends to use the extension and the anticipated timeframe for acting on the authorization.
“(4) The extension provided for in subsection (1) does not apply to:
“(a) A permit or other authorization under any programmatic or regional general permit issued by the Army Corps of Engineers.
“(b) A permit or other authorization held by an owner or operator determined to be in significant noncompliance with the conditions of the permit or authorization as established through the issuance of a warning letter or notice of violation, the initiation of formal enforcement, or other equivalent action by the authorizing agency.
“(c) A permit or other authorization, if granted an extension that would delay or prevent compliance with a court order.
“(5) Permits extended under this section shall continue to be governed by the rules in effect at the time the permit was issued, except if it is demonstrated that the rules in effect at the time the permit was issued would create an immediate threat to public safety or health. This provision applies to any modification of the plans, terms, and conditions of the permit which lessens the environmental impact, except that any such modification does not extend the time limit beyond 2 additional years.
“(6) This section does not impair the authority of a county or municipality to require the owner of a property that has notified the county or municipality of the owner’s intent to receive the extension of time granted pursuant to this section to maintain and secure the property in a safe and sanitary condition in compliance with applicable laws and ordinances.”
The reference to “section 74 of this act” in s. 79(1), ch. 2011-139, should be to s. 73; s. 74 relates to review of issues, and s. 73 provides for a 2-year permit extension.
F. Section 23, ch. 2012-205, provides that “[t]he holder of a valid permit or other authorization is not required to make a payment to the authorizing agency for use of an extension granted under section 73 or section 79 of chapter 2011-139, Laws of Florida, or section 24 of this act. This section applies retroactively and is effective as of June 2, 2011.”
G. Section 24, ch. 2012-205, as amended by s. 9, ch. 2013-213, provides that:
“(1) Any building permit, and any permit issued by the Department of Environmental Protection or by a water management district pursuant to part IV of chapter 373, Florida Statutes, which has an expiration date from January 1, 2012, through January 1, 2014, is extended and renewed for a period of 2 years after its previously scheduled date of expiration. This extension includes any local government-issued development order or building permit including certificates of levels of service. This section does not prohibit conversion from the construction phase to the operation phase upon completion of construction. This extension is in addition to any existing permit extension. Extensions granted pursuant to this section; section 14 of chapter 2009-96, Laws of Florida, as reauthorized by section 47 of chapter 2010-147, Laws of Florida; section 46 of chapter 2010-147, Laws of Florida; or section 74 or section 79 of chapter 2011-139, Laws of Florida, shall not exceed 4 years in total. Further, specific development order extensions granted pursuant to s. 380.06(19)(c)2., Florida Statutes, cannot be further extended by this section.
“(2) The commencement and completion dates for any required mitigation associated with a phased construction project are extended so that mitigation takes place in the same timeframe relative to the phase as originally permitted.
“(3) The holder of a valid permit or other authorization that is eligible for the 2-year extension must notify the authorizing agency in writing by October 1, 2013, identifying the specific

authorization for which the holder intends to use the extension and the anticipated timeframe for acting on the authorization.
“(4) The extension provided for in subsection (1) does not apply to:
“(a) A permit or other authorization under any programmatic or regional general permit issued by the Army Corps of Engineers.
“(b) A permit or other authorization held by an owner or operator determined to be in significant noncompliance with the conditions of the permit or authorization as established through the issuance of a warning letter or notice of violation, the initiation of formal enforcement, or other equivalent action by the authorizing agency.
“(c) A permit or other authorization, if granted an extension that would delay or prevent compliance with a court order.
“(5) Permits extended under this section shall continue to be governed by the rules in effect at the time the permit was issued, except if it is demonstrated that the rules in effect at the time the permit was issued would create an immediate threat to public safety or health. This provision applies to any modification of the plans, terms, and conditions of the permit which lessens the environmental impact, except that any such modification does not extend the time limit beyond 2 additional years.
“(6) This section does not impair the authority of a county or municipality to require the owner of a property that has notified the county or municipality of the owner’s intent to receive the extension of time granted pursuant to this section to maintain and secure the property in a safe and sanitary condition in compliance with applicable laws and ordinances.”
The reference to “section 74” in s. 24(1), ch. 2012-205, should be to s. 73. Section 74, ch. 2011-139, relates to review of issues, and s. 73, ch 2011-139, provides for a 2-year permit extension.
H. Section 46, ch. 2014-218, provides that:
“(1) Any building permit, and any permit issued by the Department of Environmental Protection or by a water management district pursuant to part IV of chapter 373, Florida Statutes, which has an expiration date from January 1, 2014, through January 1, 2016, is extended and renewed for a period of 2 years after its previously scheduled date of expiration. This extension includes any local government-issued development order or building permit including certificates of levels of service. This section does not prohibit conversion from the construction phase to the operation phase upon completion of construction. This extension is in addition to any existing permit extension. Extensions granted pursuant to this section; s. 14 of chapter 2009-96, Laws of Florida, as reauthorized by s. 47 of chapter 2010-147, Laws of Florida; s. 46 of chapter 2010-147, Laws of Florida; s. 73 or s. 79 of chapter 2011-139, Laws of Florida; or s. 24 of chapter 2012-205, Laws of Florida, may not exceed 4 years in total. Further, specific development order extensions granted pursuant to s. 380.06(19)(c)2., Florida Statutes, may not be further extended by this section.
“(2) The commencement and completion dates for any required mitigation associated with a phased construction project are extended so that mitigation takes place in the same timeframe relative to the phase as originally permitted.
“(3) The holder of a valid permit or other authorization that is eligible for the 2-year extension must notify the authorizing agency in writing by December 31, 2014, identifying the specific authorization for which the holder intends to use the extension and the anticipated timeframe for acting on the authorization.
“(4) The extension provided in subsection (1) does not apply to:
“(a) A permit or other authorization under any programmatic or regional general permit issued by the Army Corps of Engineers.
“(b) A permit or other authorization held by an owner or operator determined to be in significant noncompliance with the conditions of the permit or authorization as established through the issuance of a warning letter or notice of violation, the initiation of formal enforcement, or other equivalent action by the authorizing agency.

“(c) A permit or other authorization, if granted an extension that would delay or prevent compliance with a court order.
“(5) Permits extended under this section shall continue to be governed by the rules in effect at the time the permit was issued unless it is demonstrated that the rules in effect at the time the permit was issued would create an immediate threat to public safety or health. This provision applies to any modification of the plans, terms, and conditions of the permit which lessens the environmental impact, except that any such modification does not extend the time limit beyond 2 additional years.
“(6) This section does not impair the authority of a county or municipality to require the owner of a property who has notified the county or municipality of the owner’s intent to receive the extension of time granted pursuant to this section to maintain and secure the property in a safe and sanitary condition in compliance with applicable laws and ordinances.”
[5]Note.—As amended by s. 17, ch. 2012-99. The amendment by s. 60, ch. 2012-96, used “s. 163.3177(6)(k), Florida Statutes (2010)” instead of “s. 163.3177(6)(b)4.”
[6]Note.—As amended by s. 17, ch. 2012-99. The amendment by s. 60, ch. 2012-96, removed the language “pursuant to s. 163.3164”; s. 17, ch. 2012-99, retained the words “pursuant to” and replaced the citation with “paragraph (a).”

380.0651 Statewide guidelines and standards.—

(1) The statewide guidelines and standards for developments required to undergo development-of-regional-impact review provided in this section supersede the statewide guidelines and standards previously adopted by the Administration Commission that address the same development. Other standards and guidelines previously adopted by the Administration Commission, including the residential standards and guidelines, shall not be superseded. The guidelines and standards shall be applied in the manner described in s. 380.06(2)(a).
(2) The Administration Commission shall publish the statewide guidelines and standards established in this section in its administrative rule in place of the guidelines and standards that are superseded by this act, without the proceedings required by s. 120.54 and notwithstanding the provisions of s. 120.545(1)(c). The Administration Commission shall initiate rulemaking proceedings pursuant to s. 120.54 to make all other technical revisions necessary to conform the rules to this act. Rule amendments made pursuant to this subsection shall not be subject to the requirement for legislative approval pursuant to s. 380.06(2).
(3) The following statewide guidelines and standards shall be applied in the manner described in s. 380.06(2) to determine whether the following developments shall be required to undergo development-of-regional-impact review:
(a) Airports.—
1. Any of the following airport construction projects shall be a development of regional impact:
a. A new commercial service or general aviation airport with paved runways.
b. A new commercial service or general aviation paved runway.
c. A new passenger terminal facility.
2. Lengthening of an existing runway by 25 percent or an increase in the number of gates by 25 percent or three gates, whichever is greater, on a commercial service airport or a general aviation airport with regularly scheduled flights is a development of regional impact. However, expansion of existing terminal facilities at a nonhub or small hub commercial service airport shall not be a development of regional impact.

3. Any airport development project which is proposed for safety, repair, or maintenance reasons alone and would not have the potential to increase or change existing types of aircraft activity is not a development of regional impact. Notwithstanding subparagraphs 1. and 2., renovation, modernization, or replacement of airport airside or terminal facilities that may include increases in square footage of such facilities but does not increase the number of gates or change the existing types of aircraft activity is not a development of regional impact.
(b) Attractions and recreation facilities.—Any sports, entertainment, amusement, or recreation facility, including, but not limited to, a sports arena, stadium, racetrack, tourist attraction, amusement park, or pari-mutuel facility, the construction or expansion of which:
1. For single performance facilities:
a. Provides parking spaces for more than 2,500 cars; or
b. Provides more than 10,000 permanent seats for spectators.
2. For serial performance facilities:
a. Provides parking spaces for more than 1,000 cars; or
b. Provides more than 4,000 permanent seats for spectators.
For purposes of this subsection, “serial performance facilities” means those using their parking areas or permanent seating more than one time per day on a regular or continuous basis.
(c) Office development.—Any proposed office building or park operated under common ownership, development plan, or management that:
1. Encompasses 300,000 or more square feet of gross floor area; or
2. Encompasses more than 600,000 square feet of gross floor area in a county with a population greater than 500,000 and only in a geographic area specifically designated as highly suitable for increased threshold intensity in the approved local comprehensive plan.
(d) Retail and service development.—Any proposed retail, service, or wholesale business establishment or group of establishments which deals primarily with the general public onsite, operated under one common property ownership, development plan, or management that:
1. Encompasses more than 400,000 square feet of gross area; or
2. Provides parking spaces for more than 2,500 cars.
(e) Recreational vehicle development.—Any proposed recreational vehicle development planned to create or accommodate 500 or more spaces.
(f) Multiuse development.—Any proposed development with two or more land uses where the sum of the percentages of the appropriate thresholds identified in chapter 28-24, Florida Administrative Code, or this section for each land use in the development is equal to or greater than 145 percent. Any proposed development with three or more land uses, one of which is residential and contains at least 100 dwelling units or 15 percent of the applicable residential threshold, whichever is greater, where the sum of the percentages of the appropriate thresholds identified in chapter 28-24, Florida Administrative Code, or this section for each land use in the development is equal to or greater than 160 percent. This threshold is in addition to, and does not preclude, a development from being required to undergo development-of-regional-impact review under any other threshold.

(g) Residential development.—A rule may not be adopted concerning residential developments which treats a residential development in one county as being located in a less populated adjacent county unless more than 25 percent of the development is located within 2 miles or less of the less populated adjacent county. The residential thresholds of adjacent counties with less population and a lower threshold may not be controlling on any development wholly located within areas designated as rural areas of opportunity.
(h) Workforce housing.—The applicable guidelines for residential development and the residential component for multiuse development shall be increased by 50 percent where the developer demonstrates that at least 15 percent of the total residential dwelling units authorized within the development of regional impact will be dedicated to affordable workforce housing, subject to a recorded land use restriction that shall be for a period of not less than 20 years and that includes resale provisions to ensure long-term affordability for income-eligible homeowners and renters and provisions for the workforce housing to be commenced prior to the completion of 50 percent of the market rate dwelling. For purposes of this paragraph, the term “affordable workforce housing” means housing that is affordable to a person who earns less than 120 percent of the area median income, or less than 140 percent of the area median income if located in a county in which the median purchase price for a single-family existing home exceeds the statewide median purchase price of a single-family existing home. For the purposes of this paragraph, the term “statewide median purchase price of a single-family existing home” means the statewide purchase price as determined in the Florida Sales Report, Single-Family Existing Homes, released each January by the Florida Association of Realtors and the University of Florida Real Estate Research Center.
(i) Schools.—
1. The proposed construction of any public, private, or proprietary postsecondary educational campus which provides for a design population of more than 5,000 full-time equivalent students, or the proposed physical expansion of any public, private, or proprietary postsecondary educational campus having such a design population that would increase the population by at least 20 percent of the design population.
2. As used in this paragraph, “full-time equivalent student” means enrollment for 15 or more quarter hours during a single academic semester. In career centers or other institutions which do not employ semester hours or quarter hours in accounting for student participation, enrollment for 18 contact hours shall be considered equivalent to one quarter hour, and enrollment for 27 contact hours shall be considered equivalent to one semester hour.
3. This paragraph does not apply to institutions which are the subject of a campus master plan adopted by the university board of trustees pursuant to s. 1013.30.
(4) Two or more developments, represented by their owners or developers to be separate developments, shall be aggregated and treated as a single development under this chapter when they are determined to be part of a unified plan of development and are physically proximate to one other.
(a) The criteria of three of the following subparagraphs must be met in order for the state land planning agency to determine that there is a unified plan of development:
1.a. The same person has retained or shared control of the developments;

b. The same person has ownership or a significant legal or equitable interest in the developments; or
c. There is common management of the developments controlling the form of physical development or disposition of parcels of the development.
2. There is a reasonable closeness in time between the completion of 80 percent or less of one development and the submission to a governmental agency of a master plan or series of plans or drawings for the other development which is indicative of a common development effort.
3. A master plan or series of plans or drawings exists covering the developments sought to be aggregated which have been submitted to a local general-purpose government, water management district, the Florida Department of Environmental Protection, or the Division of Florida Condominiums, Timeshares, and Mobile Homes for authorization to commence development. The existence or implementation of a utility's master utility plan required by the Public Service Commission or general-purpose local government or a master drainage plan shall not be the sole determinant of the existence of a master plan.
4. There is a common advertising scheme or promotional plan in effect for the developments sought to be aggregated.
(b) The following activities or circumstances shall not be considered in determining whether to aggregate two or more developments:
1. Activities undertaken leading to the adoption or amendment of any comprehensive plan element described in part II of chapter 163.
2. The sale of unimproved parcels of land, where the seller does not retain significant control of the future development of the parcels.
3. The fact that the same lender has a financial interest, including one acquired through foreclosure, in two or more parcels, so long as the lender is not an active participant in the planning, management, or development of the parcels in which it has an interest.
4. Drainage improvements that are not designed to accommodate the types of development listed in the guidelines and standards contained in or adopted pursuant to this chapter or which are not designed specifically to accommodate the developments sought to be aggregated.
(c) Aggregation is not applicable when the following circumstances and provisions of this chapter apply ~~are applicable~~:
1. Developments that ~~which~~ are otherwise subject to aggregation with a development of regional impact which has received approval through the issuance of a final development order may ~~shall~~ not be aggregated with the approved development of regional impact. However, ~~nothing contained in~~ this subparagraph does not ~~shall~~ preclude the state land planning agency from evaluating an allegedly separate development as a substantial deviation pursuant to s. 380.06(19) or as an independent development of regional impact.
2. Two or more developments, each of which is independently a development of regional impact that has or will obtain a development order pursuant to s. 380.06.
3. Completion of any development that has been vested pursuant to s. 380.05 or s. 380.06, including vested rights arising out of agreements entered into with the state land planning agency for purposes of resolving vested rights issues. Development-of-

regional-impact review of additions to vested developments of regional impact shall not include review of the impacts resulting from the vested portions of the development.
4. The developments sought to be aggregated were authorized to commence development before ~~prior to~~ September 1, 1988, and could not have been required to be aggregated under the law existing before ~~prior to~~ that date.
5. Any development that qualifies for an exemption under s. 380.06(29).
6. Newly acquired lands intended for development in coordination with a developed and existing development of regional impact are not subject to aggregation if the newly acquired lands comprise an area that is equal to or less than 10 percent of the total acreage subject to an existing development-of-regional-impact development order.
(d) The provisions of this subsection shall be applied prospectively from September 1, 1988. Written decisions, agreements, and binding letters of interpretation made or issued by the state land planning agency prior to July 1, 1988, shall not be affected by this subsection.
(e) In order to encourage developers to design, finance, donate, or build infrastructure, public facilities, or services, the state land planning agency may enter into binding agreements with two or more developers providing that the joint planning, sharing, or use of specified public infrastructure, facilities, or services by the developers shall not be considered in any subsequent determination of whether a unified plan of development exists for their developments. Such binding agreements may authorize the developers to pool impact fees or impact-fee credits, or to enter into front-end agreements, or other financing arrangements by which they collectively agree to design, finance, donate, or build such public infrastructure, facilities, or services. Such agreements shall be conditioned upon a subsequent determination by the appropriate local government of consistency with the approved local government comprehensive plan and land development regulations. Additionally, the developers must demonstrate that the provision and sharing of public infrastructure, facilities, or services is in the public interest and not merely for the benefit of the developments which are the subject of the agreement. Developments that are the subject of an agreement pursuant to this paragraph shall be aggregated if the state land planning agency determines that sufficient aggregation factors are present to require aggregation without considering the design features, financial arrangements, donations, or construction that are specified in and required by the agreement.
(f) The state land planning agency has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this subsection.
History.—s. 46, ch. 85-55; s. 16, ch. 86-191; s. 3, ch. 88-164; s. 3, ch. 89-375; s. 3, ch. 89-536; s. 2, ch. 93-135; ss. 54, 55, ch. 93-206; ss. 347, 482, ch. 94-356; s. 13, ch. 95-149; s. 10, ch. 95-322; s. 4, ch. 95-412; s. 12, ch. 96-416; s. 93, ch. 98-200; s. 31, ch. 2002-296; s. 973, ch. 2002-387; s. 31, ch. 2004-357; s. 13, ch. 2006-69; s. 9, ch. 2006-220; s. 9, ch. 2007-198; s. 18, ch. 2008-240; s. 55, ch. 2011-139; s. 41, ch. 2014-218; s. 8, ch. 2016-148.

380.115 Vested rights and duties; effect of size reduction, changes in guidelines and standards.—
(1) A change in a development-of-regional-impact guideline and standard does not abridge or modify any vested or other right or any duty or obligation pursuant to any development order or agreement that is applicable to a development of regional impact. A development that has received a development-of-regional-impact development order

pursuant to s. 380.06~~,~~ but is no longer required to undergo development-of-regional-impact review by operation of a change in the guidelines and standards, a development that ~~or~~ has reduced its size below the thresholds as specified in s. 380.0651, ~~or~~ a development that is exempt pursuant to s. 380.06(24) or (29), or a development that elects to rescind the development order are ~~shall be~~ governed by the following procedures:

(a) The development shall continue to be governed by the development-of-regional-impact development order and may be completed in reliance upon and pursuant to the development order unless the developer or landowner has followed the procedures for rescission in paragraph (b). Any proposed changes to ~~those~~ developments which continue to be governed by a development order must ~~shall~~ be approved pursuant to s. 380.06(19) as it existed before a change in the development-of-regional-impact guidelines and standards, except that all percentage criteria are ~~shall be~~ doubled and all other criteria are ~~shall be~~ increased by 10 percent. The development-of-regional-impact development order may be enforced by the local government as provided in ~~by~~ ss. 380.06(17) and 380.11.

(b) If requested by the developer or landowner, the development-of-regional-impact development order shall be rescinded by the local government having jurisdiction upon a showing that all required mitigation related to the amount of development that existed on the date of rescission has been completed or will be completed under an existing permit or equivalent authorization issued by a governmental agency as defined in s. 380.031(6), if ~~provided~~ such permit or authorization is subject to enforcement through administrative or judicial remedies.

(2) A development with an application for development approval pending, pursuant to s. 380.06, on the effective date of a change to the guidelines and standards, or a notification of proposed change pending on the effective date of a change to the guidelines and standards, may elect to continue such review pursuant to s. 380.06. At the conclusion of the pending review, including any appeals pursuant to s. 380.07, the resulting development order shall be governed by the provisions of subsection (1).

(3) A landowner that has filed an application for a development-of-regional-impact review prior to the adoption of a sector plan pursuant to s. 163.3245 may elect to have the application reviewed pursuant to s. 380.06, comprehensive plan provisions in force prior to adoption of the sector plan, and any requested comprehensive plan amendments that accompany the application.

History.—s. 96, ch. 2002-20; s. 32, ch. 2002-296; s. 38, ch. 2005-290; s. 11, ch. 2006-220; ss. 57, 61, ch. 2011-139; s. 3, ch. 2012-75; s. 18, ch. 2012-99; s. 9, ch. 2016-148.

380.508 Projects; development, review, and approval.—

(1) The trust shall request appropriate state agencies, local governments, nonprofit organizations, and other public and private groups to assist in the formulation of criteria and guidelines for the development and evaluation of projects, which the trust shall adopt by rule. The project application process, as adopted by rule, must not be burdensome to any local government, and the trust shall provide technical and administrative assistance to any local government applicant which requests assistance in completing an application.

(2) The chair of the governing body of the trust may establish an advisory committee consisting of representatives of appropriate state agencies, local governments, nonprofit

organizations, and other public and private groups to assist the department in analyzing and reviewing specific project proposals for the trust.
(3) In accordance with procedures adopted by the trust, local governments and nonprofit organizations may propose projects for the trust to consider for funding or technical assistance. When a local government demonstrates the need for assistance in preparing a project proposal, the trust, whenever possible, shall provide such assistance.
(4) Projects or activities which the trust undertakes, coordinates, or funds in any manner shall comply with the following guidelines:
(a) The purpose of redevelopment projects shall be to restore areas which are adversely affected by scattered ownership, poor lot layout, inadequate park and open space, incompatible land uses, or other conditions which endanger the environment or impede orderly development. Grants and loans awarded for redevelopment projects shall be used for assembling parcels of land within redevelopment project areas for the redesign of such areas and for the installation of public improvements required to serve such areas. After redesign and installation of public improvements, if any, lands in redevelopment projects, with the exception of lands acquired for public purposes, shall be conveyed to any person for development in accordance with a redevelopment project plan approved according to this part.
(b) The purpose of resource enhancement projects shall be to enhance natural resources which, because of indiscriminate dredging or filling, improper location of improvements, natural or human-induced events, or incompatible land uses, have suffered loss of natural and scenic values. Grants and loans awarded for resource enhancement projects shall be used for the assembly of parcels of land to improve resource management, for relocation of improperly located or designed improvements, and for other corrective measures which will enhance the natural and scenic character of project areas.
(c) The purpose of public access projects shall be to acquire interests in and initially develop lands which are suitable for and which will be used for public accessways to surface waters. The trust shall identify local governments and nonprofit organizations which will accept responsibility for maintenance and liability for public accessways which are located outside the state park system. The trust may lease any public access site developed under this part to a local government or nonprofit organization, provided that the conditions of the lease guarantee public use of the site. The trust may accept, from any local government or nonprofit organization, fees collected for providing public access to surface waters. The trust shall expend any such funds it accepts only for acquisition, development, and maintenance of such public accessways. To the maximum extent possible, the trust shall expend such fees in the general area where they are collected or in areas where public access to surface waters is clearly deficient. The trust may transfer funds, including such fees, to a local government or nonprofit organization to acquire public access sites. In developing or coordinating public access projects, the trust shall ensure that project plans involving beach access are consistent with state laws governing beach access.
(d) The purpose of urban waterfront restoration projects shall be to restore deteriorated or deteriorating urban waterfronts for public use and enjoyment. Urban waterfront restoration projects shall include public access sites.

(e) The purpose of working waterfront projects shall be to restore and preserve working waterfronts as provided in s. 380.5105.
(f) The trust shall cooperate with local governments, state agencies, federal agencies, and nonprofit organizations in ensuring the reservation of lands for parks, recreation, fish and wildlife habitat, historical preservation, or scientific study. If any local government, state agency, federal agency, or nonprofit organization is unable, due to limited financial resources or other circumstances of a temporary nature, to acquire a site for the purposes described in this paragraph, the trust may acquire and hold the site for subsequent conveyance to the appropriate governmental agency or nonprofit organization. The trust may provide such technical assistance as required to aid local governments, state and federal agencies, and nonprofit organizations in completing acquisition and related functions. The trust may not reserve lands acquired in accordance with this paragraph for more than 5 years from the time of acquisition. A local government, federal or state agency, or nonprofit organization may acquire the land at any time during this period for public purposes. The purchase price shall be based upon the trust's cost of acquisition, plus administrative and management costs in reserving the land. The payment of the purchase price shall be by money, trust-approved property of an equivalent value, or a combination of money and trust-approved property. If, after the 5-year period, the trust has not sold to a governmental agency or nonprofit organization land acquired for site reservation, the trust shall dispose of such land at fair market value or shall trade it for other land of comparable value which will serve to accomplish the purposes of this part. Any proceeds from the sale of such land received by the department shall be deposited into the appropriate trust fund pursuant to s. 253.0341 ~~253.034(6)(k),(l), or (m)~~.
Project costs may include costs of providing parks, open space, public access sites, scenic easements, and other areas and facilities serving the public where such features are part of a project plan approved according to this part. In undertaking or coordinating projects or activities authorized by this part, the trust shall, when appropriate, use and promote the use of creative land acquisition methods, including the acquisition of less than fee interest through, among other methods, conservation easements, transfer of development rights, leases, and leaseback arrangements. The trust shall assist local governments in the use of sound alternative methods of financing for funding projects and activities authorized under this part. Any funds over and above eligible project costs, which remain after completion of a project approved according to this part, shall be transmitted to the state and deposited into the Florida Forever Trust Fund.
(5) The governing body of the trust shall approve projects, project plans, grants, and loans according to rules which it shall have adopted and which are consistent with the provisions of this part. In reviewing project plans and grant and loan applications, the trust shall seek to promote excellence of design and shall encourage projects which integrate structures into the natural environment.
(6) Following approval of a proposed project, the trust may provide up to the total cost of preparing a project plan.
(7) The trust shall ensure that each local government within which a project is located or partially located participates in developing the project plan to make certain that the plan is consistent with each affected local government's comprehensive plan. The trust shall

include within its rules a process whereby affected local governments shall make a final determination of a project plan's consistency with local comprehensive plans.
(8) The trust shall coordinate its activities with other state agencies responsible for land use, environmental protection, and land acquisition to avoid unnecessary duplication and to solicit the help and expertise of existing state personnel.
History.—s. 28, ch. 89-175; s. 2, ch. 90-192; s. 19, ch. 90-217; s. 11, ch. 91-192; s. 5, ch. 91-429; s. 69, ch. 93-206; s. 646, ch. 95-148; s. 23, ch. 2008-229; s. 66, ch. 2015-229; s. 43, ch. 2016-233.

380.510 Conditions of grants and loans.—
(1) The trust may seek repayment of funds loaned pursuant to this part on terms and conditions as it deems appropriate to carry out the provisions of this part.
(2) Trust loan applications may include a requirement that the loan include all reasonable and necessary administrative costs that the trust incurs in processing and administering the loan application.
(3) In the case of a grant or loan for land acquisition, agreements shall provide all of the following:
(a) The trust shall approve the terms under which the interest in land is acquired.
(b) The transfer of land acquired with a trust grant or loan shall be subject to the approval of the trust, and the trust shall enter into a new agreement with the transferee, containing such covenants, reverter clauses, or other restrictions as are sufficient to protect the interest of the people of Florida.
(c) The interest in land acquired with a loan or grant from the trust may not serve as security for any debt the grantee or borrower incurs unless the trust approves the transaction.
(d) If any essential term or condition of a grant or loan is violated, title to all interest in real property acquired with state funds shall be conveyed or revert to the Board of Trustees of the Internal Improvement Trust Fund. The trust shall treat such property in accordance with s. 380.508(4)(f).
(e) If the existence of a nonprofit organization or local government terminates for any reason, title to all interest in real property it has acquired with state funds shall be conveyed or revert to the Board of Trustees of the Internal Improvement Trust Fund, unless the trust negotiates an agreement with another local government or nonprofit organization which agrees to accept title to all interest in and to manage the property. Any deed or other instrument of conveyance whereby a nonprofit organization or local government acquires real property under this section shall set forth the interest of the state. The trust shall keep at least one copy of any such instrument and shall provide at least one copy to the Board of Trustees of the Internal Improvement Trust Fund.
(4) The trust shall require in a grant or loan agreement terms sufficient to protect the public interest in any improvement or development constructed under a grant or loan to a nonprofit organization or local government. The agreement shall describe with particularity any real property which is subject to the agreement, and the trust shall record the agreement in the county in which the real property is located.
(5) Any funds the trust collects from a nonprofit organization or local government under a grant or loan agreement shall be deposited into the Internal Improvement Trust Fund within the Department of Environmental Protection.

(6) Funds the trust loans for land acquisition may, in part, be used to pay reasonable real estate commission fees.
(7) Any funds received by the trust pursuant to s. 259.105(3)(c) or s. 375.041 shall be held separate and apart from any other funds held by the trust and used for the land acquisition purposes of this part.
(a) The administration and use of Florida Forever funds are subject to such terms and conditions imposed thereon by the agency of the state responsible for the bonds, the proceeds of which are deposited into the Florida Forever Trust Fund, including restrictions imposed to ensure that the interest on any such bonds issued by the state as tax-exempt bonds is not included in the gross income of the holders of such bonds for federal income tax purposes.
(b) All deeds or leases with respect to any real property acquired with funds received by the trust from the former Preservation 2000 Trust Fund, the Florida Forever Trust Fund, or the Land Acquisition Trust Fund must contain such covenants and restrictions as are sufficient to ensure that the use of such real property at all times complies with s. 375.051 and s. 9, Art. XII of the State Constitution. Each deed or lease with respect to any real property acquired with funds received by the trust from the Florida Forever Trust Fund before July 1, 2015, must contain covenants and restrictions sufficient to ensure that the use of such real property at all times complies with s. 11(e), Art. VII of the State Constitution. Each deed or lease with respect to any real property acquired with funds received by the trust from the Florida Forever Trust Fund after July 1, 2015, must contain covenants and restrictions sufficient to ensure that the use of such real property at all times complies with s. 28, Art. X of the State Constitution. Each deed or lease must contain a reversion, conveyance, or termination clause that vests title in the Board of Trustees of the Internal Improvement Trust Fund if any of the covenants or restrictions are violated by the titleholder or leaseholder or by some third party with the knowledge of the titleholder or leaseholder.
History.—s. 28, ch. 89-175; s. 2, ch. 90-192; s. 20, ch. 90-217; s. 13, ch. 91-192; s. 5, ch. 91-429; s. 70, ch. 93-206; s. 647, ch. 95-148; s. 22, ch. 96-389; s. 47, ch. 99-247; s. 22, ch. 2000-170; s. 141, ch. 2001-266; s. 44, ch. 2009-21; s. 67, ch. 2015-229; s. 41, ch. 2016-10.

