CHAPTER 2008-150

Committee Substitute for
Committee Substitute for Senate Bill No. 1294

An act relating to environmental protection; reenacting and amending s. 20.255, F.S., relating to the establishment of the department; renaming the Office of Legislative and Government Affairs as the "Office of Legislative Affairs"; creating the Office of Intergovernmental Programs within the department; renaming the Division of Resource Assessment and Management as the "Division of Environmental Assessment and Restoration"; authorizing the Environmental Regulation Commission to employ independent counsel and contract for outside technical consultants; amending s. 211.3103, F.S., relating to the tax on the severance of phosphate rock; deleting obsolete provisions; providing for a surcharge to be levied per ton severed until a specified amount of revenue is generated; providing for an adjustment in the surcharge under certain conditions; providing for the distribution of all taxes, interest, and penalties collected from the severance of phosphate rock; providing for the use of such revenues by certain counties; defining the term "phosphate-related expenses" for purposes of the act; amending s. 253.002, F.S.; authorizing the Board of Trustees of the Internal Improvement Trust Fund to delegate certain duties regarding submerged lands to the Fish and Wildlife Conservation Commission; amending s. 373.414, F.S.; exempting certain lands added to a conceptual reclamation plan from rules governing activities in surface waters and wetlands; amending s. 378.205, F.S.; providing that administrative challenges to state agency action regarding phosphate mines and reclamation are subject to summary hearings; amending s. 369.20, F.S.; providing for the Fish and Wildlife Conservation Commission rather than the Department of Environmental Protection to direct the control, eradication, and regulation of noxious aquatic weeds; requiring the commission to adopt rules; authorizing the commission to collect aquatic plants, quarantine or confiscate noxious aquatic plant material, and conduct a public information program; amending s. 369.22, F.S.; revising a short title; revising definitions; providing duties of the Fish and Wildlife Conservation Commission with respect to supervising and directing all management programs for aquatic plants; authorizing the commission to delegate its authority and disburse funds; requiring the commission to post a report on its website; providing for the commission to adopt rules for issuing permits for the control, eradication, and removal of aquatic plants; amending ss. 369.25 and 369.251, F.S.; providing for the Department of Agriculture and Consumer Services rather than the Department of Environmental Protection to regulate the importation, transport, cultivation, and possession of certain aquatic plants and invasive nonnative plants; authorizing the Department of Agriculture and Consumer Services to adopt rules; providing duties of the department; amending s. 369.252, F.S.; requiring the Fish and Wildlife Conservation Commission to establish a program to control invasive plants on public lands; revising requirements for the use of

funds in the Invasive Plant Control Trust Fund; amending s. 206.606, F.S.; providing for the distribution of certain proceeds from the fuel tax by the Fish and Wildlife Conservation Commission; amending s. 328.76, F.S., relating to funds transferred to the Invasive Plant Control Trust Fund; conforming provisions to changes made by the act; amending s. 373.228, F.S.; requiring that certain entities review the standards and guidelines for landscape irrigation and xeriscape ordinances by a date certain; amending s. 376.303, F.S.; requiring a drycleaning facility to display a current and valid certificate of registration issued by the Department of Environmental Protection; prohibiting the sale or transfer of drycleaning solvents after a certain date to owners or operators of drycleaning facilities unless a registration certificate is displayed; providing penalties; amending s. 403.031, F.S.; conforming the definition of the term "regulated air pollutant" to changes made in the federal Clean Air Act; amending s. 403.0623, F.S.; providing rulemaking authority for biological sampling techniques; amending s. 403.0872, F.S.; conforming the requirements for air operation permits to changes made to Title V of the Clean Air Act to delete certain minor sources from the Title V permitting requirements; amending s. 373.109, F.S.; requiring the department to initiate rulemaking by a date certain to adjust permit fees; providing for fees to be imposed for verifying that certain activities are exempt from regulation; providing for a fee for conducting informal wetland boundary determinations; specifying special conditions that apply to such determinations; amending s. 403.087, F.S.; providing minimum and maximum amounts for certain fees relating to wastewater treatment facilities; amending s. 403.861, F.S.; providing for a public water system application fee; requiring the department to adopt rules for periodically adjusting the application fee; amending s. 403.873, F.S.; providing rulemaking authority for continuing education requirements for water utility operators; amending s. 403.874, F.S.; providing for the reinstatement of certain water utility operator certifications; prohibiting the Department of Environmental Protection from issuing a permit for a Class I landfill located in a specified water use caution area designated by rule; repealing s. 378.011, F.S., relating to the Land Use Advisory Committee; repealing ch. 325, F.S., consisting of ss. 325.2055, 325.221, 325.222, and 325.223, F.S., relating to motor vehicle air conditioning refrigerants; repealing s. 403.08725, F.S., relating to citrus juice processing facilities; providing an effective date.

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

Section 1. Section 20.255, Florida Statutes, is reenacted and amended to read:

20.255 Department of Environmental Protection.—There is created a Department of Environmental Protection.

(1) The head of the Department of Environmental Protection shall be a secretary, who shall be appointed by the Governor, with the concurrence of

three or more members of the Cabinet. The secretary shall be confirmed by the Florida Senate. The secretary shall serve at the pleasure of the Governor.

(2)(a) There shall be three deputy secretaries who are to be appointed by and shall serve at the pleasure of the secretary. The secretary may assign any deputy secretary the responsibility to supervise, coordinate, and formulate policy for any division, office, or district. The following special offices are established and headed by managers, each of whom is to be appointed by and serve at the pleasure of the secretary:

1. Office of Chief of Staff;~~,~~

2. Office of General Counsel;~~,~~

3. Office of Inspector General;~~,~~

4. Office of External Affairs;~~,~~

5. Office of Legislative ~~and Government~~ Affairs;~~, and~~

6. Office of Intergovernmental Programs; and

7.~~6.~~ Office of Greenways and Trails.

(b) There shall be six administrative districts involved in regulatory matters of waste management, water resource management, wetlands, and air resources, which shall be headed by managers, each of whom is to be appointed by and serve at the pleasure of the secretary. Divisions of the department may have one assistant or two deputy division directors, as required to facilitate effective operation.

The managers of all divisions and offices specifically named in this section and the directors of the six administrative districts are exempt from part II of chapter 110 and are included in the Senior Management Service in accordance with s. 110.205(2)(j).

(3) The following divisions of the Department of Environmental Protection are established:

(a) Division of Administrative Services.

(b) Division of Air Resource Management.

(c) Division of Water Resource Management.

(d) Division of Law Enforcement.

(e) Division of Environmental Assessment and Restoration ~~Resource Assessment and Management~~.

(f) Division of Waste Management.

(g) Division of Recreation and Parks.

(h) Division of State Lands, the director of which is to be appointed by the secretary of the department, subject to confirmation by the Governor and Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund.

In order to ensure statewide and intradepartmental consistency, the department's divisions shall direct the district offices and bureaus on matters of interpretation and applicability of the department's rules and programs.

(4) Law enforcement officers of the Department of Environmental Protection who meet the provisions of s. 943.13 are constituted law enforcement officers of this state with full power to investigate and arrest for any violation of the laws of this state, and the rules of the department and the Board of Trustees of the Internal Improvement Trust Fund. The general laws applicable to investigations, searches, and arrests by peace officers of this state apply to such law enforcement officers.

(5) Records and documents of the Department of Environmental Protection shall be retained by the department as specified in record retention schedules established under the general provisions of chapters 119 and 257. Further, the department is authorized to:

(a) Destroy, or otherwise dispose of, those records and documents in conformity with the approved retention schedules.