Chapter 403
Environmental Control
Enforceable Policies

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*Sections 403.061(40); .08601, .1832, .414, .50663; .70611, .709, .7095, .7264, .763, .805, .8055, .871, .873, .874, .885, and .941, F.S., are not considered enforceable policy for federal consistency purposes.

**Section 403.7125(2) and (3), F.S., are not approved as enforceable policy.

***Sections 403.0617, .0675, and .928 are not proposed as enforceable policies for federal consistency purposes

Chapter 403--Environmental Control

403.061 Department; powers and duties.—
The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it and, for this purpose, to:
(1) Approve and promulgate current and long-range plans developed to provide for air and water quality control and pollution abatement.
(2) Hire only such employees as may be necessary to effectuate the responsibilities of the department.
(3) Utilize the facilities and personnel of other state agencies, including the Department of Health, and delegate to any such agency any duties and functions as the department may deem necessary to carry out the purposes of this act.
(4) Secure necessary scientific, technical, research, administrative, and operational services by interagency agreement, by contract, or otherwise. All state agencies, upon direction of the department, shall make these services and facilities available.
(5) Accept state appropriations and loans and grants from the Federal Government and from other sources, public or private, which loans and grants shall not be expended for other than the purposes of this act.
(6) Exercise general supervision of the administration and enforcement of the laws, rules, and regulations pertaining to air and water pollution.
(7) Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this act. Any rule adopted pursuant to this act shall be consistent with the provisions of federal law, if any, relating to control of emissions from motor vehicles, effluent limitations, pretreatment requirements, or standards of performance. No county, municipality, or political subdivision shall adopt or enforce any local ordinance, special law, or local regulation requiring the installation of Stage II vapor recovery systems, as currently defined by department rule, unless such county, municipality, or political subdivision is or has been in the past designated by federal regulation as a moderate, serious, or severe ozone nonattainment area. Rules adopted pursuant to this act shall not require dischargers of waste into waters of the state to improve natural background conditions. Discharges from steam electric generating plants existing or licensed under this chapter on July 1, 1984, shall not be required to be treated to a greater extent than may be necessary to assure that the quality of nonthermal components of discharges from nonrecirculated cooling water systems is as high as the quality of the makeup waters; that the quality of nonthermal components of discharges from recirculated cooling water systems is no lower than is allowed for blowdown from such systems; or that the quality of noncooling system discharges which receive makeup water from a receiving body of water which does not meet applicable department water quality standards is as high as the quality of the receiving body of water. The department may not adopt standards more stringent than federal regulations, except as provided in s. 403.804.
(8) Issue such orders as are necessary to effectuate the control of air and water pollution and enforce the same by all appropriate administrative and judicial proceedings.

(9) Adopt a comprehensive program for the prevention, control, and abatement of pollution of the air and waters of the state, and from time to time review and modify such program as necessary.
(10) Develop a comprehensive program for the prevention, abatement, and control of the pollution of the waters of the state. In order to effect this purpose, a grouping of the waters into classes may be made in accordance with the present and future most beneficial uses. Such classifications may from time to time be altered or modified. However, before any such classification is made, or any modification made thereto, public hearings shall be held by the department.
(11) Establish ambient air quality and water quality standards for the state as a whole or for any part thereof, and also standards for the abatement of excessive and unnecessary noise. The department is authorized to establish reasonable zones of mixing for discharges into waters. For existing installations as defined by rule 62-520.200(10), Florida Administrative Code, effective July 12, 2009, zones of discharge to groundwater are authorized horizontally to a facility's or owner's property boundary and extending vertically to the base of a specifically designated aquifer or aquifers. Such zones of discharge may be modified in accordance with procedures specified in department rules. Exceedance of primary and secondary groundwater standards that occur within a zone of discharge does not create liability pursuant to this chapter or chapter 376 for site cleanup, and the exceedance of soil cleanup target levels is not a basis for enforcement or site cleanup.
(a) When a receiving body of water fails to meet a water quality standard for pollutants set forth in department rules, a steam electric generating plant discharge of pollutants that is existing or licensed under this chapter on July 1, 1984, may nevertheless be granted a mixing zone, provided that:
1. The standard would not be met in the water body in the absence of the discharge;
2. The discharge is in compliance with all applicable technology-based effluent limitations;
3. The discharge does not cause a measurable increase in the degree of noncompliance with the standard at the boundary of the mixing zone; and
4. The discharge otherwise complies with the mixing zone provisions specified in department rules.
(b) Mixing zones for point source discharges are not permitted in Outstanding Florida Waters except for:
1. Sources that have received permits from the department prior to April 1, 1982, or the date of designation, whichever is later;
2. Blowdown from new power plants certified pursuant to the Florida Electrical Power Plant Siting Act;
3. Discharges of water necessary for water management purposes which have been approved by the governing board of a water management district and, if required by law, by the secretary; and
4. The discharge of demineralization concentrate which has been determined permittable under s. 403.0882 and which meets the specific provisions of s. 403.0882(4)(a) and (b), if the proposed discharge is clearly in the public interest.

(c) The department, by rule, shall establish water quality criteria for wetlands which criteria give appropriate recognition to the water quality of such wetlands in their natural state.
This act may not be construed to invalidate any existing department rule relating to mixing zones. The department shall cooperate with the Department of Highway Safety and Motor Vehicles in the development of regulations required by s. 316.272(1).
(12)(a) Cause field studies to be made and samples to be taken out of the air and from the waters of the state periodically and in a logical geographic manner so as to determine the levels of air quality of the air and water quality of the waters of the state.
(b) Determine the source of the pollution whenever a study is made or a sample collected which proves to be below the air or water quality standard set for air or water.
(13) Require persons engaged in operations which may result in pollution to file reports which may contain information relating to locations, size of outlet, height of outlet, rate and period of emission, and composition and concentration of effluent and such other information as the department shall prescribe to be filed relative to pollution.
(14) Establish a permit system whereby a permit may be required for the operation, construction, or expansion of any installation that may be a source of air or water pollution and provide for the issuance and revocation of such permits and for the posting of an appropriate bond to operate.
(a) Notwithstanding any other provision of this chapter, the department may authorize, by rule, the Department of Transportation to perform any activity requiring a permit from the department covered by this chapter, upon certification by the Department of Transportation that it will meet all requirements imposed by statute, rule, or standard for environmental control and protection as such statute, rule, or standard applies to a governmental program. To this end, the department may accept such certification of compliance for programs of the Department of Transportation, may conduct investigations for compliance, and, if a violation is found to exist, may take all necessary enforcement action pertaining thereto, including, but not limited to, the revocation of certification. The authorization shall be by rule of the department, shall be limited to the maintenance, repair, or replacement of existing structures, and shall be conditioned upon compliance by the Department of Transportation with specific guidelines or requirements which are set forth in the formal acceptance and deemed necessary by the department to assure future compliance with this chapter and applicable department rules. The failure of the Department of Transportation to comply with any provision of the written acceptance shall constitute grounds for its revocation by the department.
(b) The provisions of chapter 120 shall be accorded any person when substantial interests will be affected by an activity proposed to be conducted by the Department of Transportation pursuant to its certification and the acceptance of the department. If a proceeding is conducted pursuant to ss. 120.569 and 120.57, the department may intervene as a party. Should an administrative law judge of the Division of Administrative Hearings of the Department of Management Services submit a recommended order pursuant to ss. 120.569 and 120.57, the department shall issue a final department order adopting, rejecting, or modifying the recommended order pursuant to such action.
(15) Consult with any person proposing to construct, install, or otherwise acquire a pollution control device or system concerning the efficacy of such device or system, or

the pollution problem which may be related to the source, device, or system. Nothing in any such consultation shall be construed to relieve any person from compliance with this act, rules and regulations of the department, or any other provision of law.
(16) Encourage voluntary cooperation by persons and affected groups to achieve the purposes of this act.
(17) Encourage local units of government to handle pollution problems within their respective jurisdictions on a cooperative basis and provide technical and consultative assistance therefor.
(18) Encourage and conduct studies, investigations, and research relating to pollution and its causes, effects, prevention, abatement, and control.
(19) Make a continuing study of the effects of the emission of air contaminants from motor vehicles on the quality of the outdoor atmosphere of this state and the several parts thereof and make recommendations to appropriate public and private bodies with respect thereto.
(20) Collect and disseminate information and conduct educational and training programs relating to pollution.
(21) Advise, consult, cooperate, and enter into agreements with other agencies of the state, the Federal Government, other states, interstate agencies, groups, political subdivisions, and industries affected by the provisions of this act, rules, or policies of the department. However, the secretary of the department shall not enter into any interstate agreement relating to the transport of ozone precursor pollutants, nor modify its rules based upon a recommendation from the Ozone Transport Assessment Group or any other such organization that is not an official subdivision of the United States Environmental Protection Agency but which studies issues related to the transport of ozone precursor pollutants, without prior review and specific legislative approval.
(22) Adopt, modify, and repeal rules governing the specifications, construction, and maintenance of industrial reservoirs, dams, and containers which store or retain industrial wastes of a deleterious nature.
(23) Adopt rules and regulations to ensure that no detergents are sold in Florida after December 31, 1972, which are reasonably found to have a harmful or deleterious effect on human health or on the environment. Any regulations adopted pursuant to this subsection shall apply statewide. Subsequent to the promulgation of such rules and regulations, no county, municipality, or other local political subdivision shall adopt or enforce any local ordinance, special law, or local regulation governing detergents which is less stringent than state law or regulation. Regulations, ordinances, or special acts adopted by a county or municipality governing detergents shall be subject to approval by the department, except that regulations, ordinances, or special acts adopted by any county or municipality with a local pollution control program approved pursuant to s. 403.182 shall be approved as an element of the local pollution control program.
(24)(a) Establish a permit system to provide for spoil site approval, as may be requested and required by local governmental agencies as defined in s. 403.1835(2)(c), or mosquito control districts as defined in s. 388.011(5), to facilitate these agencies in providing spoil sites for the deposit of spoil from maintenance dredging of navigation channels, port harbors, turning basins, and harbor berths, as part of a federal project, when the agency is acting as sponsor of a contemplated dredge and fill operation involving an established navigation channel, harbor, turning basin, or harbor berth. A

spoil site approval granted to the agency shall be granted for a period of 10 to 25 years when such site is not inconsistent with an adopted local governmental comprehensive plan and the requirements of this chapter. The department shall periodically review each permit to determine compliance with the terms and conditions of the permit. Such review shall be conducted at least once every 10 years.
(b) This subsection applies only to those maintenance dredging operations permitted after July 1, 1980, where the United States Army Corps of Engineers is the prime dredge and fill agent and the local governmental agency is acting as sponsor for the operation, and does not require the redesignation of currently approved spoil sites under such previous operations.
(25) Establish and administer a program for the restoration and preservation of bodies of water within the state. The department shall have the power to acquire lands, to cooperate with other applicable state or local agencies to enhance existing public access to such bodies of water, and to adopt all rules necessary to accomplish this purpose.
(26)(a) Develop standards and criteria for waters used for deepwater shipping which standards and criteria consider existing water quality; appropriate mixing zones and other requirements for maintenance dredging in previously constructed deepwater navigation channels, port harbors, turning basins, or harbor berths; and appropriate mixing zones for disposal of spoil material from dredging and, where necessary, develop a separate classification for such waters. Such classification, standards, and criteria shall recognize that the present dedicated use of these waters is for deepwater commercial navigation.
(b) The provisions of paragraph (a) apply only to the port waters, spoil disposal sites, port harbors, navigation channels, turning basins, and harbor berths used for deepwater commercial navigation in the ports of Jacksonville, Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St. Petersburg, Port Bartow, Florida Power Corporation’s Crystal River Canal, Boca Grande, Green Cove Springs, and Pensacola.
(27) Establish rules which provide for a special category of water bodies within the state, to be referred to as “Outstanding Florida Waters,” which water bodies shall be worthy of special protection because of their natural attributes. Nothing in this subsection shall affect any existing rule of the department.
(28) Perform any other act necessary to control and prohibit air and water pollution, and to delegate any of its responsibilities, authority, and powers, other than rulemaking powers, to any state agency now or hereinafter established.
(29)(a) Adopt by rule special criteria to protect Class II and Class III shellfish harvesting waters. Such rules may include special criteria for approving docking facilities that have 10 or fewer slips if the construction and operation of such facilities will not result in the closure of shellfish waters.
(b) Adopt by rule a specific surface water classification to protect surface waters used for treated potable water supply. These designated surface waters shall have the same water quality criteria protections as waters designated for fish consumption, recreation, and the propagation and maintenance of a healthy, well-balanced population of fish and wildlife, and shall be free from discharged substances at a concentration that, alone or in combination with other discharged substances, would require significant alteration of

permitted treatment processes at the permitted treatment facility or that would otherwise prevent compliance with applicable state drinking water standards in the treated water. Notwithstanding this classification or the inclusion of treated water supply as a designated use of a surface water, a surface water used for treated potable water supply may be reclassified to the potable water supply classification.

(30) Establish requirements by rule that reasonably protect the public health and welfare from electric and magnetic fields associated with existing 230 kV or greater electrical transmission lines, new 230 kV and greater electrical transmission lines for which an application for certification under the Florida Electric Transmission Line Siting Act, ss. 403.52-403.5365, is not filed, new or existing electrical transmission or distribution lines with voltage less than 230 kV, and substation facilities. Notwithstanding any other provision in this chapter or any other law of this state or political subdivision thereof, the department shall have exclusive jurisdiction in the regulation of electric and magnetic fields associated with all electrical transmission and distribution lines and substation facilities. However, nothing herein shall be construed as superseding or repealing the provisions of s. 403.523(1) and (10).

(31) Adopt rules necessary to obtain approval from the United States Environmental Protection Agency to administer the Federal National Pollution Discharge Elimination System (NPDES) permitting program in Florida under ss. 318, 402, and 405 of the federal Clean Water Act, Pub. L. No. 92-500, as amended. This authority shall be implemented consistent with the provisions of part II, which shall be applicable to facilities certified thereunder. The department shall establish all rules, standards, and requirements that regulate the discharge of pollutants into waters of the United States as defined by and in a manner consistent with federal regulations; provided, however, that the department may adopt a standard that is stricter or more stringent than one set by the United States Environmental Protection Agency if approved by the Governor and Cabinet in accordance with the procedures of s. 403.804(2).

(32) Coordinate the state’s stormwater program.

(33) Establish and administer programs providing appropriate incentives that have the following goals, in order of importance:

(a) Preventing and reducing pollution at its source.

(b) Recycling contaminants that have the potential to pollute.

(c) Treating and neutralizing contaminants that are difficult to recycle.

(d) Disposing of contaminants only after other options have been used to the greatest extent practicable.

(34) Adopt rules which may include stricter permitting and enforcement provisions within Outstanding Florida Waters, aquatic preserves, areas of critical state concern, and areas subject to chapter 380 resource management plans adopted by rule by the Administration Commission, when the plans for an area include waters that are particularly identified as needing additional protection, which provisions are not inconsistent with the applicable rules adopted for the management of such areas by the department and the Governor and Cabinet.

(35) Exercise the duties, powers, and responsibilities required of the state under the federal Clean Air Act, 42 U.S.C. ss. 7401 et seq. The department shall implement the programs required under that act in conjunction with its other powers and duties.

Nothing in this subsection shall be construed to repeal or supersede any of the department's existing rules.
(36) Establish statewide standards for persons engaged in determining visible air emissions and to require these persons to obtain training to meet such standards.
(37) Provide a supplemental permitting process for the issuance of a joint coastal permit pursuant to s. 161.055 or environmental resource permit pursuant to part IV of chapter 373, to a port listed in s. 311.09(1), for maintenance dredging and the management of dredged materials from maintenance dredging of all navigation channels, port harbors, turning basins, and harbor berths. Such permit shall be issued for a period of 5 years and shall be annually extended for an additional year if the port is in compliance with all permit conditions at the time of extension. The department is authorized to adopt rules to implement this subsection.
(38) Provide a supplemental permitting process for the issuance of a conceptual joint coastal permit pursuant to s. 161.055 or environmental resource permit pursuant to part IV of chapter 373, to a port listed in s. 311.09(1), for dredging and the management of materials from dredging and for other related activities necessary for development, including the expansion of navigation channels, port harbors, turning basins, harbor berths, and associated facilities. Such permit shall be issued for a period of up to 15 years. The department is authorized to adopt rules to implement this subsection.
(39) Enter into a memorandum of agreement with the Florida Inland Navigation District and the West Coast Inland Navigation District, or their successor agencies, to provide a supplemental process for issuance of joint coastal permits pursuant to s. 161.055 or environmental resource permits pursuant to part IV of chapter 373 for regional waterway management activities, including, but not limited to, maintenance dredging, spoil disposal, public recreation, inlet management, beach nourishment, and environmental protection directly related to public navigation and the construction, maintenance, and operation of Florida's inland waterways. The department is authorized to adopt rules to implement this subsection.
(40) Maintain a list of projects or activities, including mitigation banks, which applicants may consider when developing proposals in order to meet the mitigation or public interest requirements of this chapter, chapter 253, or chapter 373. The contents of such list are not a rule as defined in chapter 120, and listing a specific project or activity does not imply department approval for such project or activity. Each county government is encouraged to develop an inventory of projects or activities for inclusion on the list by obtaining input from local stakeholders in the public, private, and nonprofit sectors, including local governments, port authorities, marine contractors, other representatives of the marine construction industry, environmental or conservation organizations, and other interested parties. A county may establish dedicated trust funds for depositing public interest donations to be used for future public interest projects, including improving on-water law enforcement capabilities.
[1](41) Expand the use of online self-certification for appropriate exemptions and general permits issued by the department or the water management districts if such expansion is economically feasible. Notwithstanding any other provision of law, a local government may not specify the method or form for documenting that a project qualifies for an exemption or meets the requirements for a permit under chapter 161, chapter 253,

chapter 373, or this chapter. This limitation of local government authority extends to Internet-based department programs that provide for self-certification.
(42) Serve as the state's single point of contact for performing the responsibilities described in Presidential Executive Order 12372, including administration and operation of the Florida State Clearinghouse. The Florida State Clearinghouse shall be responsible for coordinating interagency reviews of the following: federal activities and actions subject to the federal consistency requirements of s. 307 of the Coastal Zone Management Act; documents prepared pursuant to the National Environmental Policy Act, 42 U.S.C. ss. 4321 et seq., and the Outer Continental Shelf Lands Act, 43 U.S.C. ss. 1331 et seq.; applications for federal funding pursuant to s. 216.212; and other notices and information regarding federal activities in the state, as appropriate. The Florida State Clearinghouse shall ensure that state agency comments and recommendations on the environmental, social, and economic impact of proposed federal actions are communicated to federal agencies, applicants, local governments, and interested parties.
(43)(a) Implement ss. 403.067 and 403.088 in flowing waters consistent with the attainment and maintenance of:
1. The narrative criterion for nutrients and any in-stream numeric interpretation of the narrative water quality criterion for nutrients adopted by the department in streams, canals, and other conveyances; and
2. Nutrient water quality standards applicable to downstream waters.
(b) The loading of nutrients to downstream waters from a stream, canal, or other conveyance shall be limited to provide for the attainment and maintenance of nutrient water quality standards in the downstream waters.
1. If the downstream water does not have a total maximum daily load adopted under s. 403.067 and has not been verified as impaired by nutrient loadings, then the department shall implement its authority in a manner that prevents impairment of the downstream water due to loadings from the upstream water.
2. If the downstream water does not have a total maximum daily load adopted under s. 403.067 but has been verified as impaired by nutrient loadings, then the department shall adopt a total maximum daily load under s. 403.067.
3. If the downstream water has a total maximum daily load adopted under s. 403.067 that interprets the narrative water quality criterion for nutrients, then allocations shall be set for upstream water bodies in accordance with s. 403.067(6), and if applicable, the basin management action plan established under s. 403.067(7).
(c) Compliance with an allocation calculated under s. 403.067(6) or, if applicable, the basin management action plan established under s. 403.067(7) for the downstream water shall constitute reasonable assurance that a discharge does not cause or contribute to the violation of the downstream nutrient water quality standards.
(44) Adopt rules requiring or incentivizing the electronic submission of forms, documents, fees, or reports required under chapter 161, chapter 253, chapter 373, chapter 376, chapter 377, or this chapter. The rules must reasonably accommodate technological or financial hardship and provide procedures for obtaining an exemption due to such hardship.

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

History.—s. 7, ch. 67-436; ss. 19, 26, 35, ch. 69-106; s. 1, ch. 71-35; s. 2, ch. 71-36; s. 3, ch. 72-39; s. 1, ch. 72-53; s. 113, ch. 73-333; s. 3, ch. 74-133; s. 1, ch. 77-21; s. 137, ch. 77-104; s. 268, ch. 77-147; s. 2, ch. 77-369; s. 14, ch. 78-95; s. 2, ch. 78-437; s. 73, ch. 79-65; s. 1, ch. 79-130; s. 96, ch. 79-164; s. 160, ch. 79-400; s. 1, ch. 80-66; ss. 2, 5, ch. 81-228; s. 5, ch. 82-27; s. 1, ch. 82-79; s. 2, ch. 82-80; s. 66, ch. 83-310; s. 5, ch. 84-79; s. 1, ch. 84-338; s. 1, ch. 85-296; s. 5, ch. 85-345; s. 5, ch. 86-173; s. 52, ch. 86-186; s. 22, ch. 88-393; s. 31, ch. 89-279; s. 54, ch. 90-331; s. 24, ch. 91-305; s. 23, ch. 92-203; s. 127, ch. 92-279; s. 55, ch. 92-326; s. 36, ch. 93-213; s. 5, ch. 94-311; s. 1, ch. 94-321; s. 356, ch. 94-356; s. 55, ch. 95-144; s. 144, ch. 96-320; s. 8, ch. 96-370; s. 129, ch. 96-410; s. 26, ch. 97-160; s. 100, ch. 98-200; s. 3, ch. 98-326; s. 155, ch. 99-8; s. 2, ch. 2001-188; s. 1, ch. 2001-224; s. 8, ch. 2002-275; s. 68, ch. 2006-230; s. 42, ch. 2010-147; s. 4, ch. 2010-201; s. 2, ch. 2010-208; s. 12, ch. 2012-205; s. 1, ch. 2013-71; s. 17, ch. 2013-92; s. 94, ch. 2014-17; s. 30, ch. 2016-1.

[1]Note.—As enacted by s. 42, ch. 2010-147. For a description of multiple acts in the same session affecting a statutory provision, see preface to the Florida Statutes, “Statutory Construction.” Subsection (41) was also added by s. 2, ch. 2010-208, and that version reads:

(41) Expand the use of online self-certification and other forms of online authorization for appropriate exemptions, general permits, and individual permits by the department and the water management districts if such expansion is economically feasible. The department shall report on the progress of these activities to the President of the Senate, the Speaker of the House of Representatives, and the Legislative Committee on Intergovernmental Relations by February 15, 2011. Notwithstanding any other provision of law, a local government may not specify the method or form for documenting that a project meets the requirements for authorization under chapter 161, chapter 253, chapter 373, or this chapter. This includes Internet-based department programs that provide for self-certification.

403.0617 Innovative nutrient and sediment reduction and conservation pilot project program.—

(1) Contingent upon a specific appropriation in the General Appropriation Act, the department may fund innovative nutrient and sediment reduction and conservation pilot projects selected pursuant to this section. These pilot projects are intended to test the effectiveness of innovative or existing nutrient reduction or water conservation technologies, programs, or practices designed to minimize nutrient pollution or restore flows in the water bodies of the state.

(2) By October 1, 2016, the department shall initiate rulemaking to establish criteria by which the department will evaluate and rank pilot projects for funding. The criteria must include a determination by the department that the pilot project will not be harmful to the ecological resources in the study area. The criteria must give preference to projects that will result in the greatest improvement to water quality and water quantity for the dollars to be expended for the project. At a minimum, the department shall consider all of the following:

(a) The level of nutrient impairment of the water body, watershed, or water segment in which the project is located.

(b) The quantity of nutrients the project is estimated to remove from a water body, watershed, or water segment with a nutrient total maximum daily load.

(c) The potential for the project to provide a cost-effective solution to pollution, including pollution caused by onsite sewage treatment and disposal systems.
(d) The anticipated impact the project will have on restoring or increasing flow or water level.
(e) The amount of matching funds for the project which will be provided by the entities responsible for implementing the project.
(f) Whether the project is located in a rural area of opportunity, as defined in s. 288.0656, with preference given to the local government responsible for implementing the project.
(g) For multiple-year projects, whether the project has funding sources that are identified and assured through the expected completion date of the project.
(h) The cost of the project and the length of time it will take to complete relative to its expected benefits.
(i) Whether the entities responsible for implementing the project have used their own funds for projects to improve water quality or conserve water use with preference given to those entities that have expended such funds.
History.—s. 31, ch. 2016-1.

403.0623 Environmental data; quality assurance.—
(1) The department must establish, by rule, appropriate quality assurance requirements for environmental data submitted to the department and the criteria by which environmental data may be rejected by the department. The department may adopt and enforce rules to establish data quality objectives and specify requirements for training of laboratory and field staff, sample collection methodology, proficiency testing, and audits of laboratory and field sampling activities. Such rules may be in addition to any laboratory certification provisions under ss. 403.0625 and 403.863.
(2)(a) The department, in coordination with the water management districts, regional water supply authorities, and the Department of Agriculture and Consumer Services, shall establish standards for the collection and analysis of water quantity, water quality, and related data to ensure quality, reliability, and validity of the data and testing results.
(b) To the extent practicable, the department shall coordinate with federal agencies to ensure that its collection and analysis of water quality, water quantity, and related data, which may be used by any state agency, water management district, or local government, is consistent with this subsection.
(c) To receive state funds for the acquisition of land or the financing of a water resource project, state agencies and water management districts must show that they followed the department's collection and analysis standards, if available, as a prerequisite for any such request for funding.
(d) The department and the water management districts may adopt rules to implement this subsection.
History.—s. 1, ch. 98-43; s. 16, ch. 2008-150; s. 32, ch. 2016-1.

403.067 Establishment and implementation of total maximum daily loads.—
(1) LEGISLATIVE FINDINGS AND INTENT.—In furtherance of public policy established in s. 403.021, the Legislature declares that the waters of the state are among its most basic resources and that the development of a total maximum daily load program for

state waters as required by s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq. will promote improvements in water quality throughout the state through the coordinated control of point and nonpoint sources of pollution. The Legislature finds that, while point and nonpoint sources of pollution have been managed through numerous programs, better coordination among these efforts and additional management measures may be needed in order to achieve the restoration of impaired water bodies. The scientifically based total maximum daily load program is necessary to fairly and equitably allocate pollution loads to both nonpoint and point sources. Implementation of the allocation shall include consideration of a cost-effective approach coordinated between contributing point and nonpoint sources of pollution for impaired water bodies or water body segments and may include the opportunity to implement the allocation through nonregulatory and incentive-based programs. The Legislature further declares that the Department of Environmental Protection shall be the lead agency in administering this program and shall coordinate with local governments, water management districts, the Department of Agriculture and Consumer Services, local soil and water conservation districts, environmental groups, regulated interests, other appropriate state agencies, and affected pollution sources in developing and executing the total maximum daily load program.

(2) LIST OF SURFACE WATERS OR SEGMENTS.—In accordance with s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq., the department must submit periodically to the United States Environmental Protection Agency a list of surface waters or segments for which total maximum daily load assessments will be conducted. The assessments shall evaluate the water quality conditions of the listed waters and, if such waters are determined not to meet water quality standards, total maximum daily loads shall be established, subject to the provisions of subsection (4). The department shall establish a priority ranking and schedule for analyzing such waters.

(a) The list, priority ranking, and schedule cannot be used in the administration or implementation of any regulatory program. However, this paragraph does not prohibit any agency from employing the data or other information used to establish the list, priority ranking, or schedule in administering any program.

(b) The list, priority ranking, and schedule prepared under this subsection shall be made available for public comment, but shall not be subject to challenge under chapter 120.

(c) The provisions of this subsection are applicable to all lists prepared by the department and submitted to the United States Environmental Protection Agency pursuant to s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq., including those submitted prior to the effective date of this act, except as provided in subsection (4).

(d) If the department proposes to implement total maximum daily load calculations or allocations established prior to the effective date of this act, the department shall adopt those calculations and allocations by rule by the secretary pursuant to ss. 120.536(1) and 120.54 and paragraph (6)(c).