(b) Photograph, microphotograph, or reproduce such records and documents on film, as authorized and directed by the approved retention schedules, whereby each page will be exposed in exact conformity with the original records and documents retained in compliance with the provisions of this section. Photographs or microphotographs in the form of film or print of any records, made in compliance with the provisions of this section, shall have the same force and effect as the originals thereof would have and shall be treated as originals for the purpose of their admissibility in evidence. Duly certified or authenticated reproductions of such photographs or microphotographs shall be admitted in evidence equally with the original photographs or microphotographs. The impression of the seal of the Department of Environmental Protection on a certificate made by the department and signed by the Secretary of Environmental Protection entitles the certificate to be received in all courts and in all proceedings in this state and is prima facie evidence of all factual matters set forth in the certificate. A certificate may relate to one or more records as set forth in the certificate or in a schedule attached to the certificate.

(6) The Department of Environmental Protection may require that bond be given by any employee of the department, payable to the Governor of the state and the Governor's successor in office, for the use and benefit of those whom it concerns, in such penal sums and with such good and sufficient surety or sureties as are approved by the department, conditioned upon the faithful performance of the duties of the employee.

(7) There is created as a part of the Department of Environmental Protection an Environmental Regulation Commission. The commission shall be

composed of seven residents of this state appointed by the Governor, subject to confirmation by the Senate. In making appointments, the Governor shall provide reasonable representation from all sections of the state. Membership shall be representative of agriculture, the development industry, local government, the environmental community, lay citizens, and members of the scientific and technical community who have substantial expertise in the areas of the fate and transport of water pollutants, toxicology, epidemiology, geology, biology, environmental sciences, or engineering. The Governor shall appoint the chair, and the vice chair shall be elected from among the membership. All appointments shall be for 4-year terms. The Governor may at any time fill a vacancy for the unexpired term. The members of the commission shall serve without compensation, but shall be paid travel and per diem as provided in s. 112.061 while in the performance of their official duties. Administrative, personnel, and other support services necessary for the commission shall be furnished by the department. The commission may employ independent counsel and contract for the services of outside technical consultants.

(8) The department is the agency of state government responsible for collecting and analyzing information concerning energy resources in this state; for coordinating the energy conservation programs of state agencies; and for coordinating the development, review, and implementation of the state's energy policy.

Section 2. Section 211.3103, Florida Statutes, is amended to read:

211.3103 Levy of tax on severance of phosphate rock; rate, basis, and distribution of tax.—

(1) There is hereby levied an excise tax upon every person engaging in the business of severing phosphate rock from the soils or waters of this state for commercial use. The tax shall be collected, administered, and enforced by the department.

~~(2) Beginning July 1, 2003, the proceeds of all taxes, interest, and penalties imposed under this section shall be paid into the State Treasury as follows:~~

~~(a) The first $10 million in revenue collected from the tax during each fiscal year shall be paid to the credit of the Conservation and Recreation Lands Trust Fund.~~

~~(b) The remaining revenues collected from the tax during that fiscal year, after the required payment under paragraph (a), shall be paid into the State Treasury as follows:~~

~~1. For payment to counties in proportion to the number of tons of phosphate rock produced from a phosphate rock matrix located within such political boundary, 18.75 percent. The department shall distribute this portion of the proceeds annually based on production information reported by the producers on the annual returns for the taxable year. Any such proceeds received by a county shall be used only for phosphate-related expenses.~~

~~2. For payment to counties that have been designated a rural area of critical economic concern pursuant to s. 288.0656 in proportion to the number of tons of phosphate rock produced from a phosphate rock matrix located within such political boundary, 15 percent. The department shall distribute this portion of the proceeds annually based on production information reported by the producers on the annual returns for the taxable year.~~

~~3. To the credit of the Phosphate Research Trust Fund in the Department of Education, 11.25 percent.~~

~~4. To the credit of the Minerals Trust Fund, 11.25 percent.~~

~~5. To the credit of the Nonmandatory Land Reclamation Trust Fund, 43.75 percent.~~

(2)~~(3)~~ Beginning July 1, 2004, the proceeds of all taxes, interest, and penalties imposed under this section shall be paid into the State Treasury as follows:

(a) The first $10 million in revenue collected from the tax during each fiscal year shall be paid to the credit of the Conservation and Recreation Lands Trust Fund.

(b) The remaining revenues collected from the tax during that fiscal year, after the required payment under paragraph (a), shall be paid into the State Treasury as follows:

1. To the credit of the General Revenue Fund of the state, 40.1 percent.

2. For payment to counties in proportion to the number of tons of phosphate rock produced from a phosphate rock matrix located within such political boundary, 16.5 percent. The department shall distribute this portion of the proceeds annually based on production information reported by the producers on the annual returns for the taxable year. Any such proceeds received by a county shall be used only for phosphate-related expenses.

3. For payment to counties that have been designated a rural area of critical economic concern pursuant to s. 288.0656 in proportion to the number of tons of phosphate rock produced from a phosphate rock matrix located within such political boundary, 13 percent. The department shall distribute this portion of the proceeds annually based on production information reported by the producers on the annual returns for the taxable year. Payments under this subparagraph shall be made to the counties unless the Legislature by special act creates a local authority to promote and direct the economic development of the county. If such authority exists, payments shall be made to that authority.

4. To the credit of the Phosphate Research Trust Fund in the Division of Universities of the Department of Education, 9.3 percent.

5. To the credit of the Minerals Trust Fund, 10.7 percent.

6. To the credit of the Nonmandatory Land Reclamation Trust Fund, 10.4 percent.

(3)~~(4)~~ Beginning July 1, 2003, and annually thereafter, the Department of Environmental Protection may use up to $2 million of the funds in the Nonmandatory Land Reclamation Trust Fund to purchase a surety bond or a policy of insurance, the proceeds of which would pay the cost of restoration, reclamation, and cleanup of any phosphogypsum stack system and phosphate mining activities in the event that an operator or permittee thereof has been subject to a final order of bankruptcy and all funds available therefrom are determined to be inadequate to accomplish such restoration, reclamation, and cleanup. This section does not imply that such operator or permittee is thereby relieved of its obligations or relieved of any liabilities pursuant to any other remedies at law, administrative remedies, statutory remedies, or remedies pursuant to bankruptcy law. The department shall adopt rules to implement this subsection, including the purchase and oversight of the bond or policy.

(4)~~(5)~~ Funds distributed pursuant to subparagraphs (2)(b)3. ~~(2)(b)2.~~ and (11)(e)4. ~~(3)(b)3.~~ shall be used for:

(a) Planning, preparing, and financing of infrastructure projects for job creation and capital investment, especially those related to industrial and commercial sites. Infrastructure investments may include the following public or public-private partnership facilities: stormwater systems, telecommunications facilities, roads or other remedies to transportation impediments, nature-based tourism facilities, or other physical requirements necessary to facilitate trade and economic development activities.

(b) Maximizing the use of federal, local, and private resources, including, but not limited to, those available under the Small Cities Community Development Block Grant Program.

(c) Projects that improve inadequate infrastructure that has resulted in regulatory action that prohibits economic or community growth, if such projects are related to specific job creation or job retention opportunities.

(5)~~(6)~~ Beginning January 1, 2004, the tax rate shall be the base rate of $1.62 per ton severed.

(6)~~(7)~~ Beginning January 1, 2005, and annually thereafter, the tax rate shall be the base rate times the base rate adjustment for the tax year as calculated by the department in accordance with subsection (8) ~~(9)~~.

(7)~~(8)~~ The excise tax levied by this section shall apply to the total production of the producer during the taxable year, measured on the basis of bone-dry tons produced at the point of severance.

(8)~~(9)~~(a) On or before March 30, 2004, and annually thereafter, the department shall calculate the base rate adjustment, if any, for phosphate rock based on the change in the unadjusted annual producer price index for the prior calendar year in relation to the unadjusted annual producer price index for calendar year 1999.

(b) For the purposes of determining the base rate adjustment for any year, the base rate adjustment shall be a fraction, the numerator of which

is the unadjusted annual producer price index for the prior calendar year and the denominator of which is the unadjusted annual producer price index for calendar year 1999.

(c) The department shall provide the base rate, the base rate adjustment, and the resulting tax rate to affected producers by written notice on or before April 15 of the current year.