(3) ASSESSMENT.—

(a) Based on the priority ranking and schedule for a particular listed water body or water body segment, the department shall conduct a total maximum daily load assessment of the basin in which the water body or water body segment is located using the

methodology developed pursuant to paragraph (b). In conducting this assessment, the department shall coordinate with the local water management district, the Department of Agriculture and Consumer Services, other appropriate state agencies, soil and water conservation districts, environmental groups, regulated interests, and other interested parties.
(b) The department shall adopt by rule a methodology for determining those waters which are impaired. The rule shall provide for consideration as to whether water quality standards codified in chapter 62-302, Florida Administrative Code, are being exceeded, based on objective and credible data, studies and reports, including surface water improvement and management plans approved by water management districts and pollutant load reduction goals developed according to department rule. Such rule also shall set forth:
1. Water quality sample collection and analysis requirements, accounting for ambient background conditions, seasonal and other natural variations;
2. Approved methodologies;
3. Quality assurance and quality control protocols;
4. Data modeling; and
5. Other appropriate water quality assessment measures.
(c) If the department has adopted a rule establishing a numerical criterion for a particular pollutant, a narrative or biological criterion may not be the basis for determining an impairment in connection with that pollutant unless the department identifies specific factors as to why the numerical criterion is not adequate to protect water quality. If water quality nonattainment is based on narrative or biological criteria, the specific factors concerning particular pollutants shall be identified prior to a total maximum daily load being developed for those criteria for that surface water or surface water segment.
(4) APPROVED LIST.—If the department determines, based on the total maximum daily load assessment methodology described in subsection (3), that water quality standards are not being achieved and that technology-based effluent limitations and other pollution control programs under local, state, or federal authority, including Everglades restoration activities pursuant to s. 373.4592 and the National Estuary Program, which are designed to restore such waters for the pollutant of concern are not sufficient to result in attainment of applicable surface water quality standards, it shall confirm that determination by issuing a subsequent, updated list of those water bodies or segments for which total maximum daily loads will be calculated. In association with this updated list, the department shall establish priority rankings and schedules by which water bodies or segments will be subjected to total maximum daily load calculations. If a surface water or water segment is to be listed under this subsection, the department must specify the particular pollutants causing the impairment and the concentration of those pollutants causing the impairment relative to the water quality standard. This updated list shall be approved and amended by order of the department subsequent to completion of an assessment of each water body or water body segment, and submitted to the United States Environmental Protection Agency. Each order shall be subject to challenge under ss. 120.569 and 120.57.
(5) REMOVAL FROM LIST.—At any time throughout the total maximum daily load process, surface waters or segments evaluated or listed under this section shall be

removed from the lists described in subsection (2) or subsection (4) upon demonstration that water quality criteria are being attained, based on data equivalent to that required by rule under subsection (3).
(6) CALCULATION AND ALLOCATION.—
(a) Calculation of total maximum daily load.
1. Prior to developing a total maximum daily load calculation for each water body or water body segment on the list specified in subsection (4), the department shall coordinate with applicable local governments, water management districts, the Department of Agriculture and Consumer Services, other appropriate state agencies, local soil and water conservation districts, environmental groups, regulated interests, and affected pollution sources to determine the information required, accepted methods of data collection and analysis, and quality control/quality assurance requirements. The analysis may include mathematical water quality modeling using approved procedures and methods.
2. The department shall develop total maximum daily load calculations for each water body or water body segment on the list described in subsection (4) according to the priority ranking and schedule unless the impairment of such waters is due solely to activities other than point and nonpoint sources of pollution. For waters determined to be impaired due solely to factors other than point and nonpoint sources of pollution, no total maximum daily load will be required. A total maximum daily load may be required for those waters that are impaired predominantly due to activities other than point and nonpoint sources. The total maximum daily load calculation shall establish the amount of a pollutant that a water body or water body segment may receive from all sources without exceeding water quality standards, and shall account for seasonal variations and include a margin of safety that takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality. The total maximum daily load may be based on a pollutant load reduction goal developed by a water management district, provided that such pollutant load reduction goal is promulgated by the department in accordance with the procedural and substantive requirements of this subsection.
(b) Allocation of total maximum daily loads. The total maximum daily loads shall include establishment of reasonable and equitable allocations of the total maximum daily load between or among point and nonpoint sources that will alone, or in conjunction with other management and restoration activities, provide for the attainment of the pollutant reductions established pursuant to paragraph (a) to achieve water quality standards for the pollutant causing impairment. The allocations may establish the maximum amount of the water pollutant that may be discharged or released into the water body or water body segment in combination with other discharges or releases. Allocations may also be made to individual basins and sources or as a whole to all basins and sources or categories of sources of inflow to the water body or water body segments. An initial allocation of allowable pollutant loads among point and nonpoint sources may be developed as part of the total maximum daily load. However, in such cases, the detailed allocation to specific point sources and specific categories of nonpoint sources shall be established in the basin management action plan pursuant to subsection (7). The initial and detailed allocations shall be designed to attain the pollutant reductions established pursuant to paragraph (a) and shall be based on consideration of the following:

1. Existing treatment levels and management practices;
2. Best management practices established and implemented pursuant to paragraph (7)(c);
3. Enforceable treatment levels established pursuant to state or local law or permit;
4. Differing impacts pollutant sources and forms of pollutant may have on water quality;
5. The availability of treatment technologies, management practices, or other pollutant reduction measures;
6. Environmental, economic, and technological feasibility of achieving the allocation;
7. The cost benefit associated with achieving the allocation;
8. Reasonable timeframes for implementation;
9. Potential applicability of any moderating provisions such as variances, exemptions, and mixing zones; and
10. The extent to which nonattainment of water quality standards is caused by pollution sources outside of Florida, discharges that have ceased, or alterations to water bodies prior to the date of this act.
(c) Adoption of rules. The total maximum daily load calculations and allocations established under this subsection for each water body or water body segment shall be adopted by rule by the secretary pursuant to ss. 120.536(1), 120.54, and 403.805. Where additional data collection and analysis are needed to increase the scientific precision and accuracy of the total maximum daily load, the department is authorized to adopt phased total maximum daily loads that are subject to change as additional data becomes available. Where phased total maximum daily loads are proposed, the department shall, in the detailed statement of facts and circumstances justifying the rule, explain why the data are inadequate so as to justify a phased total maximum daily load. The rules adopted pursuant to this paragraph are not subject to approval by the Environmental Regulation Commission and are not subject to the provisions of s. 120.541(3). As part of the rule development process, the department shall hold at least one public workshop in the vicinity of the water body or water body segment for which the total maximum daily load is being developed. Notice of the public workshop shall be published not less than 5 days nor more than 15 days before the public workshop in a newspaper of general circulation in the county or counties containing the water bodies or water body segments for which the total maximum daily load calculation and allocation are being developed.
(7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—
(a) Basin management action plans.—
1. In developing and implementing the total maximum daily load for a water body, the department, or the department in conjunction with a water management district, may develop a basin management action plan that addresses some or all of the watersheds and basins tributary to the water body. Such plan must integrate the appropriate management strategies available to the state through existing water quality protection programs to achieve the total maximum daily loads and may provide for phased implementation of these management strategies to promote timely, cost-effective actions as provided for in s. 403.151. The plan must establish a schedule implementing the management strategies, establish a basis for evaluating the plan’s effectiveness, and identify feasible funding strategies for implementing the plan’s management

strategies. The management strategies may include regional treatment systems or other public works, where appropriate, and voluntary trading of water quality credits to achieve the needed pollutant load reductions.
2. A basin management action plan must equitably allocate, pursuant to paragraph (6)(b), pollutant reductions to individual basins, as a whole to all basins, or to each identified point source or category of nonpoint sources, as appropriate. For nonpoint sources for which best management practices have been adopted, the initial requirement specified by the plan must be those practices developed pursuant to paragraph (c). Where appropriate, the plan may take into account the benefits of pollutant load reduction achieved by point or nonpoint sources that have implemented management strategies to reduce pollutant loads, including best management practices, before the development of the basin management action plan. The plan must also identify the mechanisms that will address potential future increases in pollutant loading.
3. The basin management action planning process is intended to involve the broadest possible range of interested parties, with the objective of encouraging the greatest amount of cooperation and consensus possible. In developing a basin management action plan, the department shall assure that key stakeholders, including, but not limited to, applicable local governments, water management districts, the Department of Agriculture and Consumer Services, other appropriate state agencies, local soil and water conservation districts, environmental groups, regulated interests, and affected pollution sources, are invited to participate in the process. The department shall hold at least one public meeting in the vicinity of the watershed or basin to discuss and receive comments during the planning process and shall otherwise encourage public participation to the greatest practicable extent. Notice of the public meeting must be published in a newspaper of general circulation in each county in which the watershed or basin lies not less than 5 days nor more than 15 days before the public meeting. A basin management action plan does not supplant or otherwise alter any assessment made under subsection (3) or subsection (4) or any calculation or initial allocation.
4. Each new or revised basin management action plan shall include:
a. The appropriate management strategies available through existing water quality protection programs to achieve total maximum daily loads, which may provide for phased implementation to promote timely, cost-effective actions as provided for in s. 403.151;
b. A description of best management practices adopted by rule;
c. A list of projects in priority ranking with a planning-level cost estimate and estimated date of completion for each listed project;
d. The source and amount of financial assistance to be made available by the department, a water management district, or other entity for each listed project, if applicable; and
e. A planning-level estimate of each listed project's expected load reduction, if applicable.
5.~~4.~~ The department shall adopt all or any part of a basin management action plan and any amendment to such plan by secretarial order pursuant to chapter 120 to implement the provisions of this section.
6.~~5.~~ The basin management action plan must include milestones for implementation and water quality improvement, and an associated water quality monitoring component

sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones shall be conducted every 5 years, and revisions to the plan shall be made as appropriate. Revisions to the basin management action plan shall be made by the department in cooperation with basin stakeholders. Revisions to the management strategies required for nonpoint sources must follow the procedures set forth in subparagraph (c)4. Revised basin management action plans must be adopted pursuant to subparagraph 5 ~~4~~.
7.~~6.~~ In accordance with procedures adopted by rule under paragraph (9)(c), basin management action plans, and other pollution control programs under local, state, or federal authority as provided in subsection (4), may allow point or nonpoint sources that will achieve greater pollutant reductions than required by an adopted total maximum daily load or wasteload allocation to generate, register, and trade water quality credits for the excess reductions to enable other sources to achieve their allocation; however, the generation of water quality credits does not remove the obligation of a source or activity to meet applicable technology requirements or adopted best management practices. Such plans must allow trading between NPDES permittees, and trading that may or may not involve NPDES permittees, where the generation or use of the credits involve an entity or activity not subject to department water discharge permits whose owner voluntarily elects to obtain department authorization for the generation and sale of credits.
8.~~7.~~ The provisions of the department's rule relating to the equitable abatement of pollutants into surface waters do not apply to water bodies or water body segments for which a basin management plan that takes into account future new or expanded activities or discharges has been adopted under this section.
(b) Total maximum daily load implementation.—
1. The department shall be the lead agency in coordinating the implementation of the total maximum daily loads through existing water quality protection programs. Application of a total maximum daily load by a water management district must be consistent with this section and does not require the issuance of an order or a separate action pursuant to s. 120.536(1) or s. 120.54 for the adoption of the calculation and allocation previously established by the department. Such programs may include, but are not limited to:
a. Permitting and other existing regulatory programs, including water-quality-based effluent limitations;
b. Nonregulatory and incentive-based programs, including best management practices, cost sharing, waste minimization, pollution prevention, agreements established pursuant to s. 403.061(21), and public education;
c. Other water quality management and restoration activities, for example surface water improvement and management plans approved by water management districts or basin management action plans developed pursuant to this subsection;
d. Trading of water quality credits or other equitable economically based agreements;
e. Public works including capital facilities; or
f. Land acquisition.
2. For a basin management action plan adopted pursuant to paragraph (a), any management strategies and pollutant reduction requirements associated with a pollutant of concern for which a total maximum daily load has been developed, including effluent

limits set forth for a discharger subject to NPDES permitting, if any, must be included in a timely manner in subsequent NPDES permits or permit modifications for that discharger. The department may not impose limits or conditions implementing an adopted total maximum daily load in an NPDES permit until the permit expires, the discharge is modified, or the permit is reopened pursuant to an adopted basin management action plan.

a. Absent a detailed allocation, total maximum daily loads must be implemented through NPDES permit conditions that provide for a compliance schedule. In such instances, a facility's NPDES permit must allow time for the issuance of an order adopting the basin management action plan. The time allowed for the issuance of an order adopting the plan may not exceed 5 years. Upon issuance of an order adopting the plan, the permit must be reopened or renewed, as necessary, and permit conditions consistent with the plan must be established. Notwithstanding the other provisions of this subparagraph, upon request by an NPDES permittee, the department as part of a permit issuance, renewal, or modification may establish individual allocations before the adoption of a basin management action plan.

b. For holders of NPDES municipal separate storm sewer system permits and other stormwater sources, implementation of a total maximum daily load or basin management action plan must be achieved, to the maximum extent practicable, through the use of best management practices or other management measures.

c. The basin management action plan does not relieve the discharger from any requirement to obtain, renew, or modify an NPDES permit or to abide by other requirements of the permit.

d. Management strategies set forth in a basin management action plan to be implemented by a discharger subject to permitting by the department must be completed pursuant to the schedule set forth in the basin management action plan. This implementation schedule may extend beyond the 5-year term of an NPDES permit.

e. Management strategies and pollution reduction requirements set forth in a basin management action plan for a specific pollutant of concern are not subject to challenge under chapter 120 at the time they are incorporated, in an identical form, into a subsequent NPDES permit or permit modification.

f. For nonagricultural pollutant sources not subject to NPDES permitting but permitted pursuant to other state, regional, or local water quality programs, the pollutant reduction actions adopted in a basin management action plan must be implemented to the maximum extent practicable as part of those permitting programs.

g. A nonpoint source discharger included in a basin management action plan must demonstrate compliance with the pollutant reductions established under subsection (6) by implementing the appropriate best management practices established pursuant to paragraph (c) or conducting water quality monitoring prescribed by the department or a water management district. A nonpoint source discharger may, in accordance with department rules, supplement the implementation of best management practices with water quality credit trades in order to demonstrate compliance with the pollutant reductions established under subsection (6).

h. A nonpoint source discharger included in a basin management action plan may be subject to enforcement action by the department or a water management district based upon a failure to implement the responsibilities set forth in sub-subparagraph g.

i. A landowner, discharger, or other responsible person who is implementing applicable management strategies specified in an adopted basin management action plan may not be required by permit, enforcement action, or otherwise to implement additional management strategies, including water quality credit trading, to reduce pollutant loads to attain the pollutant reductions established pursuant to subsection (6) and shall be deemed to be in compliance with this section. This subparagraph does not limit the authority of the department to amend a basin management action plan as specified in subparagraph (a)6 ~~(a)5~~.

(c) Best management practices.—

1. The department, in cooperation with the water management districts and other interested parties, as appropriate, may develop suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for nonagricultural nonpoint pollutant sources in allocations developed pursuant to subsection (6) and this subsection. These practices and measures may be adopted by rule by the department and the water management districts and, where adopted by rule, shall be implemented by those parties responsible for nonagricultural nonpoint source pollution.

2. The Department of Agriculture and Consumer Services may develop and adopt by rule pursuant to ss. 120.536(1) and 120.54 suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for agricultural pollutant sources in allocations developed pursuant to subsection (6) and this subsection or for programs implemented pursuant to paragraph (12)(b). These practices and measures may be implemented by those parties responsible for agricultural pollutant sources and the department, the water management districts, and the Department of Agriculture and Consumer Services shall assist with implementation. In the process of developing and adopting rules for interim measures, best management practices, or other measures, the Department of Agriculture and Consumer Services shall consult with the department, the Department of Health, the water management districts, representatives from affected farming groups, and environmental group representatives. Such rules must also incorporate provisions for a notice of intent to implement the practices and a system to assure the implementation of the practices, including site inspection and recordkeeping requirements.

3. Where interim measures, best management practices, or other measures are adopted by rule, the effectiveness of such practices in achieving the levels of pollution reduction established in allocations developed by the department pursuant to subsection (6) and this subsection or in programs implemented pursuant to paragraph (12)(b) must be verified at representative sites by the department. The department shall use best professional judgment in making the initial verification that the best management practices are reasonably expected to be effective and, where applicable, must notify the appropriate water management district or the Department of Agriculture and Consumer Services of its initial verification before the adoption of a rule proposed pursuant to this paragraph. Implementation, in accordance with rules adopted under this paragraph, of practices that have been initially verified to be effective, or verified to be effective by monitoring at representative sites, by the department, shall provide a presumption of compliance with state water quality standards and release from the

provisions of s. 376.307(5) for those pollutants addressed by the practices, and the department is not authorized to institute proceedings against the owner of the source of pollution to recover costs or damages associated with the contamination of surface water or groundwater caused by those pollutants. Research projects funded by the department, a water management district, or the Department of Agriculture and Consumer Services to develop or demonstrate interim measures or best management practices shall be granted a presumption of compliance with state water quality standards and a release from the provisions of s. 376.307(5). The presumption of compliance and release is limited to the research site and only for those pollutants addressed by the interim measures or best management practices. Eligibility for the presumption of compliance and release is limited to research projects on sites where the owner or operator of the research site and the department, a water management district, or the Department of Agriculture and Consumer Services have entered into a contract or other agreement that, at a minimum, specifies the research objectives, the cost-share responsibilities of the parties, and a schedule that details the beginning and ending dates of the project.

4. Where water quality problems are demonstrated, despite the appropriate implementation, operation, and maintenance of best management practices and other measures required by rules adopted under this paragraph, the department, a water management district, or the Department of Agriculture and Consumer Services, in consultation with the department, shall institute a reevaluation of the best management practice or other measure. Should the reevaluation determine that the best management practice or other measure requires modification, the department, a water management district, or the Department of Agriculture and Consumer Services, as appropriate, shall revise the rule to require implementation of the modified practice within a reasonable time period as specified in the rule.

5. Agricultural records relating to processes or methods of production, costs of production, profits, or other financial information held by the Department of Agriculture and Consumer Services pursuant to subparagraphs 3. and 4. or pursuant to any rule adopted pursuant to subparagraph 2. are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Upon request, records made confidential and exempt pursuant to this subparagraph shall be released to the department or any water management district provided that the confidentiality specified by this subparagraph for such records is maintained.

6. The provisions of subparagraphs 1. and 2. do not preclude the department or water management district from requiring compliance with water quality standards or with current best management practice requirements set forth in any applicable regulatory program authorized by law for the purpose of protecting water quality. Additionally, subparagraphs 1. and 2. are applicable only to the extent that they do not conflict with any rules adopted by the department that are necessary to maintain a federally delegated or approved program.

<u>(d) Enforcement and verification of basin management action plans and management strategies.—</u>

<u>1. Basin management action plans are enforceable pursuant to this section and ss. 403.121, 403.141, and 403.161. Management strategies, including best management practices and water quality monitoring, are enforceable under this chapter.</u>

2. No later than January 1, 2017:
a. The department, in consultation with the water management districts and the Department of Agriculture and Consumer Services, shall initiate rulemaking to adopt procedures to verify implementation of water quality monitoring required in lieu of implementation of best management practices or other measures pursuant to sub-subparagraph (b)2.g.;
b. The department, in consultation with the water management districts and the Department of Agriculture and Consumer Services, shall initiate rulemaking to adopt procedures to verify implementation of nonagricultural interim measures, best management practices, or other measures adopted by rule pursuant to subparagraph (c)1.; and
c. The Department of Agriculture and Consumer Services, in consultation with the water management districts and the department, shall initiate rulemaking to adopt procedures to verify implementation of agricultural interim measures, best management practices, or other measures adopted by rule pursuant to subparagraph(c)2.
The rules required under this subparagraph shall include enforcement procedures applicable to the landowner, discharger, or other responsible person required to implement applicable management strategies, including best management practices or water quality monitoring as a result of noncompliance.
(8) WATER QUALITY CREDIT TRADING.—
(a) Water quality credit trading must be consistent with federal law and regulation.
(b) Water quality credit trading must be implemented through permits, including water quality credit trading permits, other authorizations, or other legally binding agreements as established by department rule.
(c) The department shall establish the pollutant load reduction value of water quality credits and is responsible for authorizing their use.
(d) A person who acquires water quality credits (“buyer”) shall timely submit to the department an affidavit, signed by the buyer and the credit generator (“seller”), disclosing the term of acquisition, number of credits, unit credit price paid, and any state funding received for the facilities or activities that generate the credits. The department may not participate in the establishment of credit prices.
(e) Sellers of water quality credits are responsible for achieving the load reductions on which the credits are based and complying with the terms of the department authorization and any trading agreements into which they may have entered.
(f) Buyers of water quality credits are responsible for complying with the terms of the department water discharge permit.
(g) The department shall take appropriate action to address the failure of a credit seller to fulfill its obligations, including, as necessary, deeming the seller’s credits invalid if the seller cannot achieve the load reductions on which the credits were based in a reasonable time. If the department determines duly acquired water quality credits to be invalid, in whole or in part, thereby causing the credit buyer to be unable to timely meet its pollutant reduction obligations under this section, the department shall issue an order establishing the actions required of the buyer to meet its obligations by alternative means and a reasonable schedule for completing the actions. The invalidation of credits does not, in and of itself, constitute a violation of the buyer’s water discharge permit.

(h) The department may authorize water quality credit trading in adopted basin management action plans. Participation in water quality credit trading is entirely voluntary. Entities that participate in water quality credit trades shall timely report to the department the prices for credits, how the prices were determined, and any state funding received for the facilities or activities that generated the credits. The department may not participate in the establishment of credit prices.
(i) Land set-asides and land use modifications not otherwise required by state law or a permit, including constructed wetlands or other water quality improvement projects, that reduce nutrient loads into nutrient impaired surface waters may be used under this subsection.
(9) RULES.—The department may adopt rules for:
(a) Delisting water bodies or water body segments from the list developed under subsection (4) pursuant to the guidance under subsection (5).
(b) Administering of funds to implement the total maximum daily load and basin management action planning programs.
(c) Water quality credit trading among the pollutant sources to a water body or water body segment. The rules must provide for the following:
1. The process to be used to determine how credits are generated, quantified, and validated.
2. A publicly accessible water quality credit trading registry that tracks water quality credits, trading activities, and prices paid for credits.
3. Limitations on the availability and use of water quality credits, including a list of eligible pollutants or parameters and minimum water quality requirements and, where appropriate, adjustments to reflect best management practice performance uncertainties and water-segment-specific location factors.
4. The timing and duration of credits and allowance for credit transferability.
5. Mechanisms for determining and ensuring compliance with trading procedures, including recordkeeping, monitoring, reporting, and inspections.
At the time of publication of the draft rules on water quality credit trading, the department shall submit a copy to the United States Environmental Protection Agency for review.
(d) The total maximum daily load calculation in accordance with paragraph (6)(a) immediately upon the effective date of this act, for those eight water segments within Lake Okeechobee proper as submitted to the United States Environmental Protection Agency pursuant to subsection (2).
(e) Implementation of other specific provisions.
(10) APPLICATION.—The provisions of this section are intended to supplement existing law, and may not be construed as altering any applicable state water quality standards or as restricting the authority otherwise granted to the department or a water management district under this chapter or chapter 373. The exclusive means of state implementation of s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq. shall be in accordance with the identification, assessment, calculation and allocation, and implementation provisions of this section.
(11) CONSTRUCTION.—This section does not limit the applicability or consideration of any mixing zone, variance, exemption, site specific alternative criteria, or other moderating provision.

(12) IMPLEMENTATION OF ADDITIONAL PROGRAMS.—
(a) The department may not implement, without prior legislative approval, any additional regulatory authority pursuant to s. 303(d) of the Clean Water Act or 40 C.F.R. part 130, if such implementation would result in water quality discharge regulation of activities not currently subject to regulation.
(b) Interim measures, best management practices, or other measures may be developed and voluntarily implemented pursuant to paragraph (7)(c) for any water body or segment for which a total maximum daily load or allocation has not been established. The implementation of such pollution control programs may be considered by the department in the determination made pursuant to subsection (4).
(13) RULE CHALLENGES.—In order to provide adequate due process while ensuring timely development of total maximum daily loads, proposed rules and orders authorized by this act are ineffective pending resolution of a s. 120.54(3), s. 120.56, s. 120.569, or s. 120.57 administrative proceeding. However, the department may go forward prior to resolution of such administrative proceedings with subsequent agency actions authorized by subsections (2)-(6) if the department can support and substantiate those actions using the underlying bases for the rules or orders without the benefit of any legal presumption favoring, or in deference to, the challenged rules or orders.
History.—s. 3, ch. 99-223; s. 10, ch. 99-353; s. 3, ch. 2000-130; s. 1, ch. 2001-74; s. 1, ch. 2002-165; s. 17, ch. 2002-295; s. 10, ch. 2003-265; s. 6, ch. 2005-166; s. 13, ch. 2005-291; s. 1, ch. 2006-76; s. 10, ch. 2006-289; s. 1, ch. 2008-189; s. 1, ch. 2013-70; s. 2, ch. 2013-146; s. 44, ch. 2015-2; s. 33, ch. 2016-1; s. 4, ch. 2016-130.

403.0675 Progress reports.—
On or before July 1 of each year, beginning in 2018:
(1) The department, in conjunction with the water management districts, shall post on its website and submit electronically an annual progress report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the status of each total maximum daily load, basin management action plan, minimum flow or minimum water level, and recovery or prevention strategy adopted pursuant to s. 403.067 or parts I and VIII of chapter 373. The report must include the status of each project identified to achieve a total maximum daily load or an adopted minimum flow or minimum water level, as applicable. If a report indicates that any of the 5-year, 10-year, or 15-year milestones, or the 20-year target date, if applicable, for achieving a total maximum daily load or a minimum flow or minimum water level will not be met, the report must include an explanation of the possible causes and potential solutions. If applicable, the report must include project descriptions, estimated costs, proposed priority ranking for project implementation, and funding needed to achieve the total maximum daily load or the minimum flow or minimum water level by the target date. Each water management district shall post the department's report on its website.
(2) The Department of Agriculture and Consumer Services shall post on its website and submit electronically an annual progress report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the status of the implementation of the agricultural nonpoint source best management practices, including an implementation assurance report summarizing survey responses and response rates, site inspections, and other methods used to verify implementation of

and compliance with best management practices pursuant to basin management action plans.
History.—s. 34, ch. 2016-1.

403.1838 Small Community Sewer Construction Assistance Act.—
(1) This section may be cited as the “Small Community Sewer Construction Assistance Act.”
(2) The department shall use funds specifically appropriated to award grants under this section to assist financially disadvantaged small communities with their needs for adequate sewer facilities. For purposes of this section, the term “financially disadvantaged small community” means a county, municipality, or special district that has a population of 10,000 or fewer, according to the latest decennial census, and a per capita annual income less than the state per capita annual income as determined by the United States Department of Commerce. For purposes of this subsection, the term “special district” has the same meaning as provided in s. 189.012 and includes only those special districts whose public purpose includes water and sewer services, utility systems and services, or wastewater systems and services.
(3)(a) In accordance with rules adopted by the Environmental Regulation Commission under this section, the department may provide grants, from funds specifically appropriated for this purpose, to financially disadvantaged small communities for up to 100 percent of the costs of planning, designing, constructing, upgrading, or replacing wastewater collection, transmission, treatment, disposal, and reuse facilities, including necessary legal and administrative expenses.
(b) The rules of the Environmental Regulation Commission must:
1. Require that projects to plan, design, construct, upgrade, or replace wastewater collection, transmission, treatment, disposal, and reuse facilities be cost-effective, environmentally sound, permittable, and implementable.
2. Require appropriate user charges, connection fees, and other charges sufficient to ensure the long-term operation, maintenance, and replacement of the facilities constructed under each grant.
3. Require grant applications to be submitted on appropriate forms with appropriate supporting documentation, and require records to be maintained.
4. Establish a system to determine eligibility of grant applications.
5. Establish a system to determine the relative priority of grant applications. The system must consider public health protection and water pollution abatement.
6. Establish requirements for competitive procurement of engineering and construction services, materials, and equipment.
7. Provide for termination of grants when program requirements are not met.
(c) The department must perform adequate overview of each grant, including technical review, regular inspections, disbursement approvals, and auditing, to successfully implement this section.
(d) The department may use up to 2 percent of the grant funds made available each year for the costs of program administration.
(e) Any grant awarded before July 1, 1994, under this section, remains subject to the applicable department rules in existence on June 30, 1993, until all rule requirements have been met.

History.—s. 55, ch. 83-310; s. 29, ch. 84-338; s. 53, ch. 85-81; s. 38, ch. 89-279; s. 4, ch. 94-243; s. 376, ch. 94-356; s. 64, ch. 96-321; s. 37, ch. 2002-402; s. 10, ch. 2004-6; s. 14, ch. 2012-205; s. 1, ch. 2016-55.

403.201 Variances.—
(1) Upon application, the department in its discretion may grant a variance from the provisions of this act or the rules and regulations adopted pursuant hereto. Variances and renewals thereof may be granted for any one of the following reasons:
(a) There is no practicable means known or available for the adequate control of the pollution involved.
(b) Compliance with the particular requirement or requirements from which a variance is sought will necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period of time. A variance granted for this reason shall prescribe a timetable for the taking of the measures required.
(c) To relieve or prevent hardship of a kind other than those provided for in paragraphs (a) and (b). Variances and renewals thereof granted under authority of this paragraph shall each be limited to a period of 24 months, except that variances granted pursuant to part II may extend for the life of the permit or certification.
(2) A ~~No~~ variance may not ~~shall~~ be granted from any provision or requirement concerning discharges of waste into waters of the state or hazardous waste management which would result in the provision or requirement being less stringent than a comparable federal provision or requirement, except as provided in s. 403.70715. However, this subsection does not prohibit the issuance of moderating provisions or requirements under state law, subject to any necessary approval by the United States Environmental Protection Agency.
(3) The department shall publish notice, or shall require a petitioner for a variance to publish notice, in the Florida Administrative Register and in a newspaper of general circulation in the area affected, of proposed agency action; and the department shall afford interested persons an opportunity for a hearing on each application for a variance. If no request for hearing is filed with the department within 14 days of published notice, the department may proceed to final agency action without a hearing.
(4) The department may require by rule a processing fee for and may prescribe such time limits and other conditions to the granting of a variance as it deems appropriate.
History.—s. 21, ch. 67-436; ss. 26, 35, ch. 69-106; s. 1, ch. 74-170; s. 14, ch. 78-95; s. 7, ch. 82-27; s. 21, ch. 86-186; s. 78, ch. 93-213; s. 106, ch. 2008-4; s. 41, ch. 2013-14; s. 5, ch. 2016-130.

403.413 Florida Litter Law.—
(1) SHORT TITLE.—This section may be cited as the “Florida Litter Law.”
(2) DEFINITIONS.—As used in this section:
(a) “Aircraft” means a motor vehicle or other vehicle that is used or designed to fly but does not include a parachute or any other device used primarily as safety equipment.
(b) “Commercial purpose” means for the purpose of economic gain.
(c) “Commercial vehicle” means a vehicle that is owned or used by a business, corporation, association, partnership, or sole proprietorship or any other entity conducting business for a commercial purpose.
(d) “Dump” means to dump, throw, discard, place, deposit, or dispose of.

(e) “Law enforcement officer” means any officer of the Florida Highway Patrol, a county sheriff’s department, a municipal law enforcement department, a law enforcement department of any other political subdivision, or the Fish and Wildlife Conservation Commission. In addition, and solely for the purposes of this section, “law enforcement officer” means any employee of a county or municipal park or recreation department designated by the department head as a litter enforcement officer.
(f) “Litter” means any garbage; rubbish; trash; refuse; can; bottle; box; container; paper; tobacco product; tire; appliance; mechanical equipment or part; building or construction material; tool; machinery; wood; motor vehicle or motor vehicle part; vessel; aircraft; farm machinery or equipment; sludge from a waste treatment facility, water supply treatment plant, or air pollution control facility; or substance in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.
(g) “Motor vehicle” means an automobile, motorcycle, truck, trailer, semitrailer, truck tractor, or semitrailer combination or any other vehicle that is powered by a motor.
(h) “Person” means any individual, firm, sole proprietorship, partnership, corporation, or unincorporated association.
(i) “Vessel” means a boat, barge, or airboat or any other vehicle used for transportation on water.
(3) RESPONSIBILITY OF LOCAL GOVERNING BODY OF A COUNTY OR MUNICIPALITY.—The local governing body of a county or a municipality shall determine the training and qualifications of any employee of the county or municipality or any employee of the county or municipal park or recreation department designated to enforce the provisions of this section if the designated employee is not a regular law enforcement officer.
(4) DUMPING LITTER PROHIBITED.—Unless otherwise authorized by law or permit, it is unlawful for any person to dump litter in any manner or amount:
(a) In or on any public highway, road, street, alley, or thoroughfare, including any portion of the right-of-way thereof, or any other public lands, except in containers or areas lawfully provided therefor. When any litter is thrown or discarded from a motor vehicle, the operator or owner of the motor vehicle, or both, shall be deemed in violation of this section;
(b) In or on any freshwater lake, river, canal, or stream or tidal or coastal water of the state, including canals. When any litter is thrown or discarded from a boat, the operator or owner of the boat, or both, shall be deemed in violation of this section; or
(c) In or on any private property, unless prior consent of the owner has been given and unless the dumping of such litter by such person will not cause a public nuisance or otherwise be in violation of any other state or local law, rule, or regulation.
(5) DUMPING RAW HUMAN WASTE PROHIBITED.—Unless otherwise authorized by law or permit, it is unlawful for any person to dump raw human waste from any train, aircraft, motor vehicle, or vessel upon the public or private lands or waters of the state.
(6) PENALTIES; ENFORCEMENT.—
(a) Any person who dumps litter in violation of subsection (4) in an amount not exceeding 15 pounds in weight or 27 cubic feet in volume and not for commercial purposes is guilty of a noncriminal infraction, punishable by a civil penalty of $100, from which $50 shall be deposited into the Solid Waste Management Trust Fund to be used for the solid waste management grant program pursuant to s. 403.7095. In addition, the

court may require the violator to pick up litter or perform other labor commensurate with the offense committed.
(b) Any person who dumps litter in violation of subsection (4) in an amount exceeding 15 pounds in weight or 27 cubic feet in volume, but not exceeding 500 pounds in weight or 100 cubic feet in volume and not for commercial purposes is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. In addition, the court shall require the violator to pick up litter or perform other community service commensurate with the offense committed. Further, if the violation involves the use of a motor vehicle, upon a finding of guilt, whether or not adjudication is withheld or whether imposition of sentence is withheld, deferred, or suspended, the court shall forward a record of the finding to the Department of Highway Safety and Motor Vehicles, which shall record a penalty of three points on the violator's driver license pursuant to the point system established by s. 322.27.
(c) Any person who dumps litter in violation of subsection (4) in an amount exceeding 500 pounds in weight or 100 cubic feet in volume or in any quantity for commercial purposes, or dumps litter which is a hazardous waste as defined in s. 403.703, is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083. In addition, the court may order the violator to:
1. Remove or render harmless the litter that he or she dumped in violation of this section;
2. Repair or restore property damaged by, or pay damages for any damage arising out of, his or her dumping litter in violation of this section; or
3. Perform public service relating to the removal of litter dumped in violation of this section or to the restoration of an area polluted by litter dumped in violation of this section.
(d) A court may enjoin a violation of this section.
(e) A motor vehicle, vessel, aircraft, container, crane, winch, or machine used to dump litter that exceeds 500 pounds in weight or 100 cubic feet in volume is declared contraband and is subject to forfeiture in the same manner as provided in ss. 932.703 and 932.704.
(f) If a person sustains damages arising out of a violation of this section that is punishable as a felony, a court, in a civil action for such damages, shall order the person to pay the injured party threefold the actual damages or $200, whichever amount is greater. In addition, the court shall order the person to pay the injured party's court costs and attorney's fees. A final judgment rendered in a criminal proceeding against a defendant under this section estops the defendant from asserting any issue in a subsequent civil action under this paragraph which he or she would be estopped from asserting if such judgment were rendered in the civil action unless the criminal judgment was based upon a plea of no contest or nolo contendere.
(g) For the purposes of this section, if a person dumps litter or raw human waste from a commercial vehicle, that person is presumed to have dumped the litter or raw human waste for commercial purposes.
(h) In the criminal trial of a person charged with violating this section, the state does not have the burden of proving that the person did not have the right or authority to dump the litter or raw human waste or that litter or raw human waste dumped on private property causes a public nuisance. The defendant has the burden of proving that he or

she had authority to dump the litter or raw human waste and that the litter or raw human waste dumped does not cause a public nuisance.
(i) It shall be the duty of all law enforcement officers to enforce the provisions of this section.
(j) Any person who violates the provisions of subsection (5) is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083; provided, however, that any person who dumps more than 500 pounds or more than 100 cubic feet of raw human waste, or who dumps any quantity of such waste for commercial purposes, is guilty of a felony of the third degree, punishable as provided in paragraph (c).
(7) ENFORCEMENT BY CERTAIN COUNTY OR MUNICIPAL EMPLOYEES.—Employees of counties or municipalities whose duty it is to ensure code compliance or to enforce codes and ordinances may be designated by the governing body of the county or the municipality to enforce the provisions of this section. Designation of such employees shall not provide the employees with the authority to bear arms or to make arrests.
(8) ENFORCEMENT OF OTHER REGULATIONS.—This section does not limit the authority of any state or local agency to enforce other laws, rules, or ordinances relating to litter or solid waste management.
History.—ss. 1, 2, 3, 4, 4A, ch. 71-239; s. 1, ch. 75-266; s. 1, ch. 77-82; s. 1, ch. 78-202; s. 7, ch. 80-382; s. 1, ch. 82-63; s. 1, ch. 88-79; s. 56, ch. 88-130; s. 12, ch. 89-175; s. 14, ch. 89-268; s. 1, ch. 90-76; ss. 16, 17, ch. 91-286; s. 378, ch. 94-356; s. 1, ch. 95-165; s. 11, ch. 97-103; s. 205, ch. 99-245; s. 1, ch. 2005-200; s. 2, ch. 2007-184; s. 26, ch. 2012-88; s. 3, ch. 2016-174.
*Subsection (6) was re-enacted by the 2016 Legislature. It does not contain any new language.

403.5363 Public notices; requirements.—
(1)(a) The applicant shall arrange for the publication of the notices specified in paragraph (b).
1. The notices shall be published in newspapers of general circulation within counties crossed by the transmission line corridors proper for certification. The required newspaper notices shall be published in a section of the newspaper other than the section for legal notices. A newspaper of general circulation shall be the newspaper within a county crossed by a transmission line corridor proper for certification which newspaper has the largest daily circulation in that county and has its principal office in that county. If the newspaper having the largest daily circulation has its principal office outside the county, the notices must appear in both the newspaper having the largest circulation in that county and in a newspaper authorized to publish legal notices in that county.
2. The department shall adopt rules specifying the content of the newspaper notices.
3. All notices published by the applicant shall be paid for by the applicant and shall be in addition to the application fee.
(b) Public notices that must be published under this section include:
1. The notice of the filing of an application, which must include a description of the proceedings required by this act. The notice must describe the provisions of s. 403.531(1) and (2) and give the date by which notice of intent to be a party or a petition to intervene in accordance with s. 403.527(2) must be filed. This notice must be

published no more than 21 days after the application is filed. The notice shall, at a minimum, be one-half page in size in a standard size newspaper or a full page in a tabloid size newspaper. The notice must include a map generally depicting all transmission corridors proper for certification.
2. The notice of the certification hearing and any public hearing held under s. 403.527(4). The notice must include the date by which a person wishing to appear as a party must file the notice to do so. The notice of the originally scheduled certification hearing must be published at least 65 days before the date set for the certification hearing. The notice shall meet the size and map requirements set forth in subparagraph 1.
3. The notice of the cancellation of the certification hearing under s. 403.527(6), if applicable. The notice must be published at least 3 days before the date of the originally scheduled certification hearing. The notice shall, at a minimum, be one-fourth page in size in a standard size newspaper or one-half page in a tabloid size newspaper. The notice shall not require a map to be included.
4. The notice of the deferment of the certification hearing due to the acceptance of an alternate corridor under s. 403.5271(1)(b)2 ~~403.5272(1)(b)2~~. The notice must be published at least 7 days before the date of the originally scheduled certification hearing. The notice shall, at a minimum, be one-eighth page in size in a standard size newspaper or one-fourth page in a tabloid size newspaper. The notice shall not require a map to be included.
5. If the notice of the rescheduled certification hearing required of an alternate proponent under s. 403.5271(1)(c) is not timely published or does not meet the notice requirements such that an alternate corridor is withdrawn under the provisions of s. 403.5271(1)(c), the notice of the rescheduled hearing and any local hearings shall be provided by the applicant at least 30 days prior to the rescheduled certification hearing.
6. The notice of the filing of a proposal to modify the certification submitted under s. 403.5315, if the department determines that the modification would require relocation or expansion of the transmission line right-of-way or a certified substation.
(2)(a) Each proponent of an alternate corridor shall arrange for newspaper notice of the publication of the filing of the proposal for an alternate corridor. If there is more than one alternate proponent, the proponents may jointly publish notice, so long as the content requirements below are met and the maps are legible.
(b) The notice shall specify the revised time schedules, the date by which newly affected persons or agencies may file the notice of intent to become a party, the date of the rescheduled hearing, and the date of any public hearing held under s. 403.5271(1)(b)1.
(c) A notice listed in this subsection must be published in a newspaper of general circulation within the county or counties crossed by the proposed alternate corridor and comply with the content, size, and map requirements set forth in this section.
(d) The notice of the alternate corridor proposal must be published not less than 45 days before the rescheduled certification hearing.
(3) The department shall arrange for the publication of the following notices in the manner specified by chapter 120:

(a) The notice of the filing of an application and the date by which a person intending to become a party must file a petition to intervene or a notice of intent to be a party. The notice must be published no later than 21 days after the application has been filed.
(b) The notice of any administrative hearing for certification, if applicable. The notice must be published not less than 65 days before the date set for a hearing, except that notice for a rescheduled certification hearing after acceptance of an alternative corridor must be published not less than 50 days before the date set for the hearing.
(c) The notice of the cancellation of a certification hearing under s. 403.527(6), if applicable. The notice must be published not later than 7 days before the date of the originally scheduled certification hearing.
(d) The notice of the deferment of the certification hearing due to the acceptance of an alternate corridor under s. 403.5271(1)(b)2. The notice must be published at least 7 days before the date of the originally scheduled certification hearing.
(e) The notice of the hearing before the siting board, if applicable.
(f) The notice of stipulations, proposed agency action, or a petition for modification.
(4) A local government or regional planning council that proposes to conduct an informational public meeting pursuant to s. 403.5272 must publish notice of the meeting in a newspaper of general circulation within the county or counties in which the proposed electrical transmission line will be located no later than 7 days prior to the meeting. A newspaper of general circulation shall be the newspaper that has the largest daily circulation in that county and has its principal office in that county. If the newspaper with the largest daily circulation has its principal office outside the county, the notices shall appear in both the newspaper having the largest circulation in that county and in a newspaper authorized to publish legal notices in that county.
(5)(a) A good faith effort shall be made by the applicant to provide direct notice of the filing of an application for certification by United States mail or hand delivery no later than 45 days after filing of the application to all local landowners whose property, as noted in the most recent local government tax records, and residences are located within one-quarter mile of the proposed boundaries of a transmission line corridor that only includes a transmission line as defined by s. 403.522(22).
(b) No later than 60 days after the filing of an application for certification, the applicant shall file a list with the department’s Siting Coordination Office of landowners and residences that were notified.
(6)(a) A good faith effort shall be made by the proponent of an alternate corridor that includes a transmission line, as defined by s. 403.522(22), to provide direct notice of the filing of an alternate corridor for certification by United States mail or hand delivery of the filing no later than 30 days after filing of the alternate corridor to all local landowners whose property, as noted in the most recent local government tax records, and residences are located within one-quarter mile of the proposed boundaries of a transmission line corridor that includes a transmission line as defined by s. 403.522(22).
(b) No later than 45 days after the filing of an alternate corridor for certification, the proponent of an alternate corridor shall file a list with the department’s Siting Coordination Office of landowners and residences that were notified.
History.—s. 64, ch. 2006-230; s. 92, ch. 2008-227; s. 50, ch. 2016-10.

403.7046 Regulation of recovered materials.—
(1) Any person who handles, purchases, receives, recovers, sells, or is an end user of recovered materials shall annually certify to the department on forms provided by the department. The department may by rule exempt from this requirement generators of recovered materials; persons who handle or sell recovered materials as an activity which is incidental to the normal primary business activities of that person; or persons who handle, purchase, receive, recover, sell, or are end users of recovered materials in small quantities as defined by the department. The department shall adopt rules for the certification of and reporting by such persons and shall establish criteria for revocation of such certification. Such rules shall be designed to elicit, at a minimum, the amount and types of recovered materials handled by registrants, and the amount and disposal site, or name of person with whom such disposal was arranged, of any solid waste generated by such facility. By February 1 of each year, registrants shall report all required information to the department and to all counties from which it received materials. Such rules may provide for the department to conduct periodic inspections. The department may charge a fee of up to $50 for each registration, which shall be deposited into the Solid Waste Management Trust Fund for implementation of the program.
(2) Information reported pursuant to ~~the requirements of~~ this section or any rule adopted pursuant to this section which, if disclosed, would reveal a trade secret, as defined in s. 812.081 ~~812.081(1)(c)~~, is confidential and exempt from ~~the provisions of~~ s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For reporting or information purposes, however, the department may provide this information in such form that the names of the persons reporting such information and the specific information reported are not revealed. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.
(3) Except as otherwise provided in this section or pursuant to a special act in effect on or before January 1, 1993, a local government may not require a commercial establishment that generates source-separated recovered materials to sell or otherwise convey its recovered materials to the local government or to a facility designated by the local government, nor may the local government restrict such a generator's right to sell or otherwise convey such recovered materials to any properly certified recovered materials dealer who has satisfied the requirements of this section. A local government may not enact any ordinance that prevents such a dealer from entering into a contract with a commercial establishment to purchase, collect, transport, process, or receive source-separated recovered materials.
(a) The local government may require that the recovered materials generated at the commercial establishment be source separated at the premises of the commercial establishment.
(b)1. Before engaging in business within the jurisdiction of the local government, a recovered materials dealer must provide the local government with a copy of the certification provided for in this section. In addition, the local government may establish a registration process whereby a recovered materials dealer must register with the local government before engaging in business within the jurisdiction of the local government.

Such registration process is limited to requiring the dealer to register its name, including the owner or operator of the dealer, and, if the dealer is a business entity, its general or limited partners, its corporate officers and directors, its permanent place of business, evidence of its certification under this section, and a certification that the recovered materials will be processed at a recovered materials processing facility satisfying the requirements of this section. The local government may not use the information provided in the registration application to compete unfairly with the recovered materials dealer until 90 days after receipt of the application. All counties, and municipalities whose population exceeds 35,000 according to the population estimates determined pursuant to s. 186.901, may establish a reporting process that must ~~which shall~~ be limited to the regulations, reporting format, and reporting frequency established by the department pursuant to this section, which must ~~shall~~, at a minimum, include requiring the dealer to identify the types and approximate amount of recovered materials collected, recycled, or reused during the reporting period; the approximate percentage of recovered materials reused, stored, or delivered to a recovered materials processing facility or disposed of in a solid waste disposal facility; and the locations where any recovered materials were disposed of as solid waste. ~~Information reported under this subsection which, if disclosed, would reveal a trade secret, as defined in s. 812.081(1)(c), is confidential and exempt from the provisions of s. 24(a), Art. I of the State Constitution and s. 119.07(1).~~ The local government may charge the dealer a registration fee commensurate with and no greater than the cost incurred by the local government in operating its registration program. Registration program costs are limited to those costs associated with the activities described in this subparagraph ~~paragraph~~. Any reporting or registration process established by a local government with regard to recovered materials is ~~shall be~~ governed by ~~the provisions of~~ this section and department rules adopted pursuant thereto.

2. Information reported under this subsection which, if disclosed, would reveal a trade secret, as defined in s. 812.081, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

(c) A local government may establish a process in which the local government may temporarily or permanently revoke the authority of a recovered materials dealer to do business within the local government if the local government finds the recovered materials dealer, after reasonable notice of the charges and an opportunity to be heard by an impartial party, has consistently and repeatedly violated state or local laws, ordinances, rules, and regulations.

(d) In addition to any other authority provided by law, a local government is hereby expressly authorized to prohibit a person or entity not certified under this section from doing business within the jurisdiction of the local government; to enter into a nonexclusive franchise or to otherwise provide for the collection, transportation, and processing of recovered materials at commercial establishments, provided that a local government may not require a certified recovered materials dealer to enter into such franchise agreement in order to enter into a contract with any commercial establishment located within the local government’s jurisdiction to purchase, collect, transport,

process, or receive source-separated recovered materials; and to enter into an exclusive franchise or to otherwise provide for the exclusive collection, transportation, and processing of recovered materials at single-family or multifamily residential properties.
(e) Nothing in this section shall prohibit a local government from enacting ordinances designed to protect the public's general health, safety, and welfare.
(f) As used in this section:
1. "Commercial establishment" means a property or properties zoned or used for commercial or industrial uses, or used by an entity exempt from taxation under s. 501(c)(3) of the Internal Revenue Code, and excludes property or properties zoned or used for single-family residential or multifamily residential uses.
2. "Local government" means a county or municipality.
3. "Certified recovered materials dealer" means a dealer certified under this section.
(4) A recovered materials dealer or an association whose members include recovered materials dealers may initiate an action for injunctive relief or damages for alleged violations of this section. The court may award to the prevailing party or parties reasonable attorney fees and costs.
History.—s. 12, ch. 93-207; s. 5, ch. 95-311; s. 2, ch. 95-366; s. 240, ch. 96-406; s. 17, ch. 2000-211; s. 5, ch. 2000-304; s. 4, ch. 2010-143; s. 20, ch. 2013-92; s. 7, ch. 2016-6.

403.73 Trade secrets; confidentiality.—
(1) Records, reports, or information obtained from any person under this part, unless otherwise provided by law, must ~~shall~~ be available to the public, except upon a showing satisfactory to the department by the person from whom the records, reports, or information is obtained that such records, reports, or information, or a particular part thereof, contains trade secrets as defined in s. 812.081 ~~821.081(1)(c)~~. Such trade secrets are ~~shall be~~ confidential and ~~are~~ exempt from ~~the provisions of~~ s. 119.07(1) and s. 24(a), Art. I of the State Constitution. The person submitting such trade secret information to the department must request that it be kept confidential and must inform the department of the basis for the claim of trade secret. The department shall, subject to notice and opportunity for hearing, determine whether the information, or portions thereof, claimed to be a trade secret is or is not a trade secret. Such trade secrets may be disclosed, however, to authorized representatives of the department or, pursuant to request, to other governmental entities in order for them to properly perform their duties, or when relevant in any proceeding under this part. Authorized representatives and other governmental entities receiving such trade secret information shall retain its confidentiality. Those involved in any proceeding under this part, including an administrative law judge, a hearing officer, or a judge or justice, shall retain the confidentiality of any trade secret information revealed at such proceeding.
(2) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.
History.—s. 8, ch. 80-302; s. 3, ch. 90-74; s. 5, ch. 95-366; s. 243, ch. 96-406; s. 158, ch. 96-410; s. 8, ch. 2016-6.

403.814 General permits; delegation.—

(1) The secretary is authorized to adopt rules establishing and providing for a program of general permits under chapter 253 and this chapter for projects, or categories of projects, which have, either singly or cumulatively, a minimal adverse environmental effect. Such rules shall specify design or performance criteria which, if applied, would result in compliance with appropriate standards adopted by the commission. Except as provided for in subsection (3), any person complying with the requirements of a general permit may use the permit 30 days after giving notice to the department without any agency action by the department.
(2) After giving public notice and, upon the request of any person, holding a public hearing in the area affected, the department may issue a general permit in the Biscayne Bay Aquatic Preserve for the placement of riprap waterward of vertical seawalls or as replacement for vertical seawalls, for the purpose of enhancing the water quality and fish and wildlife habitats of the Biscayne Bay area. No other general permits shall be issued within the preserve. Nothing herein shall be construed to abrogate the rights of any person under the provisions of chapter 120. In addition to the public notice required by this subsection, public notice shall be provided by United States mail to any person who requests, in writing, to have her or his name placed on a mailing list by the department. Notice of activities allowed pursuant to such general permit shall also be mailed, at least monthly, to all persons on the list.
(3) The department may publish or by rule require the applicant to publish, or the applicant may elect to publish, in a newspaper of general circulation in the area affected, notice of application for a general permit. If published, such public notice of application shall be published within 14 days after the applicant notifies the department; and, within 21 days after publication of notice, any person whose substantial interests are affected may request a hearing in accordance with ss. 120.569 and 120.57. The failure to request a hearing within 21 days after publication of notice constitutes a waiver of any right to a hearing under ss. 120.569 and 120.57. If notice is published, no person shall begin work pursuant to a general permit until after the time for requesting a hearing has passed or until after a hearing is held and a decision is rendered.
(4) The department is authorized to delegate any of its general permit authority to the district offices of the department or to water management districts.
(5) Notwithstanding the procedures set forth in subsections (1) and (3), the department may specify by rule alternative notice procedures for certain activities which are of a routine and repetitive nature and which are an integral part of agricultural activities or silvicultural activities or are activities of another state agency.
(6) Construction and maintenance of electric transmission or distribution lines in wetlands by electric utilities, as defined in s. 366.02, shall be authorized by general permit provided the following provisions are implemented:
(a) All permanent fill shall be at grade. Fill shall be limited to that necessary for the electrical support structures, towers, poles, guy wires, stabilizing backfill, and at-grade access roads limited to 20-foot widths; and
(b) The permittee may utilize access and work areas limited to the following: a linear access area of up to 25 feet wide between electrical support structures, an access area of up to 25 feet wide to electrical support structures from the edge of the right-of-way, and a work area around the electrical support structures, towers, poles, and guy wires. These areas may be cleared to ground, including removal of stumps as necessary; and

(c) Vegetation within wetlands may be cut or removed no lower than the soil surface under the conductor, and 20 feet to either side of the outermost conductor, while maintaining the remainder of the project right-of-way within the wetland by selectively clearing vegetation which has an expected mature height above 14 feet. Brazilian pepper, Australian pine, and melaleuca shall be eradicated throughout the wetland portion of the right-of-way; and
(d) Erosion control methods shall be implemented as necessary to ensure that state water quality standards for turbidity are met. Diversion and impoundment of surface waters shall be minimized; and
(e) The proposed construction and clearing shall not adversely affect threatened and endangered species; and
(f) The proposed construction and clearing shall not result in a permanent change in existing ground surface elevation; and
(g) Where fill is placed in wetlands, the clearing to ground of forested wetlands is restricted to 4.0 acres per 10-mile section of the project, with no more than one impact site exceeding 0.5 acres. The impact site which exceeds 0.5 acres shall not exceed 2.0 acres. The total forested wetland clearing to the ground per 10-mile section shall not exceed 15 acres. The 10-mile sections shall be measured from the beginning to the terminus, or vice versa, and the section shall not end in a wetland; and
(h) The general permit authorized by this subsection shall not apply in forested wetlands located within 550 feet from the shoreline of a named water body designated as an Outstanding Florida Water; and
(i) This subsection also applies to transmission lines and appurtenances certified under part II of this chapter. However, the criteria of the general permit shall not affect the authority of the siting board to condition certification of transmission lines as authorized under part II of this chapter.
Maintenance of existing electric lines and clearing of vegetation in wetlands conducted without the placement of structures in wetlands or other dredge and fill activities does not require an individual or general construction permit. For the purpose of this subsection, wetlands shall mean the landward extent of waters of the state regulated under s. 403.927 and isolated and nonisolated wetlands regulated under part IV of chapter 373. The provisions provided in this subsection apply to the permitting requirements of the department, any water management district, and any local government implementing part IV of chapter 373 or [1]part VIII of this chapter.
(7) The department and the water management districts may provide by rule for general permits with special criteria including acreage thresholds authorizing the construction of transmission and distribution lines in forested wetlands located within 550 feet of the shoreline of a named water body designated as an Outstanding Florida Water. If a portion of a project qualifies for the general permit under subsection (6) and another portion of that project qualifies under this subsection, then a single general permit may be issued pursuant to both subsections.
(8) An aquaculture general permit shall be established for the cultivation of aquatic fish and other marine organisms, except alligators, in upland aquaculture facilities when such facilities have individual production units whose annual production and water discharge meet or exceed the parameters established by the NPDES program. Activities that have individual production units whose annual production and water

discharge are less than the parameters established by the NPDES program shall be regulated pursuant to s. 403.0885(5).
(9) An aquaculture general permit under s. 403.088 shall be established for the freshwater cultivation of fish and other aquatic animals, except alligators, in upland aquaculture facilities.
(10) The authority to issue or deny general permits developed by the department pursuant to subsection (8) for aquaculture facilities is hereby delegated to the water management districts when they have regulatory responsibility for the facility pursuant to s. 373.046.
(11) Upon agreement by the applicant, the department, and the applicable water management district, the department and water management district may reassign the regulatory responsibilities described in s. 373.046(5), based on the specific aquaculture operation, to achieve a more efficient and effective permitting process.
(12) A general permit is granted for the construction, alteration, and maintenance of a stormwater management system serving a total project area of up to 10 acres meeting the criteria of this subsection. Such ~~When the~~ stormwater management systems must be ~~system is~~ designed, operated, and maintained in accordance with applicable rules adopted pursuant to part IV of chapter 373.~~,~~ There is a rebuttable presumption that the discharge from ~~for~~ such systems complies ~~system will comply~~ with state water quality standards. The construction of such a system may proceed without any further agency action by the department or water management district if, before ~~within 30 days after~~ construction begins, an electronic self-certification is submitted to the department or water management district which ~~that~~ certifies that the proposed system was designed by a Florida registered professional and that the registered professional has certified that the proposed system will ~~to~~ meet the following additional requirements:
(a) The total project area involves less than 10 acres and less than 2 acres of impervious surface;
(b) ~~No~~ Activities will not impact wetlands or other surface waters;
(c) ~~No~~ Activities are not conducted in, on, or over wetlands or other surface waters;
(d) Drainage facilities will not include pipes having diameters greater than 24 inches, or the hydraulic equivalent, and will not use pumps in any manner;
(e) The project is not part of a larger common plan, development, or sale; and
(f) The project does not:
1. Cause adverse water quantity or flooding impacts to receiving water and adjacent lands;
2. Cause adverse impacts to existing surface water storage and conveyance capabilities;
3. Cause a violation of state water quality standards; or
4. Cause an adverse impact to the maintenance of surface or ground water levels or surface water flows established pursuant to s. 373.042 or a work of the district established pursuant to s. 373.086.
History.—s. 9, ch. 80-66; s. 12, ch. 82-27; s. 7, ch. 84-79; s. 60, ch. 86-186; s. 2, ch. 86-295; s. 1, ch. 93-24; s. 19, ch. 96-247; s. 168, ch. 96-410; s. 1011, ch. 97-103; s. 23, ch. 98-333; s. 18, ch. 2000-364; s. 98, ch. 2008-227; s. 19, ch. 2012-205; s. 7, ch. 2016-130.
[1]Note.—Section 18, ch. 95-145, repealed s. 403.939, which constituted the entirety of former part VIII.

403.8141 Special event permits.—
(1) The department shall issue permits for special events under s. 253.0345. The permits must be for a period that runs concurrently with the lease or letter of consent issued pursuant to s. 253.0345 and must allow for the movement of temporary structures within the footprint of the lease area.
(2) An administrative challenge to any proposed regulatory permit related to a special event is subject to the summary hearing provisions of s. 120.574, except that the summary proceeding must be conducted within 30 days after a party files a motion for a summary hearing regardless of whether the parties agree to the summary proceeding.
History.—s. 22, ch. 2013-92; s. 7, ch. 2016-116.