(d) If the producer price index for phosphate rock is substantially revised, the department shall make appropriate adjustment in the method used to compute the base rate adjustment under this subsection which will produce results reasonably consistent with the result that would have been obtained if the producer price index for phosphate rock had not been revised. However, the tax rate shall not be less than $1.51 ~~$1.56~~ per ton severed.

(e) If the producer price index for phosphate rock is discontinued, a comparable index shall be selected by the department and adopted by rule.

(9)~~(10)~~ The excise tax levied on the severance of phosphate rock shall be in addition to any ad valorem taxes levied upon the separately assessed mineral interest in the real property upon which the site of severance is located, or any other tax, permit, or license fee imposed by the state or its political subdivisions.

(10)~~(11)~~ The tax levied by this section shall be collected in the manner prescribed in s. 211.33.

(11)(a) Beginning July 1, 2008, there is hereby levied a surcharge of $1.38 per ton severed in addition to the excise tax levied by this section. The surcharge shall be levied until the last day of the calendar quarter in which the total revenue generated by the surcharge equals $60 million. Revenues derived from the surcharge shall be deposited into the Nonmandatory Land Reclamation Trust Fund and shall be exempt from the general revenue service charge provided in s. 215.20. Revenues derived from the surcharge shall be used to augment funds appropriated for the rehabilitation, management, and closure of the Piney Point and Mulberry sites and for approved reclamation of nonmandatory lands in accordance with chapter 378. A minimum of 75 percent of the revenues from the surcharge shall be dedicated to the Piney Point and Mulberry sites.

(b) Beginning July 1, 2008, the excise tax rate shall be $1.945 per ton severed and the base rate adjustment provided in subsection (6) shall not apply.

(c) Beginning July 1 of the fiscal year following the date on which the amount of revenues collected from the surcharge equals or exceeds $60 million, the tax rate shall be the base rate of $1.51 per ton severed and the base rate adjustment provided in subsection (6) shall not apply until the conditions of paragraph (d) are met.

(d) Beginning July 1 of the fiscal year following the date on which a taxpayer's surcharge offset equals or exceeds the total amount of surcharge remitted by such taxpayer under paragraph (a), and each year thereafter,

the excise tax rate levied on such taxpayer shall be adjusted as provided in subsection (6). The surcharge offset for each taxpayer is an amount calculated by the department equal to the cumulative difference between the amount of excise tax that would have been collected under subsections (5) and (6) and the excise tax collected under paragraph (c) from such taxpayer.

(e) Beginning July 1 of the fiscal year after the revenues from the surcharge equal $60 million, the proceeds of all taxes, interest, and penalties imposed under this section shall be exempt from the general revenue service charge provided in s. 215.20, and shall be paid into the State Treasury as follows:

1. To the credit of the Conservation and Recreation Lands Trust Fund, 25.5 percent.

2. To the credit of the General Revenue Fund of the state, 37 percent.

3. For payment to counties in proportion to the number of tons of phosphate rock produced from a phosphate rock matrix located within such political boundary, 13.6 percent. The department shall distribute this portion of the proceeds annually based on production information reported by the producers on the annual returns for the taxable year. Any such proceeds received by a county shall be used only for phosphate-related expenses.

4. For payment to counties that have been designated a rural area of critical economic concern pursuant to s. 288.0656 in proportion to the number of tons of phosphate rock produced from a phosphate rock matrix located within such political boundary, 10.7 percent. The department shall distribute this portion of the proceeds annually based on production information reported by the producers on the annual returns for the taxable year. Payments under this subparagraph shall be made to the counties unless the Legislature by special act creates a local authority to promote and direct the economic development of the county. If such authority exists, payments shall be made to that authority.

5. To the credit of the Nonmandatory Land Reclamation Trust Fund, 6.6 percent.

6. To the credit of the Phosphate Research Trust Fund in the Division of Universities of the Department of Education, 6.6 percent.

(f) For purposes of this section, "phosphate-related expenses" means those expenses that provide for infrastructure or services in support of the phosphate industry, reclamation or restoration of phosphate lands, community infrastructure on such reclaimed lands, and similar expenses directly related to support of the industry.

Section 3. Subsection (1) of section 253.002, Florida Statutes, is amended to read:

253.002 Department of Environmental Protection, water management districts, and Department of Agriculture and Consumer Services; duties with respect to state lands.—

(1) The Department of Environmental Protection shall perform all staff duties and functions related to the acquisition, administration, and disposition of state lands, title to which is or will be vested in the Board of Trustees of the Internal Improvement Trust Fund. However, upon the effective date of rules adopted pursuant to s. 373.427, a water management district created under s. 373.069 shall perform the staff duties and functions related to the review of any application for authorization to use board of trustees-owned submerged lands necessary for an activity regulated under part IV of chapter 373 for which the water management district has permitting responsibility as set forth in an operating agreement adopted pursuant to s. 373.046(4); and the Department of Agriculture and Consumer Services shall perform the staff duties and functions related to the review of applications and compliance with conditions for use of board of trustees-owned submerged lands under authorizations or leases issued pursuant to ss. 253.67-253.75 and 597.010. Unless expressly prohibited by law, the board of trustees may delegate to the department any statutory duty or obligation relating to the acquisition, administration, or disposition of lands, title to which is or will be vested in the board of trustees. The board of trustees may also delegate to any water management district created under s. 373.069 the authority to take final agency action, without any action on behalf of the board, on applications for authorization to use board of trustees-owned submerged lands for any activity regulated under part IV of chapter 373 for which the water management district has permitting responsibility as set forth in an operating agreement adopted pursuant to s. 373.046(4). This water management district responsibility under this subsection shall be subject to the department's general supervisory authority pursuant to s. 373.026(7). The board of trustees may also delegate to the Department of Agriculture and Consumer Services the authority to take final agency action on behalf of the board on applications to use board of trustees-owned submerged lands for any activity for which that department has responsibility pursuant to ss. 253.67-253.75 and 597.010. However, the board of trustees shall retain the authority to take final agency action on establishing any areas for leasing, new leases, expanding existing lease areas, or changing the type of lease activity in existing leases. Upon issuance of an aquaculture lease or other real property transaction relating to aquaculture, the Department of Agriculture and Consumer Services must send a copy of the document and the accompanying survey to the Department of Environmental Protection. <u>The board of trustees may also delegate to the Fish and Wildlife Conservation Commission the authority to take final agency action, without any action on behalf of the board, on applications for authorization to use board of trustees-owned submerged lands for any activity regulated under s. 369.20.</u>

Section 4. Subsection (15) of section 373.414, Florida Statutes, is amended to read:

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

(15) Activities associated with mining operations as defined by and subject to ss. 378.201-378.212 and 378.701-378.703 and included in a conceptual reclamation plan or modification application submitted prior to July 1, 1996,

shall continue to be reviewed under the rules of the department adopted pursuant to ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, the rules of the water management districts under this part, and interagency agreements, in effect on January 1, 1993. Such activities shall be exempt from rules adopted pursuant to subsection (9) and the statewide methodology ratified pursuant to s. 373.4211. As of January 1, 1994, such activities may be issued permits authorizing construction for the life of the mine. Lands added to a conceptual reclamation plan subject to this subsection through a modification submitted after July 1, 1996, which are contiguous to the conceptual reclamation plan area shall be exempt from rules adopted under subsection (9), except that the total acreage of the conceptual reclamation plan may not be increased through such modification and the cumulative acreage added may not exceed 3 percent of the conceptual reclamation plan area. Lands that have been mined or disturbed by mining activities, lands subject to a conservation easement under which the grantee is a state or federal regulatory agency, and lands otherwise preserved as part of a permitting review may not be removed from the conceptual reclamation land area under this subsection.

Section 5. Subsection (3) is added to section 378.205, Florida Statutes, to read:

378.205 Administration; powers and duties of the department; agency review responsibility.—

(3) Administrative challenges to proposed state agency actions regarding phosphate mines and reclamation pursuant to this chapter or part IV of chapter 373 are subject to the summary hearing provisions of s. 120.574, except that the summary proceeding must be conducted within 90 days after a party files a motion for summary hearing, regardless of whether the parties agree to the summary proceeding and the administrative law judge's decision is a recommended order and not a final order.