403.8532 Drinking water state revolving loan fund; use; rules.—
(1) The purpose of this section is to assist in implementing the legislative declarations of public policy contained in ss. 403.021 and 403.851 by establishing infrastructure financing, technical assistance, and source water protection programs to assist public drinking water systems in achieving and maintaining compliance with the Florida Safe Drinking Water Act and the federal Safe Drinking Water Act, as amended, and to conserve and protect the quality of waters of the state.
(2) For purposes of this section, the term:
(a) “Bonds” means bonds, certificates, or other obligations of indebtedness issued by the corporation under this section and s. 403.1837.
(b) “Corporation” means the Florida Water Pollution Control Financing Corporation created pursuant to s. 403.1837.
(c) “Financially disadvantaged community” means the service area of a project to be served by a public water system that meets criteria established by department rule and in accordance with federal guidance.
(d) “Local governmental agency” means any municipality, county, district, or authority, or any agency thereof, or a combination of two or more of the foregoing acting jointly in connection with a project, having jurisdiction over a public water system.
(e) “Public water system” means all facilities, including land, necessary for the treatment and distribution of water for human consumption and includes public water systems as defined in s. 403.852 and as otherwise defined in the federal Safe Drinking Water Act, as amended. Such systems may be publicly owned, privately owned, investor-owned, or cooperatively held.
(f) “Small public water system” means a public water system that regularly serves fewer than 10,000 people.
(3) The department may make, or request that the corporation make, loans, grants, and deposits to community water systems; for-profit, privately owned, or investor-owned water systems; nonprofit, transient, noncommunity water systems;~~,~~ and nonprofit, nontransient, noncommunity water systems to assist them in planning, designing, and constructing public water systems~~, unless such public water systems are for-profit privately owned or investor-owned systems that regularly serve 1,500 service connections or more within a single certified or franchised area. However, a for-profit privately owned or investor-owned public water system that regularly serves 1,500 service connections or more within a single certified or franchised area may qualify for a loan only if the proposed project will result in the consolidation of two or more public~~

~~water systems~~. The department may provide loan guarantees, purchase loan insurance, and refinance local debt through the issue of new loans for projects approved by the department. Public water systems may borrow funds made available pursuant to this section and may pledge any revenues or other adequate security available to them to repay any funds borrowed.
(a) The department shall administer loans so that amounts credited to the Drinking Water Revolving Loan Trust Fund in any fiscal year are reserved for the following purposes:
1. At least 15 percent for qualifying small public water systems.
2. Up to 15 percent for qualifying financially disadvantaged communities.
(b) If an insufficient number of the projects for which funds are reserved under this subsection have been submitted to the department at the time the funding priority list authorized under this section is adopted, the reservation of these funds no longer applies. The department may award the unreserved funds as otherwise provided in this section.
(4) The department is authorized, subject to legislative appropriation authority and authorization of positions, to use funds from the annual capitalization grant for activities authorized under the federal Safe Drinking Water Act, as amended, such as:
(a) Program administration.
(b) Technical assistance.
(c) Source water protection program development and implementation, including wellhead and aquifer protection programs, programs to alleviate water quality and water supply problems associated with saltwater intrusion, programs to identify, monitor, and assess source waters, and contaminant source inventories.
(d) Capacity development and financial assessment program development and administration.
(e) The costs of establishing and administering an operator certification program for drinking water treatment plant operators, to the extent such costs cannot be paid for from fees.
This subsection does not limit the department’s ability to apply for and receive other funds made available for specific purposes under the federal Safe Drinking Water Act, as amended.
(5) The term of loans made pursuant to this section shall not exceed 30 years. The interest rate on such loans shall be no greater than that paid on the last bonds sold pursuant to s. 14, Art. VII of the State Constitution.
(6)(a) The department may provide financial assistance to financially disadvantaged communities for the purpose of planning, designing, and constructing public water systems. Such assistance may include the forgiveness of loan principal.
(b) The department shall establish by rule the criteria for determining whether a public water system serves a financially disadvantaged community. Such criteria shall be based on the median household income of the service population or other reliably documented measures of disadvantaged status.
(7) To the extent not allowed by federal law, the department shall not provide financial assistance for projects primarily intended to serve future growth.
(8) In order to ensure that public moneys are managed in an equitable, prudent, and cost-effective manner, the total amount of money loaned to any public water system

during a fiscal year shall be no more than 25 percent of the total funds available for making loans during that year. The minimum amount of a loan shall be $75,000.
(9) The department may adopt rules regarding the procedural and contractual relationship between the department and the corporation under s. 403.1837 and to carry out the purposes of this section and the federal Safe Drinking Water Act, as amended. Such rules shall:
(a) Set forth a priority system for loans based on public health considerations, compliance with state and federal requirements relating to public drinking water systems, and affordability. The priority system shall give special consideration to:
1. Projects that provide for the development of alternative drinking water supply projects and management techniques in areas where existing source waters are limited or threatened by saltwater intrusion, excessive drawdowns, contamination, or other problems;
2. Projects that provide for a dependable, sustainable supply of drinking water and that are not otherwise financially feasible; and
3. Projects that contribute to the sustainability of regional water sources.
(b) Establish the requirements for the award and repayment of financial assistance.
(c) Require evidence of credit worthiness and adequate security, including an identification of revenues to be pledged, and documentation of their sufficiency for loan repayment and pledged revenue coverage, to ensure that each loan recipient can meet its loan repayment requirements.
(d) Require each project receiving financial assistance to be cost-effective, environmentally sound, implementable, and self-supporting.
(e) Implement other provisions of the federal Safe Drinking Water Act, as amended.
(10) The department shall prepare a report at the end of each fiscal year, detailing the financial assistance provided under this section, service fees collected, interest earned, and loans outstanding.
(11) Prior to approval of a loan, the local government or public water system shall, at a minimum:
(a) Provide a repayment schedule.
(b) Submit evidence of the permittability or implementability of the project proposed for financial assistance.
(c) Submit plans and specifications, biddable contract documents, or other documentation of appropriate procurement of goods and services.
(d) Provide assurance that records will be kept using generally accepted accounting principles and that the department or its agents and the Auditor General will have access to all records pertaining to the loan.
(e) Provide assurance that the public water system will be properly operated and maintained in order to achieve or maintain compliance with the requirements of the Florida Safe Drinking Water Act and the federal Safe Drinking Water Act, as amended.
(f) Document that the public water system will be self-supporting.
(12) The department may conduct an audit of the loan project upon completion, or may require that a separate project audit, prepared by an independent certified public accountant, be submitted.
(13) The department may require reasonable service fees on loans made to public water systems to ensure that the Drinking Water Revolving Loan Trust Fund will be

operated in perpetuity and to implement the purposes authorized under this section. Service fees shall not be less than 2 percent nor greater than 4 percent of the loan amount exclusive of the service fee. Service fee revenues shall be deposited into the department's Grants and Donations Trust Fund. The fee revenues, and interest earnings thereon, shall be used exclusively to carry out the purposes of this section.
(14) The Drinking Water Revolving Loan Trust Fund established under s. 403.8533 shall be used exclusively to carry out the purposes of this section. Any funds that are not needed on an immediate basis for financial assistance shall be invested pursuant to s. 215.49. State revolving fund capitalization grants awarded by the Federal Government, state matching funds, and investment earnings thereon shall be deposited into the fund. The principal and interest of all loans repaid and investment earnings thereon shall be deposited into the fund.
(15)(a) If a local governmental agency defaults under the terms of its loan agreement, the department shall so certify to the Chief Financial Officer, who shall forward the amount delinquent to the department from any unobligated funds due to the local governmental agency under any revenue-sharing or tax-sharing fund established by the state, except as otherwise provided by the State Constitution. Certification of delinquency shall not limit the department from pursuing other remedies available for default on a loan, including accelerating loan repayments, eliminating all or part of the interest rate subsidy on the loan, and court appointment of a receiver to manage the public water system.
(b) If a public water system owned by a person other than a local governmental agency defaults under the terms of its loan agreement, the department may take all actions available under law to remedy the default.
(c) The department may impose a penalty for delinquent loan payments in the amount of 6 percent of the amount due, in addition to charging the cost to handle and process the debt. Penalty interest shall accrue on any amount due and payable beginning on the 30th day following the date upon which payment is due.
(16) The department is authorized to terminate or rescind a financial assistance agreement when the recipient fails to comply with the terms and conditions of the agreement.
History.—s. 5, ch. 94-243; s. 1, ch. 97-236; s. 112, ch. 2001-266; s. 3, ch. 2001-270; s. 431, ch. 2003-261; s. 42, ch. 2010-205; s. 8, ch. 2016-226.

403.861 Department; powers and duties.—
The department shall have the power and the duty to carry out the provisions and purposes of this act and, for this purpose, to:
(1) Administer and enforce the provisions of this act and all rules and orders adopted, issued, or made effective hereunder.
(2) Enter into agreements, contracts, or cooperative arrangements, under such terms and conditions as it deems appropriate, with other local, state, federal, or interstate agencies; municipalities; political subdivisions; educational institutions; or other organizations or persons.
(3) Receive financial and technical assistance from the Federal Government and other public or private agencies.
(4) Participate in related programs conducted by federal agencies, other states, interstate agencies, or other public or private agencies or organizations.

(5) Establish adequate fiscal controls and accounting procedures to assure proper disbursement of, and accounting for, funds appropriated or otherwise provided for the purpose of carrying out provisions of this act.
(6) Delegate those responsibilities and duties deemed appropriate for the purpose of administering requirements of this act.
(7) Issue permits for constructing, altering, extending, or operating a public water system, based upon the size of the system, type of treatment provided by the system, or population served by the system, including issuance of an annual operation license.
(a) The department may issue a permit for a public water system based upon review of a preliminary design report or plans and specifications, a completed permit application form, and other required information as set forth in department rule, including receipt of an appropriate fee. The department may require a fee in an amount sufficient to cover the costs of viewing and acting upon any application for the construction and operation of a public water supply system and the costs of surveillance and other field services associated with any permit issued, but the amount in no case shall exceed $15,000. The fee schedule shall be adopted by rule based on a sliding scale relating to the size, type of treatment, or population served by the system that is proposed by the applicant.
(b) Each public water system that operates in this state shall submit annually to the department an operation license fee, separate from and in addition to any permit application fees required under paragraph (a), in an amount established by department rule. The amount of each fee shall be reasonably related to the size of the public water system, type of treatment, population served, amount of source water used, or any combination of these factors, but the fee may not be less than $50 or greater than $7,500. Public water systems shall pay annual operation license fees at a time and in a manner prescribed by department rule.
(8) Initiate rulemaking no later than July 1, 2008, to increase each drinking water permit application fee authorized under s. 403.087(6) and this part and adopted by rule to ensure that such fees are increased to reflect, at a minimum, any upward adjustment in the Consumer Price Index compiled by the United States Department of Labor, or similar inflation indicator, since the original fee was established or most recently revised.
(a) The department shall establish by rule the inflation index to be used for this purpose. The department shall review the drinking water permit application fees authorized under s. 403.087(6) and this part at least once every 5 years and shall adjust the fees upward, as necessary, within the established fee caps to reflect changes in the Consumer Price Index or similar inflation indicator. In the event of deflation, the department shall consult with the Executive Office of the Governor and the Legislature to determine whether downward fee adjustments are appropriate based on the current budget and appropriation considerations. The department shall also review the drinking water operation license fees established pursuant to paragraph (7)(b) at least once every 5 years to adopt, as necessary, the same inflationary adjustments provided for in this subsection.
(b) Effective July 1, 2008, the minimum fee amount shall be the minimum fee prescribed in this section, and such fee amount shall remain in effect until the effective date of fees adopted by rule by the department.
(9) Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this act.

(10) Review and approve record drawings prior to allowing operation of any new, altered, or extended public water system for which a valid permit has been issued under subsection (7).
(11) Establish and maintain laboratories for radiological, microbiological, and chemical analyses of water samples from public water systems, if the department determines that an additional laboratory capability beyond that provided by the Department of Health is necessary.
(12) Plan, develop, and coordinate program activities for the management and implementation of the state primary and secondary drinking water regulations, including taking sanitary surveys.
(13) Collect and disseminate information and conduct educational and training programs relating to drinking water and public water systems.
(14) Conduct data management activities to maintain essential records needed for administration of the public water system supervision program and for submission to the administrator, including the maintenance of an inventory for all public water systems.
(15) Establish and collect fees for conducting state laboratory analyses as may be necessary, to be collected and used by either the department or the Department of Health in conducting its public water supply laboratory functions.
(16) Require suppliers of water to collect samples of water as required by state primary drinking water regulations, to submit such samples to an appropriate laboratory for analysis, and to keep sampling records as required under the federal act and make such records available to the department upon request.
(17) Require suppliers of water to submit periodic operating reports and testing data which the department determines are reasonably necessary to ascertain the adequacy of water supply systems. The information may include raw water data to determine whether additional treatment will be required to ensure that water at the consumer's tap meets applicable drinking water standards and action levels.
(18) Issue such orders as may be necessary to effectuate the intent and purposes of this act.
(19) Assist state and local agencies in the determination and investigation of suspected waterborne disease outbreaks, including diseases associated with chemical contaminants.
(20) Encourage public involvement and participation in the planning and implementation of the state public water system supervisory plans.
(21)(a) Upon issuance of a construction permit to construct a new public water system drinking water treatment facility to provide potable water supply using a surface water that, at the time of the permit application, is not being used as a potable water supply, and the classification of which does not include potable water supply as a designated use, the department shall add treated potable water supply as a designated use of the surface water segment in accordance with s. 403.061(29)(b).
(b) For existing public water system drinking water treatment facilities that use a surface water as a treated potable water supply, which surface water classification does not include potable water supply as a designated use, the department shall add treated potable water supply as a designated use of the surface water segment in accordance with s. 403.061(29)(b).
History.—s. 12, ch. 77-337; s. 165, ch. 79-400; s. 46, ch. 86-186; s. 40, ch. 91-305; s. 107, ch. 98-200; s. 170, ch. 99-8; s. 6, ch. 2001-270; s. 20, ch. 2008-150; s. 35, ch. 2016-1.

403.928 Assessment of water resources and conservation lands.—
The Office of Economic and Demographic Research shall conduct an annual assessment of Florida's water resources and conservation lands.
(1) WATER RESOURCES.—The assessment must include all of the following:
(a) Historical and current expenditures and projections of future expenditures by federal, state, regional, and local governments and public and private utilities based upon historical trends and ongoing projects or initiatives associated with:
1. Water supply and demand; and
2. Water quality protection and restoration.
(b) An analysis and estimates of future expenditures by federal, state, regional, and local governments and public and private utilities necessary to comply with federal and state laws and regulations governing subparagraphs (a)1. and 2. The analysis and estimates must address future expenditures by federal, state, regional, and local governments and all public and private utilities necessary to achieve the Legislature's intent that sufficient water be available for all existing and future reasonable-beneficial uses and the natural systems, and that adverse effects of competition for water supplies be avoided. The assessment must include a compilation of projected water supply and demand data developed by each water management district pursuant to ss. 373.036 and 373.709, with notations regarding any significant differences between the methods used by the districts to calculate the data.
(c) Forecasts of federal, state, regional, and local government revenues dedicated in current law for the purposes specified in subparagraphs (a)1. and 2. or that have been historically allocated for these purposes, as well as public and private utility revenues.
(d) An identification of gaps between projected revenues and projected and estimated expenditures.
(2) CONSERVATION LANDS.—The assessment must include all of the following:
(a) Historical and current expenditures and projections of future expenditures by federal, state, regional, and local governments based upon historical trends and ongoing projects or initiatives associated with real property interests eligible for funding under s. 259.105.
(b) An analysis and estimates of future expenditures by federal, state, regional, and local governments necessary to purchase lands identified in plans set forth by state agencies or water management districts.
(c) An analysis of the ad valorem tax impacts, by county, resulting from public ownership of conservation lands.
(d) Forecasts of federal, state, regional, and local government revenues dedicated in current law to maintain conservation lands and the gap between projected expenditures and revenues.
(e) The total percentage of Florida real property that is publicly owned for conservation purposes.
(f) A comparison of the cost of acquiring and maintaining conservation lands under fee simple or less than fee simple ownership.
(3) The assessment shall include analyses on a statewide, regional, or geographic basis, as appropriate, and shall identify analytical challenges in assessing information across the different regions of the state.

(4) The assessment must identify any overlap in the expenditures for water resources and conservation lands.
(5) The water management districts, the Department of Environmental Protection, the Department of Agriculture and Consumer Services, the Fish and Wildlife Conservation Commission, counties, municipalities, and special districts shall provide assistance to the Office of Economic and Demographic Research related to their respective areas of expertise.
(6) The Office of Economic and Demographic Research must be given access to any data held by an agency as defined in s. 112.312 if the Office of Economic and Demographic Research considers the data necessary to complete the assessment, including any confidential data.
(7) The assessment shall be submitted to the President of the Senate and the Speaker of the House of Representatives by January 1, 2017, and by January 1 of each year thereafter.
History.—s. 36, ch. 2016-1.

Chapter 553
Building Construction Standards
Enforceable Policies

Any additions are underlined and any deletions are struck-through. All enforceable policies are provided here for review

553.79 Permits; applications; issuance; inspections.

Chapter 553--Building Construction Standards

553.79 Permits; applications; issuance; inspections.—

[1](1) After the effective date of the Florida Building Code adopted as herein provided, it shall be unlawful for any person, firm, corporation, or governmental entity to construct, erect, alter, modify, repair, or demolish any building within this state without first obtaining a permit therefor from the appropriate enforcing agency or from such persons as may, by appropriate resolution or regulation of the authorized state or local enforcing agency, be delegated authority to issue such permits, upon the payment of such reasonable fees adopted by the enforcing agency. The enforcing agency is empowered to revoke any such permit upon a determination by the agency that the construction, erection, alteration, modification, repair, or demolition of the building for which the permit was issued is in violation of, or not in conformity with, the provisions of the Florida Building Code. Whenever a permit required under this section is denied or revoked because the plan, or the construction, erection, alteration, modification, repair, or demolition of a building, is found by the local enforcing agency to be not in compliance with the Florida Building Code, the local enforcing agency shall identify the specific plan or project features that do not comply with the applicable codes, identify the specific code chapters and sections upon which the finding is based, and provide this information to the permit applicant. A plans reviewer or building code administrator who is responsible for issuing a denial, revocation, or modification request but fails to provide to the permit applicant a reason for denying, revoking, or requesting a modification, based on compliance with the Florida Building Code or local ordinance, is subject to disciplinary action against his or her license pursuant to [2]s. 468.621(1)(j). Installation, replacement, removal, or metering of any load management control device is exempt from and shall not be subject to the permit process and fees otherwise required by this section.

(2) Except as provided in subsection (6), an enforcing agency may not issue any permit for construction, erection, alteration, modification, repair, or demolition of any building or structure until the local building code administrator or inspector has reviewed the plans and specifications required by the Florida Building Code, or local amendment thereto, for such proposal and found the plans to be in compliance with the Florida Building Code. If the local building code administrator or inspector finds that the plans are not in compliance with the Florida Building Code, the local building code administrator or inspector shall identify the specific plan features that do not comply with the applicable codes, identify the specific code chapters and sections upon which the finding is based, and provide this information to the local enforcing agency. The local enforcing agency shall provide this information to the permit applicant. In addition, an enforcing agency may not issue any permit for construction, erection, alteration, modification, repair, or demolition of any building until the appropriate firesafety inspector certified pursuant to s. 633.216 has reviewed the plans and specifications required by the Florida Building Code, or local amendment thereto, for such proposal and found that the plans comply with the Florida Fire Prevention Code and the Life Safety Code. Any building or structure which is not subject to a firesafety code shall not be required to have its plans reviewed by the firesafety inspector. Any building or structure that is exempt from the local building permit process may not be required to have its plans reviewed by the local

building code administrator. Industrial construction on sites where design, construction, and firesafety are supervised by appropriate design and inspection professionals and which contain adequate in-house fire departments and rescue squads is exempt, subject to local government option, from review of plans and inspections, providing owners certify that applicable codes and standards have been met and supply appropriate approved drawings to local building and firesafety inspectors. The enforcing agency shall issue a permit to construct, erect, alter, modify, repair, or demolish any building or structure when the plans and specifications for such proposal comply with the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code as determined by the local authority in accordance with this chapter and chapter 633.

(3) Except as provided in this chapter, the Florida Building Code, after the effective date of adoption pursuant to the provisions of this part, shall supersede all other building construction codes or ordinances in the state, whether at the local or state level and whether adopted by administrative regulation or by legislative enactment. However, this subsection does not apply to the construction of manufactured homes as defined by federal law. Nothing contained in this subsection shall be construed as nullifying or divesting appropriate state or local agencies of authority to make inspections or to enforce the codes within their respective areas of jurisdiction.

(4) The Florida Building Code, after the effective date of adoption pursuant to the provisions of this part, may be modified by local governments to require more stringent standards than those specified in the Florida Building Code, provided the conditions of s. 553.73(4) are met.

(5)(a) The enforcing agency shall require a special inspector to perform structural inspections on a threshold building pursuant to a structural inspection plan prepared by the engineer or architect of record. The structural inspection plan must be submitted to and approved by the enforcing agency before the issuance of a building permit for the construction of a threshold building. The purpose of the structural inspection plan is to provide specific inspection procedures and schedules so that the building can be adequately inspected for compliance with the permitted documents. The special inspector may not serve as a surrogate in carrying out the responsibilities of the building official, the architect, or the engineer of record. The contractor’s contractual or statutory obligations are not relieved by any action of the special inspector. The special inspector shall determine that a professional engineer who specializes in shoring design has inspected the shoring and reshoring for conformance with the shoring and reshoring plans submitted to the enforcing agency. A fee simple title owner of a building, which does not meet the minimum size, height, occupancy, occupancy classification, or number-of-stories criteria which would result in classification as a threshold building under s. 553.71(12), may designate such building as a threshold building, subject to more than the minimum number of inspections required by the Florida Building Code.

(b) The fee owner of a threshold building shall select and pay all costs of employing a special inspector, but the special inspector shall be responsible to the enforcement agency. The inspector shall be a person certified, licensed, or registered under chapter 471 as an engineer or under chapter 481 as an architect.

(c) The architect or engineer of record may act as the special inspector provided she or he is on the Board of Professional Engineers’ or the Board of Architecture and Interior

Design's list of persons qualified to be special inspectors. School boards may utilize employees as special inspectors provided such employees are on one of the professional licensing board's list of persons qualified to be special inspectors.
(d) The licensed architect or registered engineer serving as the special inspector shall be permitted to send her or his duly authorized representative to the job site to perform the necessary inspections provided all required written reports are prepared by and bear the seal of the special inspector and are submitted to the enforcement agency.
(6) A permit may not be issued for any building construction, erection, alteration, modification, repair, or addition unless the applicant for such permit complies with the requirements for plan review established by the Florida Building Commission within the Florida Building Code. However, the code shall set standards and criteria to authorize preliminary construction before completion of all building plans review, including, but not limited to, special permits for the foundation only, and such standards shall take effect concurrent with the first effective date of the Florida Building Code. After submittal of the appropriate construction documents, the building official may issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the entire building or structure have been submitted. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's own risk and without assurance that a permit for the entire structure will be granted. Corrections may be required to meet the requirements of the technical codes.
(7) Each enforcement agency shall require that, on every threshold building:
(a) The special inspector, upon completion of the building and prior to the issuance of a certificate of occupancy, file a signed and sealed statement with the enforcement agency in substantially the following form: To the best of my knowledge and belief, the construction of all structural load-bearing components described in the threshold inspection plan complies with the permitted documents, and the specialty shoring design professional engineer has ascertained that the shoring and reshoring conforms with the shoring and reshoring plans submitted to the enforcement agency.
(b) Any proposal to install an alternate structural product or system to which building codes apply be submitted to the enforcement agency for review for compliance with the codes and made part of the enforcement agency's recorded set of permit documents.
(c) All shoring and reshoring procedures, plans, and details be submitted to the enforcement agency for recordkeeping. Each shoring and reshoring installation shall be supervised, inspected, and certified to be in compliance with the shoring documents by the contractor.
(d) All plans for the building which are required to be signed and sealed by the architect or engineer of record contain a statement that, to the best of the architect's or engineer's knowledge, the plans and specifications comply with the applicable minimum building codes and the applicable firesafety standards as determined by the local authority in accordance with this chapter and chapter 633.
(8) No enforcing agency may issue a building permit for construction of any threshold building except to a licensed general contractor, as defined in s. 489.105(3)(a), or to a licensed building contractor, as defined in s. 489.105(3)(b), within the scope of her or his license. The named contractor to whom the building permit is issued shall have the

responsibility for supervision, direction, management, and control of the construction activities on the project for which the building permit was issued.
(9) Any state agency whose enabling legislation authorizes it to enforce provisions of the Florida Building Code may enter into an agreement with any other unit of government to delegate its responsibility to enforce those provisions and may expend public funds for permit and inspection fees, which fees may be no greater than the fees charged others. Inspection services that are not required to be performed by a state agency under a federal delegation of responsibility or by a state agency under the Florida Building Code must be performed under the alternative plans review and inspection process created in s. 553.791 or by a local governmental entity having authority to enforce the Florida Building Code.
(10) An enforcing authority may not issue a building permit for any building construction, erection, alteration, modification, repair, or addition unless the permit either includes on its face or there is attached to the permit the following statement: “NOTICE: In addition to the requirements of this permit, there may be additional restrictions applicable to this property that may be found in the public records of this county, and there may be additional permits required from other governmental entities such as water management districts, state agencies, or federal agencies.”
(11) The local enforcing agency may not issue a building permit to construct, develop, or modify a public swimming pool without proof of application, whether complete or incomplete, for an operating permit pursuant to s. 514.031. A certificate of completion or occupancy may not be issued until such operating permit is issued. The local enforcing agency shall conduct its review of the building permit application upon filing and in accordance with this chapter. The local enforcing agency may confer with the Department of Health, if necessary, but may not delay the building permit application review while awaiting comment from the Department of Health.
(12) Nothing in this section shall be construed to alter or supplement the provisions of part I of this chapter relating to manufactured buildings.
(13) One-family and two-family detached residential dwelling units are not subject to plan review by the local fire official as described in this section or inspection by the local fire official as described in s. 633.216, unless expressly made subject to the plan review or inspection by local ordinance.
(14) A building permit for a single-family residential dwelling must be issued within 30 working days of application therefor unless unusual circumstances require a longer time for processing the application or unless the permit application fails to satisfy the Florida Building Code or the enforcing agency’s laws or ordinances.
(15) Certifications by contractors authorized under the provisions of s. 489.115(4)(b) shall be considered equivalent to sealed plans and specifications by a person licensed under chapter 471 or chapter 481 by local enforcement agencies for plans review for permitting purposes relating to compliance with the wind resistance provisions of the code or alternate methodologies approved by the commission for one and two family dwellings. Local enforcement agencies may rely upon such certification by contractors that the plans and specifications submitted conform to the requirements of the code for wind resistance. Upon good cause shown, local government code enforcement agencies may accept or reject plans sealed by persons licensed under chapter 471, chapter 481, or chapter 489. A truss-placement plan is not required to be signed and

sealed by an engineer or architect unless prepared by an engineer or architect or specifically required by the Florida Building Code.
(16)(a) The Florida Building Commission shall establish, within the Florida Building Code adopted by rule, standards for permitting residential buildings or structures moved into or within a county or municipality when such structures do not or cannot comply with the code. However, such buildings or structures shall not be required to be brought into compliance with the building code in force at the time the building or structure is moved, provided:
1. The building or structure is structurally sound and in occupiable condition for its intended use;
2. The occupancy use classification for the building or structure is not changed as a result of the move;
3. The building is not substantially remodeled;
4. Current fire code requirements for ingress and egress are met;
5. Electrical, gas, and plumbing systems meet the codes in force at the time of construction and are operational and safe for reconnection; and
6. Foundation plans are sealed by a professional engineer or architect licensed to practice in this state, if required by the building code for all residential buildings or structures of the same occupancy class;
(b) The building official shall apply the same standard to a moved residential building or structure as that applied to the remodeling of any comparable residential building or structure to determine whether the moved structure is substantially remodeled. The cost of moving the building and the cost of the foundation on which the moved building or structure is placed shall not be included in the cost of remodeling for purposes of determining whether a moved building or structure has been substantially remodeled.
(17) Notwithstanding any other provision of law, state agencies responsible for the construction, erection, alteration, modification, repair, or demolition of public buildings, or the regulation of public and private buildings, structures, and facilities, shall be subject to enforcement of the Florida Building Code by local jurisdictions. This subsection applies in addition to the jurisdiction and authority of the Department of Financial Services to inspect state-owned buildings. This subsection does not apply to the jurisdiction and authority of the Department of Agriculture and Consumer Services to inspect amusement rides or the Department of Financial Services to inspect state-owned buildings and boilers.
(18)(a) A local enforcing agency, and any local building code administrator, inspector, or other official or entity, may not require as a condition of issuance of a one- or two-family residential building permit the inspection of any portion of a building, structure, or real property that is not directly impacted by the construction, erection, alteration, modification, repair, or demolition of the building, structure, or real property for which the permit is sought.
(b) This subsection does not apply to a building permit sought for:
1. A substantial improvement as defined in s. 161.54 or as defined in the Florida Building Code.
2. A change of occupancy as defined in the Florida Building Code.
3. A conversion from residential to nonresidential or mixed use pursuant to s. 553.507(3) or as defined in the Florida Building Code.

4. A historic building as defined in the Florida Building Code.
(c) This subsection does not prohibit a local enforcing agency, or any local building code administrator, inspector, or other official or entity, from:
1. Citing any violation inadvertently observed in plain view during the ordinary course of an inspection conducted in accordance with the prohibition in paragraph (a).
2. Inspecting a physically nonadjacent portion of a building, structure, or real property that is directly impacted by the construction, erection, alteration, modification, repair, or demolition of the building, structure, or real property for which the permit is sought in accordance with the prohibition in paragraph (a).
3. Inspecting any portion of a building, structure, or real property for which the owner or other person having control of the building, structure, or real property has voluntarily consented to the inspection of that portion of the building, structure, or real property in accordance with the prohibition in paragraph (a).
4. Inspecting any portion of a building, structure, or real property pursuant to an inspection warrant issued in accordance with ss. 933.20-933.30.
(d) This subsection is repealed upon receipt by the Secretary of State of the written certification by the chair of the Florida Building Commission that the commission has adopted an amendment to the Florida Building Code which substantially incorporates this subsection, including the prohibition in paragraph (a), as part of the code and such amendment has taken effect.
(19) For the purpose of inspection and record retention, site plans or building permits may be maintained in the original form or in the form of an electronic copy at the worksite. These plans and permits must be open to inspection by the building official or a duly authorized representative, as required by the Florida Building Code.
History.—s. 10, ch. 74-167; s. 4, ch. 77-365; s. 10, ch. 83-160; s. 1, ch. 83-352; s. 2, ch. 84-24; s. 3, ch. 84-365; s. 2, ch. 85-97; s. 2, ch. 86-135; s. 2, ch. 87-287; s. 5, ch. 87-349; s. 2, ch. 88-142; s. 1, ch. 88-378; s. 1, ch. 91-7; s. 4, ch. 93-249; ss. 57, 260, ch. 94-119; s. 7, ch. 94-284; s. 461, ch. 94-356; s. 72, ch. 95-144; s. 2, ch. 95-379; s. 14, ch. 96-298; s. 73, ch. 96-388; s. 1175, ch. 97-103; ss. 48, 49, ch. 98-287; ss. 82, 83, 84, 135, ch. 2000-141; ss. 27, 34, 35, 37, ch. 2001-186; ss. 2, 3, 4, 6, ch. 2001-372; s. 666, ch. 2003-261; s. 10, ch. 2005-147; s. 36, ch. 2010-176; s. 1, ch. 2011-82; s. 73, ch. 2012-5; s. 15, ch. 2012-13; s. 150, ch. 2013-183; s. 16, ch. 2013-193; s. 126, ch. 2014-17; s. 22, ch. 2014-154; ss. 19, 39, ch. 2016-129.
[1]Note.—As amended by s. 19, ch. 2016-129. Subsection (1) was also amended by s. 39, ch. 2016-129, effective October 1, 2017, without incorporating the language of the amendment by s. 19 of the act. Effective October 1, 2017, as amended by ss. 19 and 39, ch. 2016-129, subsection (1) will read:
(1)(a) After the effective date of the Florida Building Code adopted as herein provided, it shall be unlawful for any person, firm, corporation, or governmental entity to construct, erect, alter, modify, repair, or demolish any building within this state without first obtaining a permit therefor from the appropriate enforcing agency or from such persons as may, by appropriate resolution or regulation of the authorized state or local enforcing agency, be delegated authority to issue such permits, upon the payment of such reasonable fees adopted by the enforcing agency. The enforcing agency is empowered to revoke any such permit upon a determination by the agency that the construction, erection, alteration, modification, repair, or demolition of the building for which the permit was issued is in violation of, or not in conformity with, the provisions of the Florida Building Code. Whenever a permit required under this section is denied or revoked because the plan, or the construction, erection, alteration, modification, repair, or demolition of a building, is found by the local enforcing agency to be not in compliance with the Florida Building Code, the local enforcing agency shall identify the specific plan or project features that do not

comply with the applicable codes, identify the specific code chapters and sections upon which the finding is based, and provide this information to the permit applicant. A plans reviewer or building code administrator who is responsible for issuing a denial, revocation, or modification request but fails to provide to the permit applicant a reason for denying, revoking, or requesting a modification, based on compliance with the Florida Building Code or local ordinance, is subject to disciplinary action against his or her license pursuant to 2s. 468.621(1)(j). Installation, replacement, removal, or metering of any load management control device is exempt from and shall not be subject to the permit process and fees otherwise required by this section.

(b) A local enforcement agency shall post each type of building permit application on its website. Completed applications must be able to be submitted electronically to the appropriate building department. Accepted methods of electronic submission include, but are not limited to, e-mail submission of applications in portable document format or submission of applications through an electronic fill-in form available on the building department's website or through a third-party submission management software. Payments, attachments, or drawings required as part of the permit application may be submitted in person in a nonelectronic format, at the discretion of the building official.

[2]Note.—The cross-reference is erroneous; s. 468.621(1)(j) references insurance requirements. Section 468.621(1)(i) references failing to lawfully execute specified duties and responsibilities.

Chapter 582
Soil and Water Conservation
Enforceable Policies

Any additions are underlined and any deletions are struck-through.

582.36 Determination of feasibility of proposed district; referendum.
582.37 Consideration of results of referendum; declaration of organization of district.
582.38 Organization of district; certification to clerks of circuit courts; limitation on tax rate.
582.39 Establishment of watershed improvement district situated in more than one soil and water conservation district.
582.40 Change of district boundaries; additions, detachments, transfers of land from one district to another; change of district name.
582.41 Board of directors of district.
582.42 Officers, agents, and employees; surety bonds; annual audit.
582.43 Status and general powers of districts; power to levy tax; power to construct, operate, improve and maintain works of improvement; power to obtain necessary lands or interests therein.
582.44 Levy of taxes; procedure, etc.
582.45 Fiscal powers of governing body; bonds, etc.
582.46 Additional powers and authority.
582.47 Watershed improvement district to coordinate work with flood control districts.
582.48 Discontinuance of watershed improvement district.
582.49 Discontinuance of soil and water conservation district.

*Section 582.055, .06, and .32, F.S., are not considered enforceable policies for federal consistency purposes

Chapter 582--Soil and Water Conservation

582.01 Definitions.—
As ~~Wherever~~ used ~~or referred to~~ in this chapter, the term ~~unless a different meaning clearly appears from the context~~:
~~(3)(a) "Department" means the Department of Agriculture and Consumer Services.~~
(1)~~(c)~~ "Commissioner" means the Commissioner of Agriculture.
(2)~~(b)~~ "Council" means the Soil and Water Conservation Council.
(3) "Department" means the Department of Agriculture and Consumer Services.
(4)~~(1)~~ "District" ~~or "soil conservation district"~~ or "soil and water conservation district" means a governmental subdivision of this state and a body corporate and politic, organized in accordance with the provisions of this chapter for the purpose, with the powers, and subject to the provisions set forth in this chapter. The term "district" ~~or "soil conservation district"~~ when used in this chapter means and includes a "soil and water conservation district." All districts ~~heretofore or hereafter~~ organized under this chapter shall be known as soil and water conservation districts and shall have all the powers set out herein.
(5)~~(7)~~ "Due notice," in addition to notice required pursuant to the provisions of chapter 120, means notice published at least twice, with an interval of at least 7 days between the two publication dates, in a newspaper or other publication of general circulation within the appropriate area ~~or, if no such publication of general circulation be available, by posting at a reasonable number of conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to such notice, at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates~~.
(6)~~(5)~~ "Land occupier" or "occupier of land" means a ~~includes any~~ person, other than the owner, who possesses ~~shall be in possession of~~ any lands lying within a district organized under the provisions of this chapter, whether as lessee, renter, tenant, or otherwise.
(7)~~(4)~~ "Landowner" or "owner of land" means a ~~includes any~~ person who holds ~~shall hold~~ legal or equitable title to any lands lying within a district organized under the provisions of this chapter.
(8)~~(6)~~ "Qualified elector" means a ~~includes any~~ person qualified to vote in general elections under the constitution and laws ~~statutes~~ of this state.
(9)~~(2)~~ "Supervisor" means a member ~~one of the members~~ of the governing body of a district who is~~,~~ elected in accordance with the provisions of this chapter.
~~(8) "Administrative officer" means the administrative officer of soil and water conservation created by s. 582.09.~~
History.—s. 3, ch. 18144, 1937; s. 1, ch. 19473, 1939; CGL 1940 Supp. 4151(474); s. 1, ch. 65-334; s. 1, ch. 67-207; s. 1, ch. 70-392; s. 1, ch. 74-53; s. 6, ch. 78-95; s. 4, ch. 78-323; ss. 2, 3, ch. 81-129; s. 1, ch. 82-46; s. 2, ch. 83-265; ss. 1, 3, 4, ch. 87-25; s. 5, ch. 91-429; s. 22, ch. 2016-61.

582.02 Legislative policy and findings; purpose of districts ~~Lands a basic asset of state.—~~

(1) It is the policy of the Legislature to promote the appropriate and efficient use of soil and water resources, protect water quality, prevent floodwater and sediment damage, preserve wildlife, protect public lands, and protect and promote the health, safety, and general welfare of the people of this state.

(2) The Legislature finds that the farm, forest, and grazing lands; green spaces; recreational areas; and natural areas of the state are among the basic assets of the state and the conservation ~~preservation~~ of these lands is necessary to protect and promote the health, safety, and general welfare of its people and is in the public interest ~~; improper land use practices have caused and have contributed to, and are now causing and contributing to a progressively more serious erosion of the farm and grazing lands of this state by fire, wind and water; the breaking of natural grass, plant, and forest cover has interfered with the natural factors of soil stabilization, causing loosening of soil and exhaustion of humus, and developing a soil condition that favors erosion; the top soil is being burned, washed and blown out of fields and pastures; there has been an accelerated washing of sloping fields; these processes of erosion by fire, wind and water speed up with removal of absorptive topsoil, causing exposure of less absorptive and less protective but more erosive subsoil; failure by any landowner or occupier to conserve the soil and control erosion upon her or his lands causes destruction by burning, washing and blowing of soil and water from her or his lands onto other lands and makes the conservation of soil and control erosion of such other lands difficult or impossible~~.

(3) The Legislature further finds that to ensure the conservation of the state's farm, forest, and grazing lands; green spaces; recreational areas; and natural areas, and to conserve, protect, and use soil and water resources, it is necessary that appropriate land and water resources protection practices be implemented.

(4) The purpose of the soil and water conservation districts is to provide assistance, guidance, and education to landowners, land occupiers, the agricultural industry, and the general public in implementing land and water resource protection practices. The Legislature intends for soil and water conservation districts to work in conjunction with federal, state, and local agencies in all matters that implement the provisions of this chapter.

History.—s. 2, ch. 18144, 1937; CGL 1940 Supp. 4151(473); s. 924, ch. 97-103; s. 23, ch. 2016-61.

~~582.03 Consequence of soil erosion.—~~

~~The consequences of such soil erosion in the form of soil washing and soil blowing are the silting and sedimentation of stream channels, reservoirs, dams, ditches, and harbors; the loss of fertile soil material in dust storms; the piling up of soil on lower slopes, and its deposit over alluvial plains; the reduction in productivity or outright ruin of rich bottom lands by overwash or poor subsoil material, sand; deterioration of soil and its fertility, deterioration of crops grown thereon, and declining acre yields despite development of scientific processes for increasing such yields; loss of soil and water which causes destruction of food and cover for wildlife; a blowing and washing of soil into streams which silts over spawning beds, and destroys water plants, diminishing the food supply of fish; a diminishing of the underground water reserve, which causes water~~

shortages, intensifies periods of drought, and causes crop failure; and increase in the speed and volume of rainfall runoff, causing severe and increasing floods, which bring suffering, disease, and death; impoverishment of families attempting to farm eroding and eroded lands; damage to roads, highways, railways, farm buildings, and other property from floods and from dust storms; and losses in navigation, hydroelectric power, municipal water supply, drainage facilities, irrigation developments, farming and grazing.

History.—s. 2, ch. 18144, 1937; CGL 1940 Supp. 4151(473); s. 1, ch. 65-334.

582.04 Appropriate corrective methods.—

To control or prevent soil erosion and prevent floodwater and sediment damages, and further the conservation, development and utilization of soil and water resources and the disposal of water, it is necessary that land use practices contributing to soil wastage and soil erosion be discouraged and discontinued, and appropriate soil-conserving land use practices and works of improvement for flood prevention or the conservation, development and utilization of soil and water resources and the disposal of water be adopted and carried out; among the works of improvement and procedures necessary for widespread adoption, are the carrying on of engineering operations, such as the construction of terraces, terrace outlets, check-dams, desilting basins, floodwater retarding structures, channel improvements, floodways, dikes, ponds, ditches, and the like; the utilization of strip-cropping, lister furrowing, contour cultivating, and contour furrowing; land drainage; land irrigation, seeding and planting of waste, sloping, abandoned, or eroded lands to water conserving and erosion-preventing plants, trees, and grasses; forestation and reforestation; rotation of crops; soil stabilization with trees, grasses, legumes, and other thick-growing, soil-holding crops; the addition of soil amendments, manurial materials and fertilizers for the correction of soil deficiencies or for the promotion of increased growth of soil protecting crops; retardation of runoff by increasing absorption of rainfall; retirement from cultivation of steep, highly erosive areas and areas now badly gullied or otherwise eroded; fish and wildlife or recreational developments; and control of artesian wells.

History.—s. 2, ch. 18144, 1937; CGL 1940 Supp. 4151(473); s. 1, ch. 65-334; s. 1, ch. 69-235.

582.05 Legislative policy for conservation.—

It is the policy of the Legislature to provide for control and prevention of soil erosion, and for the prevention of floodwater and sediment damages, and for furthering the conservation, development and utilization of soil and water resources, and the disposal of water, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands, and protect and promote the health, safety and general welfare of the people of this state.

History.—s. 2, ch. 18144, 1937; CGL 1940 Supp. 4151(473); s. 1, ch. 65-334; s. 2, ch. 69-235.

~~582.08 Additional powers of department.—~~

~~The Department of Agriculture and Consumer Services shall have the following additional duties and powers:~~

~~(1) To offer such assistance as may be appropriate to the supervisors of soil and water conservation districts, organized as provided in s. 582.10, in the carrying out of any of their powers and programs.~~

~~(2) To keep the supervisors of each of the several districts organized under the provisions of this chapter informed of the activities and experience of all other such districts, and to facilitate an interchange of advice and experience between such districts and cooperation between them.~~

~~(3) To coordinate the programs of the several soil and water conservation districts so organized so far as this may be done by advice and consultation.~~

~~(4) To secure the cooperation and assistance of the United States and any of its agencies, and of agencies and counties of this state, in the work of such districts, including the receipt and expenditure of state, federal, and other funds or other contributions.~~

~~(5) To disseminate information throughout the state concerning the activities and programs of the soil and water conservation districts so organized and to encourage the formation of such districts in areas where their organization is desirable.~~

~~History.—s. 4, ch. 18144, 1937; s. 2, ch. 19473, 1939; CGL 1940 Supp. 4151(475); s. 3, ch. 67-207; s. 4, ch. 69-235; s. 4, ch. 70-392.~~

~~582.09 Administrative officer of soil and water conservation.—~~

~~The department may employ an administrative officer of soil and water conservation, and such technical experts and such other employees, permanent and temporary, as it may require and shall determine their qualifications, duties, and compensation.~~

~~History.—s. 4, ch. 18144, 1937; s. 2, ch. 19473, 1939; CGL 1940 Supp. 4151(475); s. 3, ch. 67-207; s. 5, ch. 70-392.~~

582.16 Change of district boundaries ~~Addition of territory to district or removal of territory therefrom.—~~

Requests for increasing or reducing the boundaries of ~~Petitions for including additional territory or removing territory within~~ an existing district may be filed with the department ~~Department of Agriculture and Consumer Services~~, and the department shall follow the proceedings provided ~~for~~ in this chapter to create a district ~~in the case of petitions to organize a district shall be observed in the case of petitions for such inclusion or removal. The department shall prescribe the form for such petition, which shall be as nearly as may be in the form prescribed in this chapter for petitions to organize a district. If the petition is signed by a majority of the landowners of such area, no referendum need be held. In referenda upon petitions for such inclusions or removals, all owners of land lying within the proposed area to be added or removed shall be eligible to vote~~.

History.—s. 5, ch. 18144, 1937; s. 3, ch. 19473, 1939; CGL 1940 Supp. 4151(476); s. 2, ch. 25407, 1949; s. 3, ch. 67-207; ss. 14, 35, ch. 69-106; s. 28, ch. 2016-61.

582.17 Presumption as to establishment.—
In any suit, action or proceeding involving the validity or enforcement of, or relating to, any contract, proceeding, or action of the district, the district shall be deemed to have been established in accordance with the provisions of this chapter upon proof of the issuance of the aforesaid certificate by the Department of State. A copy of such certificate duly certified by the Department of State shall be admissible in evidence in any such suit, action, or proceeding and shall be proof of the filing and contents thereof. History.—s. 5, ch. 18144, 1937; s. 3, ch. 19473, 1939; CGL 1940 Supp. 4151(476); ss. 10, 35, ch. 69-106.

582.20 Powers of districts and supervisors.—
A soil and water conservation district organized under the provisions of this chapter shall constitute a governmental subdivision of this state, and a public body corporate and politic, exercising public powers, and such district and the supervisors thereof shall have the following powers, in addition to others granted in other sections of this chapter:
(1) To conduct surveys, studies investigations, and research relating to the character of soil and water resources and erosion and floodwater and sediment damages, to the conservation, development and utilization of soil and water resources and the disposal of water, and to the preventive and control measures and works of improvement needed; to publish and disseminate the results of such surveys, studies investigations, or research, and related information; and to disseminate information concerning such preventive and control measures and works of improvement; provided, however, that in order to avoid duplication of research activities, no district shall initiate any research program except in cooperation with the government of this state or any of its agencies, or with the United States or any of its agencies;
(2) To conduct agricultural best management practices demonstration demonstrational projects and projects for the conservation, protection, and restoration of soil and water resources:
(a) Within the district's boundaries;
(b) Within another district's boundaries, subject to the other district's approval;
(c) In areas within the district's boundaries, territory within another district's boundaries subject to another district's approval, or territory not contained within any district's boundaries on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof; or
(d) On, and on any other lands within the district's boundaries, territory within another district's boundaries subject to the other district's approval, or territory not contained within any district's boundaries upon obtaining the consent of the owner or occupier and occupiers of the such lands or the necessary rights or interests in such lands, in order to demonstrate by example the means, methods, and measures by which soil and soil resources may be conserved, and soil erosion in the form of soil blowing and soil washing may be prevented and controlled, and works of improvement for flood prevention or the conservation, development and utilization of soil and water resources, and the disposal of water may be carried out;
(3) To carry out preventive and control measures and works of improvement for flood prevention or the conservation, development and utilization of soil and water resources, and the disposal of water within the district's boundaries, territory within another district's boundaries subject to the other district's approval, or territory not contained

~~within any district's boundaries, including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, and the measures listed in s. 582.04 on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district's boundaries, territory within another district's boundaries subject to the other district's approval, or territory not contained within any district's boundaries upon obtaining the consent of the owner and the occupiers of such lands or the necessary rights or interests in such lands;~~
(3)~~(4)~~ To cooperate, or enter into agreements with, ~~and within the limits of appropriations duly made available to it by law, to furnish financial aid or other aid to~~ any special district, municipality, county, water management district, state or federal agency, governmental or otherwise, or ~~any~~ owner or occupier of lands within the district's boundaries, ~~territory~~ within another district's boundaries subject to the other district's approval, or ~~territory~~ not contained within any district's boundaries in furtherance of the purposes and provisions of this chapter ~~,in the carrying on of erosion control or prevention operations and works of improvement for flood prevention or the conservation, development and utilization, of soil and water resources and the disposal of water within the district's boundaries, territory within another district's boundaries subject to the other district's approval, or territory not contained within any district's boundaries, subject to such conditions as the supervisors may deem necessary to advance the purposes of this chapter~~;
(4)~~(5)~~ To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise or otherwise, any property, real or personal, or rights or interests therein; to maintain, administer, and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this chapter; and to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and ~~the~~ provisions of this chapter;
(5)~~(6)~~ To make available, on such terms as it shall prescribe, to any owner or occupier of lands ~~landowners and occupiers~~ within the district's boundaries, ~~territory~~ within another district's boundaries subject to the other district's approval, or ~~territory~~ not contained within any district's boundaries agricultural and engineering machinery and equipment, ~~fertilizer, seeds and seedlings,~~ and such other material or equipment, that ~~as~~ will assist such landowners and occupiers to carry on operations upon their lands for the conservation and protection of soil and water resources ~~and for the prevention or control of soil erosion and for flood prevention or the conservation, development and utilization, of soil and water resources and the disposal of water~~;
(6)~~(7)~~ To construct, improve, operate, and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this chapter;
(7)~~(8)~~ To provide, or assist in providing, training and education programs that further the purposes and provisions of this chapter ~~develop comprehensive plans for the conservation of soil and water resources and for the control and prevention of soil erosion and for flood prevention or the conservation, development and utilization of soil and water resources, and the disposal of water within the district's boundaries, territory within another district's boundaries subject to the other district's approval, or territory not contained within any district's boundaries, which plans shall specify in such detail as~~

~~may be possible the acts, procedures, performances, and avoidances which are necessary or desirable for the effectuation of such plans, including the specification of engineering operations, methods of cultivation, the growing of vegetation, cropping programs, tillage practices, and changes in use of land; control of artesian wells; and to publish such plans and information and bring them to the attention of owners and occupiers of lands within the district's boundaries, territory within another district's boundaries subject to the other district's approval, or territory not contained within any district's boundaries~~;

~~(9) To take over, by purchase, lease, or otherwise, and to administer any soil-conservation, erosion-control, erosion-prevention project, or any project for flood-prevention or for the conservation, development and utilization of soil and water resources, and the disposal of water, located within the district's boundaries, territory within another district's boundaries subject to the other district's approval, or territory not contained within any district's boundaries, undertaken by the United States or any of its agencies, or by this state or any of its agencies; to manage as agent of the United States or any of its agencies, or of the state or any of its agencies, any soil conservation, erosion-control, erosion-prevention, or any project for floodprevention or for the conservation, development, and utilization of soil and water resources, and the disposal of water within the district's boundaries, territory within another district's boundaries subject to the other district's approval, or territory not contained within any district's boundaries; to act as agent for the United States, or any of its agencies, or for the state or any of its agencies, in connection with the acquisition, construction, operation or administration of any soil-conservation, erosion-control, erosion-prevention, or any project for flood-prevention or for the conservation, development and utilization of soil and water resources, and the disposal of water within the district's boundaries, territory within another district's boundaries subject to the other district's approval, or territory not contained within any district's boundaries; to accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, or from this state or any of its agencies, or from others, and to use or expend such moneys, services, materials or other contributions in carrying on its operations;~~

(8)~~(10)~~ To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as provided in this chapter; to make and execute contracts and other instruments necessary or convenient to the exercise of its powers; upon a majority vote of the supervisors of the district, to borrow money and to execute promissory notes and other evidences of indebtedness in connection therewith, and to pledge, mortgage, and assign the income of the district and its personal property as security therefor, the notes and other evidences of indebtedness to be general obligations only of the district and in no event to constitute an indebtedness for which the faith and credit of the state or any of its revenues are pledged; ~~to make, amend, and repeal rules and regulations not inconsistent with this chapter to carry into effect its purposes and powers~~.

~~(11) As a condition to the extending of any benefits under this chapter to, or the performance of work upon, any lands not owned or controlled by this state or any of its agencies, the supervisors may require contributions in money, services, materials, or otherwise to any operations conferring such benefits, and may require landowners and~~

~~occupiers to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion and prevent floodwater and sediment damages thereon;~~
(9) To use, in coordination with the applicable county or counties, the services of the county agricultural agents and the facilities of their offices, if practicable and feasible. The supervisors may also employ additional permanent and temporary staff, as needed, and determine their qualifications, duties, and compensation. The supervisors may delegate to the chair, to one or more supervisors, or to employees such powers and duties as they may deem proper, consistent with the provisions of this chapter. The supervisors shall furnish to the department, upon request, copies of rules, orders, contracts, forms, and other documents that the district has adopted or used, and any other information concerning the district's activities, that the department may require in the performance of its duties under this chapter;
(10) To adopt rules to implement the provisions of this chapter; and
(11) To request that the Governor remove a supervisor for neglect of duty or malfeasance in office by adoption of a resolution at a public meeting. If the district believes there is a need for a review of the request, the district may request that the council, by resolution, review its request to the Governor and provide the Governor with a recommendation.
~~(12)~~ Any provision ~~No provisions~~ with respect to the acquisition, operation, or disposition of property by public bodies of this state does not apply ~~shall be applicable~~ to a district organized under this chapter unless specifically so stated by ~~hereunder unless~~ the Legislature ~~shall specifically so state~~. The property and property rights of every kind and nature acquired by any district organized under the provisions of this chapter are ~~shall be~~ exempt from state, county, and other taxation.
History.—s. 8, ch. 18144, 1937; CGL 1940 Supp. 4151(479); s. 7, ch. 22858, 1945; s. 2, ch. 65-334; s. 3, ch. 67-207; s. 5, ch. 69-235; s. 36, ch. 2012-190; s. 30, ch. 2016-61.

~~582.21 Adoption of land use regulations.—~~
~~(1) The supervisors of any district shall have authority to formulate regulations governing the use of lands within the district in the interest of conserving soil and soil resources, and preventing and controlling soil erosion. The supervisors may conduct such public meetings and public hearings upon tentative regulations as may be necessary to assist them in this work. The supervisors shall not have authority to adopt such land use regulations until after they shall have caused due notice to be given of their intention to conduct a referendum for submission of such regulations to the owners of lands lying within the boundaries of the district, for their indication of approval or disapproval of such proposed regulations, and until after the supervisors have considered the result of such referendum. Copies of such proposed regulations shall be available for the inspection of all eligible voters during the period between publication of such notice and the date of the referendum. The notices of the referendum shall recite the contents of such proposed regulations, or shall state where copies of such proposed regulations may be examined. The question shall be submitted by ballots, upon which the words "For approval of proposed land use regulations for the conservation of soil and prevention of erosion" and "Against approval of proposed land use regulations for conservation of soil and prevention of erosion" shall appear, with a square before each proposition and a direction to insert an X mark in the square before one or the other of~~

said propositions as the voter may favor or oppose approval of such proposed regulations. The supervisors shall supervise such referendum, shall prescribe appropriate regulations governing the conduct thereof, and shall publish the result thereof. All owners of lands within the district shall be eligible to vote in such referendum. Only such landowners shall be eligible to vote. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

(2) The supervisors shall not adopt such proposed regulations unless at least a majority of the votes cast in such referendum shall have been cast for approval of the said proposed regulations. The approval of the proposed regulations by a majority of the votes cast in such referendum shall not be deemed to require the supervisors to adopt such proposed regulations. Land use regulations adopted pursuant to the provisions of this section by the supervisors of any district shall be binding and obligatory upon all owners and occupiers of land within such districts.

(3) Land use regulations adopted pursuant to the provisions of this section shall not be amended, supplemented, or repealed except in accordance with the procedure prescribed in this section for adoption of land use regulations. Referenda of adoption, amendment, supplementation, or repeal of land use regulations shall not be held more often than once in 6 months.

History.—s. 9, ch. 18144, 1937; CGL 1940 Supp. 4151(480); s. 6, ch. 78-95.

582.22 Regulations; contents.—

The regulations to be adopted by the supervisors under the provisions of this chapter may include:

(1) Provisions requiring the carrying out of necessary engineering operations, including the construction of terraces, terrace outlets, check dams, dikes, ponds, ditches, and other necessary structures;

(2) Provisions requiring observance of particular methods of cultivation including contour cultivating, contour furrowing, lister furrowing, sowing, planting, strip-cropping, changes in cropping systems, seeding, and planting of lands to water-conserving and erosion-preventing plants, trees and grasses, forestation, and reforestation;

(3) Specifications of cropping programs and tillage practices to be observed;

(4) Provisions requiring the retirement from cultivation of highly erosive areas or of areas on which erosion may not be adequately controlled if cultivation is carried on;

(5) Provisions for such other means, measures, operations and programs as may assist conservation of soil resources and prevent or control soil erosion in the district, having due regard to the legislative findings set forth in this chapter.

The regulations shall be uniform throughout the territory comprised within the district except that the supervisors may classify the lands within the district with reference to such factors as soil type, degree of slope, degree of erosion threatened or existing, cropping and tillage practices in use, and other relevant factors, and may provide regulations varying with the type or class of land affected, but uniform as to all lands within each class or type. Copies of land use regulations adopted under the provisions of this chapter shall be printed and made available to all owners and occupiers of lands lying within the district.

History.—s. 9, ch. 18144, 1937; CGL 1940 Supp. 4151(480).

582.23 Performance of work under the regulations by the supervisors.—
(1) The supervisors may go upon any lands within the district to determine whether land use regulations adopted are being observed. Where the supervisors of any district shall find that any of the provisions of land use regulations adopted are not being observed on particular lands, and that such nonobservance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, the supervisors may present to the circuit court for the county or counties within which the lands of the defendant may lie, a petition, duly verified, setting forth the adoption of the land use regulations, the failure of the defendant landowner or occupier to observe such regulations, and to perform particular work, operations, or avoidances as required thereby, and that such nonobservance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, and praying the court to require the defendant to perform the work, operations, or avoidances within a reasonable time and to order that if the defendant shall fail so to perform the supervisors may go on the land, perform the work or other operations or otherwise bring the condition of such lands into conformity with the requirements of such regulations, and recover the costs and expenses thereof, with interest, from the owner of such land. Upon the presentation of such petition the court shall cause process to be issued against the defendant, and shall hear the case. If it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a special magistrate to take such evidence as it may direct and report the same to the court within her or his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made.
(2) The court may dismiss the petition; or it may require the defendant to perform the work, operations, or avoidances, and may provide that upon the failure of the defendant to initiate such performance within the time specified in the order of the court, and to prosecute the same to completion with reasonable diligence, the supervisors may enter upon the lands involved and perform the work or operations, or otherwise bring the conditions of such lands into conformity with the requirements of the regulations and recover the costs and expenses thereof, with interest at the rate of 5 percent per annum, from the owner of such lands.
(3) The court shall retain the jurisdiction of the case until after the work has been completed. Upon completion of such work pursuant to such order of the court the supervisors may file a petition with the court, a copy of which shall be served upon the defendant in the case, stating the costs and expenses sustained by them in the performance of the work and praying judgment therefor with interest. The court shall have jurisdiction to enter judgment for the amount of such costs and expenses, with interest at the rate of 5 percent per annum until paid, together with the costs of suit, including a reasonable attorney's fee to be fixed by the court.
History.—s. 10, ch. 18144, 1937; CGL 1940 Supp. 4151(481); s. 26, ch. 73-334; s. 927, ch. 97-103; s. 92, ch. 2004-11.