Section 6. Section 369.20, Florida Statutes, is amended to read:

369.20 Florida Aquatic Weed Control Act.—

(1) This act shall be known as the "Florida Aquatic Weed Control Act."

(2) The Fish and Wildlife Conservation Commission ~~Department of Environmental Protection~~ shall direct the control, eradication, and regulation of noxious aquatic weeds and direct the research and planning related to these activities, as provided in this section, ~~excluding the authority to use fish as a biological control agent,~~ so as to protect human health, safety, and recreation and, to the greatest degree practicable, prevent injury to plant and animal life and property.

(3) It shall be the duty of the commission ~~department~~ to guide and coordinate the activities of all public bodies, authorities, agencies, and special districts charged with the control or eradication of aquatic weeds and plants. It may delegate all or part of such functions to any appropriate state agency, special district, unit of local or county government, commission, authority, or other public body ~~the Fish and Wildlife Conservation Commission~~.

(4) The commission ~~department~~ shall also promote, develop, and support research activities directed toward the more effective and efficient control of aquatic plants. In the furtherance of this purpose, the commission ~~department~~ is authorized to:

(a) Accept donations and grants of funds and services from both public and private sources;

(b) Contract or enter into agreements with public or private agencies or corporations for research and development of aquatic plant control methods or for the performance of aquatic plant control activities;

(c) Construct, acquire, operate, and maintain facilities and equipment; and

(d) Enter upon, or authorize the entry upon, private property for purposes of making surveys and examinations and to engage in aquatic plant control activities; and such entry shall not be deemed a trespass.

(5) The commission ~~Department of Environmental Protection~~ may disburse funds to any special district or other local authority charged with the responsibility of controlling or eradicating aquatic plants, upon:

~~(a) Receipt of satisfactory proof that such district or authority has sufficient funds on hand to match the state funds herein referred to on an equal basis;~~

(a)~~(b)~~ Approval by the commission ~~department~~ of the control techniques to be used by the district or authority; and

(b)~~(c)~~ Review and approval of the program of the district or authority by the commission ~~department to be in conformance with the state control plan~~.

(6) The commission ~~department~~ shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of this section conferring powers or duties upon it and perform any other acts necessary for the proper administration, enforcement, or interpretation of this section, including creating general permits and exemptions and adopting rules and forms governing reports.

(7) No person or public agency shall control, eradicate, remove, or otherwise alter any aquatic weeds or plants in waters of the state unless a permit for such activity has been issued by the commission ~~department, or~~ unless the activity or ~~is in~~ waters are expressly exempted by commission ~~department~~ rule. The commission ~~department~~ shall develop standards by rule which shall address, at a minimum, chemical, biological, and mechanical control activities; an evaluation of the benefits of such activities to the public; specific criteria recognizing the differences between natural and artificially created waters; and the different amount and quality of littoral vegetation on various waters. Applications for a permit to engage in aquatic plant control activities, including applications to engage in control activities on sovereign submerged lands, shall be made to the commission ~~department~~. In reviewing such applications, the commission ~~department~~ shall consider

the criteria set forth in subsection (2) and, in accordance with applicable rules, take final agency action on permit applications for the use of aquatic plant control activities on sovereign submerged lands.

(8) As an exemption to all permitting requirements in this section and ss. 369.22 and 369.25, in all freshwater bodies, except aquatic preserves designated under chapter 258 and Outstanding Florida Waters designated under chapter 403, a riparian owner may physically or mechanically remove herbaceous aquatic plants and semiwoody herbaceous plants, such as shrub species and willow, within an area delimited by up to 50 percent of the property owner's frontage or 50 feet, whichever is less, and by a sufficient length waterward from, and perpendicular to, the riparian owner's shoreline to create a corridor to allow access for a boat or swimmer to reach open water. All unvegetated areas shall be cumulatively considered when determining the width of the exempt corridor. Physical or mechanical removal does not include the use of any chemicals or any activity that requires a permit pursuant to part IV of chapter 373.