582.24 Board of adjustment.—
Where the supervisors of any district organized under the provisions of this chapter shall adopt an ordinance prescribing land use regulations, said supervisors shall constitute, and be ex officio members of, a board of adjustment to hear and consider petitions which may be submitted to such board by any landowner in the district praying for relief from any of the provisions of the said land use regulations.
History.—s. 11, ch. 18144, 1937; s. 6, ch. 19473, 1939; CGL 1940 Supp. 4151(482).

582.25 Rules of procedure of board.—
The board of adjustment shall adopt rules to govern its procedures, which rules shall be in accordance with the provisions of this chapter and with the provisions of any ordinance adopted pursuant to this chapter. The board shall designate a chair from among its members, and may, from time to time, change such designation. Meetings of the board shall be held at the call of the chair and at such other times as the board may determine. Any three members of the board shall constitute a quorum. The chair, or in her or his absence such other member of the board as she or he may designate to serve as acting chair, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep a full and accurate record of all proceedings and of all documents filed in its office, which shall be a public record.
History.—s. 11, ch. 18144, 1937; s. 6, ch. 19473, 1939; CGL 1940 Supp. 4151(482); s. 928, ch. 97-103.

582.26 Petition to board to vary from regulations.—
Any landowner or occupier may file a petition with the board of adjustment alleging that there are great practical difficulties or unnecessary hardship in the way of her or his carrying out upon her or his lands the strict letter of the land use regulations prescribed by ordinance approved by the supervisors and praying the board to authorize a variance from the terms of the land use regulations in the application of such regulations to the lands occupied by the petitioner. Copies of such petition shall be filed by the petitioner with the Department of Agriculture and Consumer Services. The Department of Agriculture and Consumer Services shall have the right to appear and be heard at such hearing. Any owner or occupier of lands lying within the district who shall object to the authorizing of the variance prayed for may intervene and become a party to the proceedings. If the board shall determine that there are great practical difficulties or unnecessary hardship in the way of applying the strict letter of any of the land use regulations upon the lands of the petitioner, it shall have power by order to authorize such variance from the terms of the land use regulations, in their application to the lands of the petitioner, as will relieve such great practical difficulties or unnecessary hardship and will not be contrary to the public interest, and such that the spirit of the land use regulations shall be observed, the public health, safety, and welfare secured, and substantial justice done.
History.—s. 11, ch. 18144, 1937; s. 6, ch. 19473, 1939; CGL 1940 Supp. 4151(482); s. 3, ch. 67-207; ss. 14, 35, ch. 69-106; s. 6, ch. 78-95; s. 929, ch. 97-103.

582.29 State agencies to cooperate.—
Agencies of this state that ~~which~~ ~~shall~~ have jurisdiction over, or are ~~be~~ charged with, the administration of any state-owned lands, and of any county, or other governmental subdivision of the state, that ~~which shall~~ have jurisdiction over, or are ~~be~~ charged with the administration of, any county-owned or other publicly owned lands, ~~lying within the boundaries of any district organized under this chapter, the boundaries of another district subject to that district's approval, or territory not contained within the boundaries of any district organized under this chapter,~~ shall cooperate to the fullest extent with the supervisors of such districts in the implementation ~~effectuation~~ of programs and operations undertaken by the supervisors under the provisions of this chapter. The supervisors of such districts shall be given free access to enter and perform work upon such publicly owned lands. ~~The provisions of land use regulations adopted shall be in all respects observed by the agencies administering such publicly owned lands.~~
History.—s. 13, ch. 18144, 1937; CGL 1940 Supp. 4151(484); s. 37, ch. 2012-190; s. 32, ch. 2016-61.

~~**582.331 Establishment of watershed improvement districts within soil and water conservation districts authorized.—**Watershed improvement districts may be formed as subdistricts of soil and water conservation districts, in accordance with the provisions of this chapter, for the development and execution of plans and projects for works of improvement for the control and prevention of soil erosion, flood prevention, conservation, development, and utilization of soil and water resources, disposal of water, fish and wildlife or recreational development, preservation and protection of land and water resources, and protection and promotion of the health, safety, and general welfare of the people of this state.~~
~~History.—s. 6, ch. 69-235.~~

~~**582.34 Petition for establishment; provisions.—**~~
~~(1) The owners of the major portion of land lying within the limits of a proposed watershed improvement district may file a petition with the supervisors of the soil and water conservation district in which the proposed watershed improvement district is situated asking that a watershed improvement district be organized to function in the area described in the petition.~~
~~(2) The petition shall set forth:~~
~~(a) The proposed name of the watershed improvement district.~~
~~(b) That there is need, in the interest of the public health, safety, and welfare for a watershed improvement district to function in the area described in the petition.~~
~~(c) A description of the area proposed to be organized as a watershed improvement district, which description shall be deemed sufficient if generally accurate.~~
~~(d) That the land within the area described in the petition is contiguous and is situated in the same watershed.~~
~~(e) The maximum millage rate, including not more than 1 mill for maintenance, expressed in mills on each dollar of assessed valuation at which taxes may be levied for any 1 fiscal year for the purposes of the watershed improvement district or to amortize indebtedness or bonds.~~
~~(f) A request that the area described in the petition be established as a watershed improvement district.~~

(3) Land lying within the limits of one watershed improvement district shall not be included in another watershed improvement district.
History.—s. 6, ch. 69-235.

582.35 Notice and hearing on petition; determination of need for district; boundaries.—
Within 60 days after a petition has been filed with the supervisors of the soil and water conservation district, the supervisors shall cause due notice to be given of a public hearing upon the practicability and feasibility of creating the proposed watershed improvement district. All owners of land within the proposed district and all other interested parties shall have the right to attend such a hearing and to be heard. If the supervisors determine from the hearing that there is need, in the interest of public health, safety, and welfare, for the organization of the proposed district, they shall record such determination and shall define the boundaries of the watershed improvement district.
History.—s. 6, ch. 69-235.

582.36 Determination of feasibility of proposed district; referendum.—
After the supervisors have determined that a need for the proposed watershed improvement district exists, have defined the boundaries of the proposed district, and have obtained the approval of the Department of Agriculture and Consumer Services for the formation of the proposed district, the supervisors shall consider the question of whether the operation of the proposed district is administratively practicable and feasible. To assist the supervisors in determining such question, a referendum shall be held by the supervisors upon the proposition of the creation of the proposed district. Due notice of such referendum shall be given by the supervisors, and ballots therefor shall be in substantially the form set forth in s. 582.12, but the proposed district and name thereof shall be substituted for the soil and water conservation district, and the millage rate to be approved by the electors who are owners of freeholds within the proposed district not wholly exempt from taxation shall be included. At such referendum each owner of land lying within the proposed district shall be entitled to cast one vote, in person or by proxy, for each acre or fractional part thereof of land within the proposed district belonging to such owner, except that only one vote may be cast for each such acre or fractional part thereof regardless of whether the legal title thereto is held in single or multiple ownership. The supervisors may prescribe such rules and regulations governing the conduct of the hearing and referendum as they deem necessary.
History.—s. 6, ch. 69-235; ss. 14, 35, ch. 69-106.

582.37 Consideration of results of referendum; declaration of organization of district.—
The results of the referendum shall be considered by the supervisors in determining whether the operation of the proposed watershed improvement district is administratively practicable and feasible. If the supervisors determine that the operation of the proposed district is not administratively practicable and feasible, they shall record such determination and deny the petition. If the supervisors determine that the operation of the proposed district is administratively practicable and feasible, they shall record

such determination in the manner hereinafter provided; provided, however, that the supervisors shall not be authorized to determine that the operation of the proposed district is administratively practicable and feasible unless at least a majority of the votes cast in the referendum, representing not less than a majority of the land area within the proposed district, shall have been cast in favor of the creation of the watershed improvement district.
History.—s. 6, ch. 69-235.

582.38 Organization of district; certification to clerks of circuit courts; limitation on tax rate.—
If the supervisors determine that the operation of the proposed watershed improvement district is administratively practicable and feasible, they shall declare the watershed improvement district to be duly organized and shall record such fact in their official minutes. Following such entry in their official minutes, the supervisors shall certify the fact of the creation of the district to the Department of Agriculture and Consumer Services, and shall furnish a copy of such certification to the clerk of the circuit court of each county in which any portion of the watershed improvement district is situated for recordation in the public land records of each such county. The watershed improvement district shall thereupon constitute a governmental subdivision of this state and a public body corporate and politic. The rate at which taxes for any one fiscal year may be levied for the purposes of the watershed improvement district shall be subject to the limitations set forth in s. 582.44.
History.—s. 6, ch. 69-235; ss. 14, 35, ch. 69-106.

582.39 Establishment of watershed improvement district situated in more than one soil and water conservation district.—
If a proposed watershed improvement district is situated in more than one soil and water conservation district, copies of the petition for the establishment of such district shall be presented to the board of supervisors of each of the soil and water conservation districts in which the proposed district is situated, and the supervisors of all such soil and water conservation districts affected shall act jointly as a board of supervisors with respect to all matters concerning the watershed improvement district, including its creation. Such watershed improvement district shall be organized in like manner and shall have the same powers and duties as a watershed improvement district situated entirely in one soil and water conservation district.
History.—s. 6, ch. 69-235.

582.40 Change of district boundaries; additions, detachments, transfers of land from one district to another; change of district name.—
(1) Any one or more owners of land may petition the board of supervisors of the soil and water conservation district in which a watershed improvement district is situated to have their lands added to the watershed improvement district. The petition shall also be signed by the owners of a majority of the land area within the watershed improvement district, and shall be subject to approval by the board of directors of the watershed improvement district. The petition shall describe the land desired to be annexed and

~~state the number of acres of land involved and other information pertinent to such proposal.~~
~~(2) Within 30 days after such petition is filed, the board shall cause due notice to be given of a hearing on the petition. All interested parties shall have a right to attend the hearing and be heard. The board shall determine whether the lands described in the petition or any portion thereof shall be included in the watershed improvement district. If it is determined that such land should be added, the board shall certify this fact to the Department of Agriculture and Consumer Services and furnish a copy of such certification to the clerk of the circuit court of each county in which any portion of the added lands is situated for recordation in the public land records of each such county.~~
~~(3) The owner or owners of land which is not benefited by its inclusion in a watershed improvement district may petition the board of supervisors of the soil and water conservation district in which the watershed improvement district is situated to have such land excluded from the district. The petition shall describe the land and state the reasons why it should be excluded. A hearing shall be held within 60 days after the petition is received. Due notice of the hearing shall be given by the board. If it is determined by the board that such land is not benefited by its inclusion in the watershed improvement district, such land shall be excluded from the district. The board shall certify such determination to the Department of Agriculture and Consumer Services and shall furnish a copy of such certification to the clerk of the circuit court of each county in which any portion of such excluded land is situated for recordation in the public land records of each such county.~~
~~(4) Landowners desiring a transfer of their land from one watershed improvement district to another may file a petition for such transfer with the board of supervisors of the soil and water conservation district in which the watershed improvement district is situated. The board of supervisors may hold such hearings as it deems appropriate to enable it to make a determination as to the desirability of the proposed transfer of land. If the board makes a determination in favor of such transfer of land, it shall certify such determination, setting out the new boundaries of the watershed improvement districts involved, to the Department of Agriculture and Consumer Services, and shall furnish a copy of such certification to the clerk of the circuit court of each county in which the affected watershed improvement districts are situated for recordation in the public land records of each such county.~~
~~(5) Landowners within a watershed improvement district desiring a change of name of such district may file a petition for such change of name with the board of supervisors of the soil and water conservation district in which the watershed improvement district is situated. If the board approves the change of name, it shall certify the fact of such change of name to the Department of Agriculture and Consumer Services, and shall furnish a copy of such certification to the clerk of the circuit court of the county or counties in which the watershed improvement district is situated for recordation in the public land records of each such county.~~
~~History.—s. 6, ch. 69-235; ss. 14, 35, ch. 69-106.~~

~~582.41 Board of directors of district.—~~
~~(1) Petitions to nominate candidates for directors of the watershed improvement district may be filed with the board of supervisors of the soil and water conservation district in~~

which the watershed improvement district is situated. No such nominating petition shall be accepted by the board unless it is signed by at least 10 owners of land lying within the watershed improvement district or by a majority of such owners if there be less than 10. Such owners may sign more than one nominating petition to nominate more than one candidate for director. No person shall be eligible to be a director unless she or he is an owner of land within the watershed improvement district in which she or he seeks election.

(2) Within 30 days after a watershed improvement district is established, the board of supervisors of the soil and water conservation district in which the watershed improvement district is situated, or the joint board if more than one district is affected, shall cause an election to be held for the election of a board of three directors of the watershed improvement district. Due notice of such election shall be given by the board to supervisors. At such election each owner of land lying within the watershed improvement district shall be entitled to cast one vote, in person or by proxy, for each acre or fractional part thereof of land within the watershed improvement district belonging to such owner, except that only one vote may be cast for each such acre or fractional part thereof regardless of whether the legal title thereto is held in single or multiple ownership. The three persons receiving the highest number of votes shall be declared elected as directors. The first board of directors shall determine by lot from among its membership one member to serve a term of 3 years, one member to serve a term of 2 years, and one member to serve a term of 1 year; thereafter, as these initial terms expire, the members of the board of directors shall be elected for terms of 3 years. Vacancies occurring before the expiration of a term shall be filled for the unexpired term by appointment by the remaining members of the board of directors with the approval of the board of supervisors. The board of directors shall, under the supervision of the board of supervisors, be the governing body of the watershed improvement district. The board of directors shall annually elect from its membership a chair and vice chair.

(3) A director shall receive compensation for her or his service at the rate of $10 per day for those days on which she or he renders services pursuant to this chapter. A director shall also be entitled to expenses in the same amount and extent as provided for public officers and employees of the state in s. 112.061.

History.—s. 6, ch. 69-235; s. 930, ch. 97-103.

582.42 Officers, agents, and employees; surety bonds; annual audit.—

The board of directors may, with the approval of the board of supervisors of the soil and water conservation district in which the watershed improvement district is situated, or the joint board if more than one district is affected, employ such officers, agents, and other employees as they may require, and shall determine their qualifications, duties, and compensation. The board of directors shall provide for the execution of surety bonds for such officers, agents, and employees as shall be entrusted with funds or property of the watershed improvement district, and for the making and publication of an annual audit of the accounts of the district.

History.—s. 6, ch. 69-235.

582.43 Status and general powers of districts; power to levy tax; power to construct, operate, improve and maintain works of improvement; power to obtain necessary lands or interests therein.—

A watershed improvement district organized under the provisions of this chapter shall constitute a governmental subdivision of this state, and a public body corporate and politic, exercising public powers. Such district shall exercise its powers and duties under the supervision of the board of supervisors of the soil and water conservation district in which it is situated, or the joint board if more than one district is affected. The watershed improvement district shall have all of the powers of such soil and water conservation district, and in addition thereto shall have authority to levy a tax, as hereinafter provided, to be used for the purposes of the watershed improvement district; to acquire by purchase, gift, grant, bequest, devise, or other legal means, including by eminent domain proceedings in accordance with chapter 73, such lands or interests therein as are necessary for the exercise of any authorized function of the district, including needed or necessary real property outside of the district needed in connection with the administration of this law; to borrow money and issue bonds as hereinafter provided; and to construct, improve, operate, and maintain such structures and works as may be necessary for the performance and carrying on of any function authorized by this law. History.—s. 6, ch. 69-235.

582.44 Levy of taxes; procedure, etc.—

The board of directors of a district is authorized to levy annually a uniform ad valorem tax on all taxable property in the district as determined for county taxing purposes, not to exceed the amount necessary to provide the funds necessary for the purpose of maintaining, operating, and administering such district and obtaining necessary rights-of-way for the works of the district; however, such tax shall not exceed the rate of 3 mills on the dollar of the assessed value of such property or such rate approved by the qualified electors of the district pursuant to s. 582.36. The district shall be deemed a district within the purview of former ss. 193.03 and 193.031, whether within the purview and intention of such sections or not, for the purposes of the assessment, collection, and distribution of the taxes herein provided for. Upon the equalization of the county tax rolls, the governing board of the district shall be furnished with the same information furnished by the property appraiser to the taxing authorities of the county and taxing districts for use in determining the millages to be imposed by them. Upon the determination by the board of the taxing district of the millages to be imposed by it, it shall forthwith notify the boards of county commissioners of the counties wherein the district lies, who shall include such millages in their directives to the property appraisers. Upon receipt of these millages, the property appraisers shall impose and assess such taxes in the usual manner, to be collected and distributed in the usual manner. For purposes of taxation, the district shall be treated as a taxing district. Such district tax assessments shall be liens against the properties assessed as is provided for in s. 197.122. The taxes of the district, when distributed in the usual manner, shall be paid into the depository of the district to the credit of the district to be expended in the usual manner for like district. Expenditures from such funds shall be made with the approval of the board of supervisors of the soil and water conservation district or districts in which

the watershed improvement district is situated on requisition by the chair or vice chair of the board of directors of the watershed improvement district.
History.—s. 6, ch. 69-235; s. 1, ch. 77-102; s. 201, ch. 77-104; s. 36, ch. 82-226; s. 216, ch. 85-342; s. 931, ch. 97-103.

582.45 Fiscal powers of governing body; bonds, etc.—
The board of directors of any watershed improvement district shall have power, subject to the conditions and limitations of this chapter, to incur indebtedness and issue bonds of the watershed improvement district; however, such bonds shall be issued in full conformity with s. 12, Art. VII, of the Revised State Constitution, and chapter 100 insofar as said chapter relates to bond elections under said s. 12, Art. VII of the Constitution.
History.—s. 6, ch. 69-235.

582.46 Additional powers and authority.—
The authority and powers herein granted watershed improvement districts shall be additional to those of the soil and water conservation district in which the watershed improvement district is situated. The soil and water conservation district shall be authorized, notwithstanding the creation of the watershed improvement district, to continue to exercise its authority within the boundaries of the watershed improvement district.
History.—s. 6, ch. 69-235.

582.47 Watershed improvement district to coordinate work with flood control districts.—
The board of directors of any watershed improvement district located within the Southwest Florida Water Management District created by chapter 61-691, Laws of Florida, or the Central and Southern Florida Flood Control District created by chapter 25270, Laws of Florida, 1949, shall consult and advise with the boards of such districts in order to coordinate the work of the districts involved.
History.—s. 6, ch. 69-235.

582.48 Discontinuance of watershed improvement district.—
(1) At any time after 5 years from the organization of a watershed improvement district, the owners of not less than 25 percent of the land area within such district may file a petition with the board of supervisors of the soil and water conservation district or districts in which the watershed improvement district is situated requesting that the existence of the watershed improvement district be discontinued. The petition shall state the reasons for discontinuance, and that all maintenance and operation assurances and other obligations of the district have been met. A copy of such petition shall be furnished to the Department of Agriculture and Consumer Services.
(2) After giving due notice of a hearing on such petition, the board of supervisors may conduct such hearing on the petition as may be necessary to assist it in making a determination.
(3) Within 60 days after the petition is filed, a referendum shall be held by the board of supervisors substantially as provided for in ss. 582.36 and 582.37. No informalities in the conduct of the referendum or in any matters relating to the referendum shall invalidate it or its results if due notice of the referendum has been given.

(4) If a majority of the votes cast in such referendum, representing a majority of the land area within the watershed improvement district, shall have been cast in favor of the discontinuance of the watershed improvement district, and the board of supervisors determines that all maintenance and operation assurances and other obligations of the district have been met, the watershed improvement district shall be discontinued. A copy of such determination and discontinuance shall be certified to the Department of Agriculture and Consumer Services and to the clerk of the circuit court of each county in which any portion of the watershed improvement district is situated for recordation in the public land records of such county.

History.—s. 6, ch. 69-235; ss. 14, 35, ch. 69-106.

582.49 Discontinuance of soil and water conservation district.—

If any soil and water conservation district in which a watershed improvement district is situated is discontinued, the Department of Agriculture and Consumer Services shall thereafter serve in the same supervising capacity over the watershed improvement district as was theretofore served by the board of supervisors of such soil and water conservation district.

History.—s. 6, ch. 69-235; ss. 14, 35, ch. 69-106.

Chapter 597
Aquaculture
Enforceable Policies

Any additions are underlined and any deletions are struck-through.

Remain as enforceable policies

597.0015	Definitions.
597.002	Legislative declaration of public policy respecting aquaculture.
597.003	Powers and duties of Department of Agriculture and Consumer Services.
597.004	Aquaculture certificate of registration.
597.0041	Prohibited acts; penalties.
597.010	Shellfish regulation; leases.
597.020	Shellfish processors; regulation.

Proposed as non-enforceable policies

597.001	Florida Aquaculture Policy Act; short title
597.0021	Legislative intent.
597.0045*	Cultured shellfish theft reward program.
597.005	Aquaculture Review Council.

*Section 597.0045, F.S., is not considered an enforceable policy for federal consistency purposes.

Chapter 597--Aquaculture - Enforceable Policies

*Statutes changed during 2016 Legislature

597.0015 Definitions.—

For purposes of this chapter, the following terms shall have the following meanings:

(1) “Aquaculture” means the cultivation of aquatic organisms.

(2) “Aquaculture producers” means those persons engaging in the production of aquaculture products and certified under s. 597.004.

(3) “Aquaculture products” means aquatic organisms and any product derived from aquatic organisms that are owned and propagated, grown, or produced under controlled conditions. Such products do not include organisms harvested from the wild for depuration, wet storage, or relay for purification.

(4) “Commissioner” means the Commissioner of Agriculture.

(5) “Department” means the Department of Agriculture and Consumer Services.

History.—s. 7, ch. 91-187; s. 23, ch. 96-247; s. 10, ch. 99-390.

597.002 Legislative declaration of public policy respecting aquaculture.—The Legislature declares that aquaculture is agriculture and, as such, the Department of Agriculture and Consumer Services shall be the primary agency responsible for regulating aquaculture, any other law to the contrary notwithstanding. The only exceptions are those areas required by federal law, rule, or cooperative agreement to be regulated by another agency. The Legislature declares that, in order to effectively support the growth of aquaculture in this state, there is a need for a state aquaculture plan that will provide for the coordination and prioritization of state aquaculture efforts and the conservation and enhancement of aquatic resources and will provide mechanisms for increasing aquaculture production which may lead to the creation of new industries, job opportunities, income for aquaculturists, and other benefits to the state. The state aquaculture plan shall guide the research and development of the aquaculture industry. Funds designated by the Legislature for aquaculture research and development or for contracting for aquaculture research and development shall be used to address the projects and activities designated in the state aquaculture plan. Any entity receiving legislative funding for aquaculture research and development programs shall report annually to the department all activities related to aquaculture to facilitate coordination and compliance with the state aquaculture plan.

History.—s. 2, ch. 84-90; s. 3, ch. 90-92; s. 8, ch. 91-187; s. 24, ch. 96-247; s. 24, ch. 98-333.

597.003 Powers and duties of Department of Agriculture and Consumer Services.—

(1) The department is hereby designated as the lead agency in encouraging the development of aquaculture in the state and shall have and exercise the following functions, powers, and duties with regard to aquaculture:

(a) Issue or deny aquaculture certificates that identify aquaculture producers and aquaculture products, and collect all related fees.

(b) Coordinate the development, annual revision, and implementation of a state aquaculture plan. The plan shall include prioritized recommendations for research and

development as suggested by the Aquaculture Review Council and public and private institutional research, extension, and service programs.
(c) Develop memoranda of agreement, as needed, with the Department of Environmental Protection, the Fish and Wildlife Conservation Commission, the Florida Sea Grant Program, and other groups as provided in the state aquaculture plan.
(d) Provide staff for the Aquaculture Review Council.
(e) Forward the annually revised state aquaculture plan to the commissioner and to the chairs of the House Committee on Agriculture and Consumer Services and the Senate Committee on Agriculture 1 month prior to submission of the department's legislative budget request to the Governor.
(f) Submit the list of research and development projects proposed to be funded through the department as identified in the state aquaculture plan, along with the department's legislative budget request to the Governor, the President of the Senate, and the Speaker of the House of Representatives. If funded, these projects shall be contracted for by the Division of Aquaculture and shall require public-private partnerships, when appropriate. The contracts shall require a percentage of the profit generated by the project to be deposited into the General Inspection Trust Fund solely for funding aquaculture projects recommended by the Aquaculture Review Council.
(g) Provide developmental assistance to the various sectors of the aquaculture industry as determined in the state aquaculture plan.
(h) Assist persons seeking to engage in aquaculture when applying for the necessary permits and serve as ombudsman to resolve complaints or otherwise resolve problems arising between aquaculture producers and regulatory agencies.
(i) Develop and propose to the Legislature legislation necessary to implement the state aquaculture plan or to otherwise encourage the development of aquaculture in the state.
(j) Issue or deny any license or permit authorized or delegated to the department by the Legislature or through memorandum of understanding with other state or federal agencies that furthers the intent of the Legislature to place the regulation of aquaculture in the department.
(k) Make available state lands and the water column for the purpose of producing aquaculture products when the aquaculture activity is compatible with state resource management goals, environmental protection, and proprietary interest and when such state lands and waters are determined to be suitable for aquaculture development by the Board of Trustees of the Internal Improvement Trust Fund pursuant to s. 253.68; provide training as necessary to lessees; and be responsible for all saltwater aquaculture activities located on sovereignty submerged land or in the water column above such land and adjacent facilities directly related to the aquaculture activity.
1. The department shall act in cooperation with other state and local agencies and programs to identify and designate sovereignty lands and waters that would be suitable for aquaculture development.
2. The department shall identify and evaluate specific tracts of sovereignty submerged lands and water columns in various areas of the state to determine where such lands and waters are suitable for leasing for aquaculture purposes. Nothing in this subparagraph or subparagraph 1. shall preclude the applicant from applying for sites identified by the applicant.

3. The department shall provide assistance in developing technologies applicable to aquaculture activities, evaluate practicable production alternatives, and provide agreements to develop innovative culture practices.
(l) Act as a clearinghouse for aquaculture applications, and act as a liaison between the Fish and Wildlife Conservation Commission, the Division of State Lands, the Department of Environmental Protection district offices, other divisions within the Department of Environmental Protection, and the water management districts. The Department of Agriculture and Consumer Services shall be responsible for regulating marine aquaculture producers, except as specifically provided herein.
(2) The department may employ such persons as are necessary to perform its duties under this chapter.
History.—s. 3, ch. 84-90; s. 1, ch. 86-111; s. 5, ch. 87-367; s. 2, ch. 88-377; s. 10, ch. 91-187; s. 3, ch. 93-152; s. 467, ch. 94-356; s. 26, ch. 96-247; s. 25, ch. 98-333; s. 225, ch. 99-245; s. 25, ch. 2000-364; s. 38, ch. 2001-63; s. 47, ch. 2012-190; s. 153, ch. 2014-150.

597.004 Aquaculture certificate of registration.—
(1) CERTIFICATION.—Any person engaging in aquaculture must be certified by the department. The applicant for a certificate of registration shall submit the following to the department:
(a) Applicant’s name/title.
(b) Company name.
(c) Complete mailing address.
(d) Legal property description of all aquaculture facilities.
(e) Actual physical street address for each aquaculture facility.
(f) Description of production facilities.
(g) Aquaculture products to be produced.
(h) An annual registration fee of $100. The annual registration fee is waived for each elementary, middle, or high school and each vocational school that participates in the aquaculture certification program.
(i) Documentation that the rules adopted herein have been complied with in accordance with paragraph (2)(a).
(j) A certificate of training, if required under the best management practices adopted pursuant to this section.
(2) RULES.—
(a) The department, in consultation with the Department of Environmental Protection, the water management districts, environmental groups, and representatives from the affected farming groups, shall adopt rules to:
1. Specify the requirement of best management practices to be implemented by holders of aquaculture certificates of registration.
2. Establish procedures for holders of aquaculture certificates of registration to submit the notice of intent to comply with best management practices.
3. Establish schedules for implementation of best management practices, and of interim measures that can be taken prior to adoption of best management practices. Interim measures may include the continuation of regulatory requirements in effect on June 30, 1998.
4. Establish a system to assure the implementation of best management practices, including recordkeeping requirements.

(b) Rules adopted pursuant to this subsection shall become effective pursuant to the applicable provisions of chapter 120, but must be submitted to the President of the Senate and the Speaker of the House of Representatives for review by the Legislature. The rules shall be referred to the appropriate committees of substance and scheduled for review during the first available regular session following adoption. Except as otherwise provided by operation of law, such rules shall remain in effect until rejected or modified by act of the Legislature.
(c) Notwithstanding any provision of law, the Department of Environmental Protection is not authorized to institute proceedings against any person certified under this section to recover any costs or damages associated with contamination of groundwater or surface water, or the evaluation, assessment, or remediation of contamination of groundwater or surface water, including sampling, analysis, and restoration of potable water supplies, where the contamination of groundwater or surface water is determined to be the result of aquaculture practices, provided the holder of an aquaculture certificate of registration:
1. Provides the department with a notice of intent to implement applicable best management practices adopted by the department;
2. Implements applicable best management practices as soon as practicable according to rules adopted by the department; and
3. Implements practicable interim measures identified and adopted by the department which can be implemented immediately, or according to rules adopted by the department.
(d) There is a presumption of compliance with state groundwater and surface water standards if the holder of an aquaculture certificate of registration implements best management practices that have been verified by the Department of Environmental Protection to be effective at representative sites and complies with the following:
1. Provides the department with a notice of intent to implement applicable best management practices adopted by the department;
2. Implements applicable best management practices as soon as practicable according to rules adopted by the department; and
3. Implements practicable interim measures identified and adopted by the department which can be implemented immediately, or according to rules adopted by the department.
(e) This section does not limit federally delegated regulatory authority.
(f) Any aquatic plant producer permitted by the department pursuant to s. 369.25 shall also be subject to the requirements of this section.
(g) Any alligator producer with an alligator farming license and permit to establish and operate an alligator farm shall be issued an aquaculture certificate of registration pursuant to this section. This chapter does not supersede the authority under chapter 379 to regulate alligator farms and alligator farmers.
(3) FEES.—Effective July 1, 1997, all fees collected pursuant to this section shall be deposited into the General Inspection Trust Fund in the Department of Agriculture and Consumer Services.
(4) IDENTIFICATION OF AQUACULTURE PRODUCTS.—Aquaculture products shall be identified while possessed, processed, transported, or sold as provided in this subsection.

(a) Aquaculture products shall be identified by an aquaculture certificate of registration number from harvest to point of sale. Any person who possesses aquaculture products must show, by appropriate receipt, bill of sale, bill of lading, or other such manifest where the product originated.
(b) Marine aquaculture products shall be transported in containers that separate such product from wild stocks, and shall be identified by tags or labels that are securely attached and clearly displayed.
(c) Each aquaculture registrant who sells food products labeled as “aquaculture or farm raised” must have such products containerized and clearly labeled in accordance with s. 500.11. Label information must include the name, address, and aquaculture certification number. This requirement is designed to segregate the identity of wild and aquaculture products.
(5) SALE OF AQUACULTURE PRODUCTS.—
(a) Aquaculture products, except shellfish, snook, and any fish of the genus Micropterus, and prohibited and restricted freshwater and marine species identified by rules of the Fish and Wildlife Conservation Commission, may be sold by an aquaculture producer certified pursuant to this section without restriction so long as product origin can be identified.
(b) Aquaculture shellfish must be sold and handled in accordance with s. 597.020.
(6) REGISTRATION AND RENEWALS.—
(a) Each aquaculture producer must apply for an aquaculture certificate of registration with the department and submit the appropriate fee. Upon department approval, the department shall issue the applicant an aquaculture certificate of registration for a period not to exceed 1 year. Beginning July 1, 1997, and each year thereafter, each aquaculture certificate of registration must be renewed with fee, pursuant to this chapter, on July 1.
(b) The department shall send notices of registration to all aquaculture producers of record requiring them to register for an aquaculture certificate. Renewal notices shall be sent to the registrant 60 days preceding the termination date of the certificate of registration. Prior to the termination date, the registrant must return a completed renewal form with fee, pursuant to this chapter, to the department.
(c) Any person whose certificate of registration has been revoked or suspended must reapply to the department for certification.
History.—s. 27, ch. 96-247; s. 54, ch. 97-98; s. 26, ch. 98-333; s. 11, ch. 99-390; s. 78, ch. 2000-158; s. 27, ch. 2000-364; s. 9, ch. 2008-107; s. 76, ch. 2009-21; s. 48, ch. 2012-190; s. 154, ch. 2014-150.

597.0041 Prohibited acts; penalties.—
(1) It is unlawful for an aquaculture registrant to:
(a) Commingle in the same container any shellfish aquaculture product with any wild product;
(b) Transport by vessel over water both wild and aquaculture products of the same species at the same time; or
(c) Violate any provision of this chapter or chapter 500.
(2)(a) A person who violates this chapter or any rule adopted under this chapter is subject to a suspension or revocation of his or her certificate of registration or license under this chapter. The department may, in lieu of or in addition to the suspension or

revocation, impose on the violator an administrative fine in the Class I category pursuant to s. 570.971 for each violation, for each day the violation exists.
(b) Except as provided in subsection (4), a person who violates this chapter or any rule adopted under this chapter commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
(3) Any person certified under this chapter who has been convicted of taking aquaculture species raised at a certified facility shall have his or her certificate revoked for 5 years by the Department of Agriculture and Consumer Services pursuant to the provisions and procedures of s. 120.60.
(4) Any person who violates any provision of s. 597.010 or s. 597.020, or any rule adopted under those sections, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083 for the first offense; and for the second or any subsequent offense within a 12-month period, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
History.—s. 28, ch. 96-247; s. 12, ch. 99-390; s. 28, ch. 2000-364; s. 39, ch. 2001-63; s. 155, ch. 2014-150.

***597.010 Shellfish regulation; leases.—**
(1) LEASE, APPLICATION FORM.—When any qualified person desires to lease a part of the bottom, water column, or bed of any of the water of this state for the purpose of growing oysters or clams, as provided for in this section, he or she shall present to the department a written application pursuant to s. 253.69.
(2) LANDS TO BE LEASED.—The lands leased shall be as compact as possible, taking into consideration the shape of the body of water and the condition of the bottom as to hardness, or soft mud or sand, or other conditions that would render the bottoms desirable or undesirable for the purpose of oyster or clam cultivation.
(3) SURVEYS, PLATS, AND MAPS OF REEFS.—The department shall accept, adopt, and use official reports, surveys, and maps of oyster, clam, or other shellfish grounds made under the direction of any authority of the United States as prima facie evidence of the natural oyster and clam reefs and beds, for the purpose and intent of this chapter. The department may also make surveys of any natural oyster or clam reefs or beds when it deems such surveys necessary and where such surveys are made pursuant to an application for a lease, the cost thereof may be charged to the applicant as a part of the cost of his or her application.
(4) EXECUTION OF LEASES; LESSEE TO STAKE OFF BOUNDARIES; PENALTY FOR FAILURE TO COMPLY WITH REGULATIONS.—When a survey of the lands to be leased has been completed pursuant to s. 253.69 and filed with the department, and the cost thereof paid by the applicant, the department may execute in duplicate a lease of the water bottoms to the applicant. One duplicate, with a plat or map of the water bottoms so leased, shall be delivered to the applicant, and the other, with a plat or map of the bottom so leased, shall be retained by the department and registered in a lease book which shall be kept exclusively for that purpose by the department; thereafter the lessees shall enjoy the exclusive use of the lands and all oysters and clams, shell, and cultch grown or placed thereon shall be the exclusive property of such lessee as long as he or she shall comply with the provisions of this chapter and chapter 253. The department shall require the lessee to stake off and mark the water bottoms leased, by such ranges, monuments, stakes, buoys, etc., so placed and made as not to interfere

with the navigation, as it may deem necessary to locate the same to the end that the location and limits of the lands embraced in such lease be easily and accurately found and fixed, and such lessee shall keep the same in good condition during the open and closed oyster or clam season. All leases shall be marked according to the standards set forth in s. 253.72. The department may stipulate in each individual lease contract the types, shape, depth, size, and height of marker or corner posts. Failure on the part of the lessee to comply with the orders of the department to this effect within the time fixed by it, and to keep the markers, etc., in good condition during the open and closed oyster or clam season, shall subject such lessee to a fine not exceeding $100 for each and every such offense.

(5) LEASES IN PERPETUITY; RENT.—

(a) All leases issued previously under the provisions of s. 379.2525 shall be enforced under the authority of this chapter, notwithstanding any other law to the contrary, and shall continue in perpetuity under such restrictions as stated in the lease agreement. The annual rental fee charged for all leases shall consist of the minimum rate of $15 per acre, or any fraction of an acre, per year and shall be adjusted on January 1, 1995, and every 5 years thereafter, based on the 5-year average change in the Consumer Price Index. Rent shall be paid in advance of January 1 of each year or in the case of a new lease at the time of signing, regardless of who holds the lease.

(b) All fees collected under this subsection and subsection (6) shall be deposited in the General Inspection Trust Fund and shall be used for shellfish aquaculture activities.

(6) FORFEITURE FOR NONPAYMENT.—All leases shall stipulate that failure to timely pay the rent on or before January 1 of each year shall cause the department, at its discretion, to terminate and cancel the lease after the department has given the lessee 30 days' written notice of the nonpayment. If after receiving the notice the lessee chooses to keep the lease, the lessee shall pay the rental fee plus a $50 late fee within the 30-day period. After the 30-day notice has expired, the department may take possession of the lease and all improvements, assets, clams, and oysters thereon.

(7) SURCHARGE FOR IMPROVEMENT OR REHABILITATION.—A surcharge of $10 per acre, or any fraction of an acre, per annum shall be levied upon each lease, other than a perpetual lease granted pursuant to former chapter 370 prior to 1985, and deposited into the General Inspection Trust Fund. The purpose of the surcharge is to provide a mechanism to have financial resources immediately available for improvement of lease areas and for cleanup and rehabilitation of abandoned or vacated lease sites. The department is authorized to adopt rules necessary to carry out the provisions of this subsection.

(a) Moneys in the fund that are not needed currently for cleanup and rehabilitation of abandoned or vacated lease sites shall be deposited with the Chief Financial Officer to the credit of the fund and may be invested in such manner as is provided for by statute. Interest received on such investment shall be credited to the fund.

(b) Funds within the General Inspection Trust Fund from receipts from the surcharge established in this section shall be disbursed for the following purposes and no others:

1. Administrative expenses, personnel expenses, and equipment costs of the department related to the improvement of lease areas, the cleanup and rehabilitation of abandoned or vacated aquaculture lease sites, and the enforcement of provisions of this section.

2. All costs involved in the improvement of lease areas and the cleanup and rehabilitation of abandoned or vacated lease sites.
3. All costs and damages which are the proximate results of lease abandonment or vacation.
4. Reward payments made pursuant to s. 597.0045.
The department shall recover to the use of the fund from the person or persons abandoning or vacating the lease, jointly and severally, all sums owed or expended from the fund.
(8) CULTIVATION REQUIREMENTS.—
(a) Effective cultivation shall consist of the growing of the oysters or clams in a density suitable for commercial harvesting over the amount of bottom prescribed by law. This commercial density shall be accomplished by the planting of seed oysters, shell, and cultch of various descriptions. The department may stipulate in each individual lease contract the types, shape, depth, size, and height of cultch materials on lease bottoms according to the individual shape, depth, location, and type of bottom of the proposed lease. Each lessee leasing lands under the provisions of this section or s. 253.71 shall begin, within 1 year after the date of such lease, bona fide cultivation of the same, and shall, by the end of the second year after the commencement of such lease, have placed under cultivation at least one-half of the leased area and shall each year thereafter place in cultivation at least one-fourth of the leased area until the whole, suitable for bedding of oysters or clams, shall have been put in cultivation. The cultivation requirements for perpetuity leases granted pursuant to former chapter 370 prior to 1985 under previously existing law shall comply with the conditions stated in the lease agreement, and the lessee or grantee is authorized to plant the leased or granted submerged land in both oysters and clams.
(b) These stipulations apply to all leases granted after the effective date of this section. All leases existing prior to the effective date of this section will operate under the law that was in effect when the leases were granted.
(c) When evidence is gathered by the department and such evidence conclusively shows a lack of effective cultivation, the department may revoke leases and return the bottoms in question to the public domain.
(d) The department has the authority to adopt rules pertaining to the water column over shellfish leases. All cultch materials in place 6 months after the formal adoption and publication of rules establishing standards for cultch materials on shellfish leases that do not comply with such rules may be declared a nuisance by the department. The department has the authority to direct the lessee to remove such cultch in violation of this section. The department may cancel a lease upon the refusal by the lessee violating such rules to remove unlawful cultch materials, and all improvements, cultch, marketable oysters, and shell shall become the property of the state. The department has the authority to retain, dispose of, or remove such materials in the best interest of the state.
(9) LEASES TRANSFERABLE, ETC.—The leases in chapter 253 and former chapter 370 shall be inheritable and transferable, in whole or in part, and shall also be subject to mortgage, pledge, or hypothecation and shall be subject to seizure and sale for debts as any other property, rights, and credits in this state, and this provision shall also apply to all buildings, betterments, and improvements thereon. Leases granted under this

section cannot be transferred, by sale or barter, in whole or in part, without the written, express approval of the department, and such a transferee shall pay a $50 transfer fee before department approval may be given. Leases inherited or transferred will be valid only upon receipt of the transfer fee and approval by the department. The department shall keep proper indexes so that all original leases and all subsequent changes and transfers can be easily and accurately ascertained.
(10) CANCELLATION OF LEASES TO NATURAL REEFS OR BEDS.—Any person, within 6 months after the execution of any lease, may file a petition with the department for the purpose of determining whether a natural oyster or clam reef or bed having an area of not less than 100 square yards existed within the leased area on the date of the lease, with sufficient natural or maternal oysters or clams thereon (not including coon oysters) to have constituted a stratum sufficient to have been resorted to by the public generally for the purpose of gathering the same to sell for a livelihood. The petition shall be in writing addressed to the department, verified under oath, stating the location and approximate area of the natural reef or bed and the claim or interest of the petitioner therein and requesting the cancellation of the lease to the natural reef or bed. A petition may not be considered unless it is accompanied by a deposit of $500 to defray the expense of the department's investigation of the matter. Upon receipt of such petition, the department shall cause an investigation to be made into the truth of the allegations of the petition, and, if found untrue, the $500 deposit shall be retained by the department to defray the expense of the investigation, but should the allegations of the petition be found true and the leased premises to contain a natural oyster or clam reef or bed, as described in this subsection, the $500 deposit shall be returned to the petitioner and the costs and expenses of the investigation taxed against the lessee and the lease canceled to the extent of the natural reef or bed and the same shall be marked with buoys and stakes and notices placed thereon showing the same to be a public reef or bed, the cost of the markers and notices to be taxed against the lessee.
(11) WHEN NATURAL REEFS OR BEDS MAY BE INCLUDED IN LEASE.—
(a) When an application for a submerged land lease for cultivating shellfish is filed, and when a resource survey of such lands identifies natural oyster or clam reefs or beds, the department shall determine if such reefs and beds are to be included in the leased area. The department, if it deems it to be in the best interest of the state, may include such natural reefs or beds in a lease. In those cases where a natural area is included in a lease, the department shall fix a reasonable value on the same, to be paid by the applicant for lease of such submerged land. No natural reefs shall be included in any shellfish or aquaculture lease granted in Franklin County.
(b) The department shall determine and settle all disputes as to boundaries between lessees. The department shall, in all cases, determine whether a particular submerged land area contains a natural reef or bed or whether it is suitable for raising oysters or clams.
(12) FRANKLIN COUNTY LEASES.—On and after the effective date of this section, the only leases available in Franklin County shall be those issued pursuant to ss. 253.67-253.75; former chapter 370 leases shall no longer be available. The department shall require in the lease agreement such restrictions as it deems necessary to protect the environment, the existing leaseholders, and public fishery.
(13) TRESPASS ON LEASED BEDS; PROTECTION OF LEASE AREAS.—

(a) Any person who willfully takes oysters, shells, cultch, or clams bedded or planted by a licensee under this chapter, or grantee under the provisions of heretofore existing laws, or riparian owner who may have heretofore planted the same on his or her riparian bottoms, or any oysters or clams deposited by anyone making up a cargo for market, or who willfully carries or attempts to carry away the same without permission of the owner thereof, or who willfully or knowingly removes, breaks off, destroys, or otherwise injures or alters any stakes, bounds, monuments, buoys, notices, or other designations of any natural oyster or clam reefs or beds or private bedding or propagating grounds, or who willfully injures, destroys, or removes any other protection around any oyster or clam reefs or beds, or who willfully moves any bedding ground stakes, buoys, marks, or designations placed by the department, commits a violation of this section.
(b) Harvesting shellfish is prohibited within a distance of 25 feet outside lawfully marked lease boundaries or within setback and access corridors within specifically designated high-density aquaculture lease areas and aquaculture use zones.
(14) SHELLFISH DEVELOPMENT.—The department, in cooperation with the Fish and Wildlife Conservation Commission and the Department of Environmental Protection, shall protect all clam beds, oyster beds, shellfish grounds, and oyster reefs from damage or destruction resulting from improper cultivation, propagation, planting, or harvesting. To this end, the Department of Health is authorized and directed to cooperate with the department and to make available its laboratory testing facilities and apparatus.
~~(a) The department shall improve, enlarge, and protect the natural oyster and clam reefs and beds of this state to the extent it may deem advisable and the means at its disposal will permit.~~
~~(b) The Fish and Wildlife Conservation Commission shall, to the same extent, assist in protecting shellfish aquaculture products produced on leased or granted reefs and beds.~~
~~(c) The department, in cooperation with the commission, shall provide the Legislature with recommendations as needed for the development and the proper protection of the rights of the state and private holders therein with respect to the oyster and clam business.~~
(15) SPECIAL ACTIVITY LICENSES.—The department is authorized to issue special activity licenses, in accordance with s. 597.020, to permit the harvest or cultivation of oysters, clams, mussels, and crabs.
(16) STAKING OFF WATER BOTTOMS OR BEDDING OYSTERS WITHOUT OBTAINING LEASE.—Any person staking off the water bottoms of this state, or bedding oysters on the bottoms of the waters of this state, without previously leasing same as required by law commits a violation of this section, and shall acquire no rights by reason of such staking off. This provision does not apply to grants heretofore made under the provisions of any heretofore existing laws or to artificial beds made heretofore by a riparian owner or his or her grantees on the owner's riparian bottoms.
(17) SHELLFISH HARVESTING FROM SOVEREIGN SUBMERGED LAND LEASES; USE OF DREDGE OR MECHANICAL HARVESTING DEVICE ~~SEASONS; SPECIAL PROVISIONS RELATING TO APACHICOLA BAY~~.—
(a) As used in this subsection, the term:

1. “Dredge or mechanical harvesting device” means a dredge, scrape, rake, drag, or other device that is towed by a vessel or self-propelled and that is used to harvest shellfish. The term does not include handheld or handdrawn hydraulically or mechanically operated devices used to harvest cultured clams from leased sovereign submerged lands, and this subsection does not apply to such handheld or handdrawn devices.
2. “Shellfish” means oysters, clams, mussels, and scallops.
(b) The harvesting of shellfish from a sovereign submerged land lease may be authorized pursuant to chapter 253.
(c) The Board of Trustees of the Internal Improvement Trust Fund may authorize the use of a dredge or a mechanical harvesting device as a special lease condition of a sovereign submerged land lease issued under chapter 253 if:
1. The use of the dredge or mechanical harvesting device does not adversely impact the public health, safety, or welfare of adjacent natural resources; and
2. Aquaculture best management practices have been adopted pursuant to chapter 120 which:
a. Describe the approved size and specifications of the dredge or mechanical harvesting device to be used.
b. Provide conditions for deploying and using an approved dredge or mechanical harvesting device.
c. Specify requirements for monitoring potential impacts at, and adjacent to, the sovereign submerged land lease site by the leaseholder.
(d) The use of a dredge or mechanical harvesting device for the harvesting of shellfish from a sovereign submerged land lease is authorized if such use was previously authorized as an existing condition of a perpetual shellfish lease issued pursuant to former chapter 370.
(e) Only one dredge or mechanical harvesting device per lease may be possessed or operated at any time at a lease site.
(f) A dredge or mechanical harvesting device authorized by this subsection may not be used for taking shellfish for any purpose from public shellfish beds in waters of the state, and such dredge or mechanical harvesting device may not be possessed on the waters of the state from 5 p.m. until sunrise.
(g) This subsection does not authorize the harvesting of shellfish from natural reefs. A violation of this subsection is a violation of the lease agreement and will result in the revocation of all leases held by the violator and denial of any future use of sovereign submerged land.
~~(a) The Fish and Wildlife Conservation Commission shall by rule set the noncultured shellfish harvesting seasons in Apalachicola Bay.~~
~~(b) If the commission changes the harvesting seasons by rule as set forth in this subsection, for 3 years after the new rule takes effect, the commission, in cooperation with the department, shall monitor the impacts of the new harvesting schedule on the bay and on local shellfish harvesters to determine whether the new harvesting schedule should be discontinued, retained, or modified. In monitoring the new schedule and in preparing its report, the following information shall be considered:~~
~~1. Whether the bay benefits ecologically from the new harvesting schedule.~~

~~2. Whether the new harvesting schedule enhances the enforcement of shellfish harvesting laws in the bay.~~
~~3. Whether the new harvesting schedule enhances natural shellfish production, oyster relay and planting programs, and shell planting programs in the bay.~~
~~4. Whether the new harvesting schedule has more than a short-term adverse economic impact, if any, on local shellfish harvesters.~~
~~(18) REMOVING OYSTERS, CLAMS, OR MUSSELS FROM NATURAL REEFS; LICENSES, ETC.; PENALTY.—~~
~~(a) It is unlawful to use a dredge or any means or implement other than hand tongs in removing oysters from the natural or artificial state reefs or beds. This restriction shall apply to all areas of Apalachicola Bay for all shellfish harvesting, excluding private grounds leased or granted by the state prior to July 1, 1989, if the lease or grant specifically authorizes the use of implements other than hand tongs for harvesting. Except in Apalachicola Bay, upon the payment of $25 annually, for each vessel or boat using a dredge or machinery in the gathering of clams or mussels, a special activity license may be issued by the Fish and Wildlife Conservation Commission pursuant to subsection (15) or s. 379.361 for such use to such person.~~
~~(b) Approval by the department to harvest shellfish by dredge or other mechanical means from privately held shellfish leases or grants in Apalachicola Bay shall include, but not be limited to, the following conditions:~~
~~1. The use of any mechanical harvesting device other than ordinary hand tongs for taking shellfish for any purpose from public shellfish beds in Apalachicola Bay shall be unlawful.~~
~~2. The possession of any mechanical harvesting device on the waters of Apalachicola Bay from 5 p.m. until sunrise shall be unlawful.~~
~~3. Leaseholders or grantees shall notify the department no less than 48 hours prior to each day's use of a dredge or scrape in order for the department to notify the Fish and Wildlife Conservation Commission that a mechanical harvesting device will be deployed.~~
~~4. Only two dredges or scrapes per lease or grant may be possessed or operated at any time.~~
~~5. Each vessel used for the transport or deployment of a dredge or scrape shall prominently display the lease or grant number or numbers, in numerals which are at least 12 inches high and 6 inches wide, in such a manner that the lease or grant number or numbers are readily identifiable from both the air and the water.~~
~~Any violation of this paragraph or of any other statutes, rules, or conditions referenced in the lease agreement shall be considered a violation of the license and shall result in revocation of the lease or a denial of use or future use of a mechanical harvesting device.~~
~~(c) Oysters may be harvested from natural or public or private leased or granted grounds by common hand tongs or by hand, by scuba diving, free diving, leaning from vessels, or wading. In Apalachicola Bay, this provision shall apply to all shellfish.~~
(18)~~(19)~~ FISHING FOR RELAYING OR TRANSPLANTING PURPOSES.—
(a) The department may ~~shall~~ designate areas for the taking of oysters and clams to be planted on ~~leases, grants, and~~ public areas. Oysters, clams, and mussels may be taken for relaying or transplanting at any time during the year so long as, in the opinion of the

department, the public health will not be endangered. The amount of oysters, clams, and mussels to be obtained for relaying or transplanting shall be established by the Fish and Wildlife Conservation Commission.~~,~~ The area relayed or transplanted to, and relaying or transplanting time periods shall be established in each case by the department.
(b) Application for a special activity license issued pursuant to subsection (15) for obtaining oysters, clams, or mussels for relaying from closed public shellfish harvesting areas to open areas or certified controlled purification plants or for transplanting sublegal-sized oysters, clams, or mussels must be made to the department. In return, the department may assign an area and a period of time for the oysters, clams, or mussels to be relayed or transplanted to be taken. All relaying and transplanting operations shall take place under the direction of the department.
(c) Relayed oysters, clams, or mussels shall not be subsequently harvested for any reason without written permission or public notice from the department.
(19)~~(20)~~ OYSTER AND CLAM REHABILITATION.—The board of county commissioners ~~of the several counties~~ may appropriate and expend such sums as it may deem proper for the purpose of planting or transplanting oysters, clams, oyster shell, clam shell, or cultch or to perform such other acts for the enhancement of the oyster and clam industries of the state, out of any sum in the county treasury not otherwise appropriated.
~~(21) DREDGING OF DEAD SHELLS PROHIBITED.—The dredging of dead shell deposits is prohibited in the state.~~
(20)~~(22)~~ COOPERATION WITH UNITED STATES FISH AND WILDLIFE SERVICE.—The department shall cooperate with the United States Fish and Wildlife Service, under existing federal laws, rules, and regulations, and is authorized to accept donations, grants, and matching funds from the Federal Government in order to carry out its oyster resource and development responsibilities. The department is further authorized to accept any and all donations including funds, oysters, or oyster shells.
(21)~~(23)~~ OYSTER AND CLAM SHELLS PROPERTY OF DEPARTMENT.—
(a) Except for oysters used directly in the half-shell trade, 50 percent of all shells from oysters and clams shucked commercially in the state shall be and remain the property of the department when such shells are needed and required for rehabilitation projects and planting operations, in cooperation with the Fish and Wildlife Conservation Commission, when sufficient resources and facilities exist for handling and planting such shells ~~shell~~, and when the collection and handling of such shells ~~shell~~ is practicable and useful, except that bona fide holders of leases and grants may retain 75 percent of such shells ~~shell~~ as they produce for aquacultural purposes. Storage, transportation, and planting of shells so retained by lessees and grantees shall be carried out under the conditions of the lease agreement or with the written approval of the department and shall be subject to such reasonable time limits as the department may fix. In the event of an accumulation of an excess of shells, the department is authorized to sell shells only to private growers for use in oyster or clam cultivation on bona fide leases and grants. No profit shall accrue to the department in these transactions, and shells are to be sold for the estimated moneys spent by the department to gather and stockpile the shells. Planting of shells obtained from the department by purchase shall be subject to the conditions set forth in the lease

agreement or in the written approval as issued by the department. Any shells not claimed and used by private oyster cultivators 10 years after shells are gathered and stockpiled may be sold at auction to the highest bidder for any private use.
(b) If ~~Whatever~~ the department determines that it is unfeasible to collect oyster or clam shells, the shells become the property of the producer.
(c) If ~~Whatever~~ oyster or clam shells are owned by the department and it is not useful or feasible to use them in the rehabilitation projects, and if a ~~when no~~ leaseholder has not exercised his or her option to acquire them, the department may sell such shells for the highest price obtainable. Such ~~The~~ shells ~~thus sold~~ may be used in any manner and for any purpose at the discretion of the purchaser.
(d) Moneys derived from the sale of shell shall be deposited in the General Inspection Trust Fund for shellfish programs.
(e) The department may publish notice, in a newspaper serving the county, of its intention to collect the oyster and clam shells and shall notify, by certified mail, each shucking establishment from which shells are to be collected. The notice shall contain the period of time the department intends to collect the shells in that county and the collection purpose.
~~(24) OYSTER CULTURE.—The department, in cooperation with the Fish and Wildlife Conservation Commission and the Department of Environmental Protection, shall protect all clam beds, oyster beds, shellfish grounds, and oyster reefs from damage or destruction resulting from improper cultivation, propagation, planting, or harvesting and control the pollution of the waters over or surrounding beds, grounds, or reefs, and to this end the Department of Health is authorized and directed to lend its cooperation to the department, to make available its laboratory testing facilities and apparatus.~~
(22)~~(25)~~ REQUIREMENTS FOR OYSTER OR CLAM VESSELS.—
(a) All vessels used for the harvesting, gathering, or transporting of oysters or clams for commercial purposes shall be constructed and maintained to prevent contamination or deterioration of shellfish. To this end, all such vessels shall have ~~be provided with~~ false bottoms and bulkheads fore and aft to prevent onboard shellfish from coming in contact with any bilge water. ~~No~~ Dogs or other animals are not ~~shall be~~ allowed at any time on vessels used to harvest or transport shellfish. A violation of ~~any provision of~~ this subsection will, at a minimum, ~~shall~~ result in ~~at least~~ the revocation of the violator's license.
(b) For the purpose of this subsection, "harvesting, gathering, or transporting of oysters or clams for commercial purposes" means to harvest, gather, or transport oysters or clams with the intent to sell and shall apply to a quantity of two or more bags of oysters per vessel or more than one 5-gallon bucket of unshucked hard clams per person or more than two 5-gallon buckets of unshucked hard clams per vessel.
History.—s. 31, ch. 2000-364; s. 741, ch. 2003-261; s. 203, ch. 2008-247; s. 77, ch. 2009-21; s. 1, ch. 2016-200.

597.020 Shellfish processors; regulation.—
(1) The department may:
(a) Adopt by rule regulations, specifications, training requirements, and codes relating to sanitary practices for catching, cultivating, handling, processing, packaging, preserving, canning, smoking, and storing oysters, clams, mussels, scallops, and crabs.

(b) License shellfish processors who handle oysters, clams, mussels, scallops, and crabs when such activities relate to quality control, sanitary, and public health practices pursuant to this section and chapter 500.
(c) License or certify, for a fee determined by rule, facilities used for processing oysters, clams, mussels, scallops, and crabs, and may levy an administrative fine in the Class I category pursuant to s. 570.971 for each violation, for each day the violation exists, or suspend or revoke such licenses or certificates upon satisfactory evidence of a violation of rules adopted pursuant to this section, and seize and destroy any adulterated or misbranded shellfish products as defined by rule.
(2) A shellfish processing plant certification license is required to operate any facility in which oysters, clams, mussels, scallops, or crabs are processed, including but not limited to: an oyster, clam, mussel, or scallop cannery; a shell stock dealership; an oyster, clam, mussel, or scallop shucking plant; an oyster, clam, mussel, or scallop repacking plant; an oyster, clam, mussel, or scallop controlled purification plant; or a crab or soft-shell crab processing or shedding plant.
(3) The department may suspend or revoke any shellfish processing plant certification license upon satisfactory evidence that the licensee has violated any regulation, specification, or code adopted under this section and may seize and destroy any shellfish product which is defined by rule to be an adulterated or misbranded shellfish product.
(4) Any license or certification authorized and issued under this chapter shall automatically expire on June 30 of each year.
History.—s. 1, ch. 65-110; ss. 25, 35, ch. 69-106; s. 6, ch. 83-134; s. 2, ch. 84-121; ss. 4, 5, ch. 86-219; ss. 5, 19, ch. 86-240; s. 218, ch. 94-356; s. 13, ch. 96-247; s. 44, ch. 99-245; s. 32, ch. 2000-364; s. 42, ch. 2002-295; s. 156, ch. 2014-150; s. 72, ch. 2015-2.
Note.—Former s. 370.071.