(9) A permit issued pursuant to this section for the application of herbicides to waters in the state for the control of aquatic plants, algae, or invasive exotic plants is exempt from the requirement to obtain a water pollution operation permit pursuant to s. 403.088.

(10) Notwithstanding s. 369.25, the commission may collect aquatic plants to be used for habitat enhancement, research, education, and for other purposes as necessary to implement the provisions of this section.

(11) The commission may quarantine or confiscate noxious aquatic plant material incidentally adhering to a boat or boat trailer.

(12) The commission may conduct a public information program, including, but not limited to, erection of road signs, in order to inform the public and interested parties of this section and its associated rules and of the dangers of noxious aquatic plant introductions.

Section 7. Section 369.22, Florida Statutes, is amended to read:

369.22 ~~Nonindigenous~~ Aquatic plant management ~~control~~.—

(1) This section shall be known as the "Florida ~~Nonindigenous~~ Aquatic Plant Management ~~Control~~ Act."

(2) For the purpose of this section, the following words and phrases shall have the following meanings:

(a) "Commission" means the Fish and Wildlife Conservation Commission ~~"Department" means the Department of Environmental Protection~~.

(b) "Aquatic plant" is any plant growing in, or closely associated with, the aquatic environment and includes "floating," "emersed," "submersed," and "ditch bank" species.

~~(c) "Nonindigenous aquatic plant" is any aquatic plant that is nonnative to the State of Florida and has certain characteristics, such as massive~~

~~productivity, choking density, or an obstructive nature, which render it detrimental, obnoxious, or unwanted in a particular location.~~

(c)~~(d)~~ A "maintenance program" is a method for the management ~~control~~ of ~~nonindigenous~~ aquatic plants in which control techniques are utilized in a coordinated manner ~~on a continuous basis in order to maintain the plant population at the lowest feasible level~~ as determined by the commission ~~department~~.

(d)~~(e)~~ An "eradication program" is a method for the management ~~control~~ of ~~nonindigenous~~ aquatic plants in which control techniques are utilized in a coordinated manner in an attempt to kill all the aquatic plants on a permanent basis in a given geographical area.

(e)~~(f)~~ A "complaint spray program" is a method for the management ~~control~~ of ~~nonindigenous~~ aquatic plants in which weeds are allowed to grow unhindered to a given level of undesirability, at which point eradication techniques are applied in an effort to restore the area in question to a relatively low level of infestation.

(f)~~(g)~~ "Waters" means rivers, streams, lakes, navigable waters and associated tributaries, canals, meandered lakes, enclosed water systems, and any other bodies of water.

~~(h) "Intercounty waters" means any waters which lie in more than one county or form any part of the boundary between two or more counties, as determined by the department.~~

~~(i) "Intracounty waters" means any waters which lie wholly within the boundaries of one county as determined by the department.~~

(g)~~(j)~~ "Districts" means the six water management districts created by law and named, respectively, the Northwest Florida Water Management District, the Suwannee River Water Management District, the St. Johns River Water Management District, the Southwest Florida Water Management District, the Central and Southern Florida Flood Control District, and the Ridge and Lower Gulf Coast Water Management District; and on July 1, 1975, shall mean the five water management districts created by chapter 73-190, Laws of Florida, and named, respectively, the Northwest Florida Water Management District, the Suwannee River Water Management District, the St. Johns River Water Management District, the Southwest Florida Water Management District, and the South Florida Water Management District.

(3) The Legislature recognizes that the uncontrolled growth of ~~nonindigenous~~ aquatic plants in the waters of Florida poses a variety of environmental, health, safety, and economic problems. The Legislature acknowledges the responsibility of the state to cope with the uncontrolled and seemingly never-ending growth of ~~nonindigenous~~ aquatic plants in the waters throughout Florida. It is, therefore, the intent of the Legislature that the state policy for the management ~~control~~ of ~~nonindigenous~~ aquatic plants in waters of state responsibility be carried out under the general supervision and control of the commission ~~department, and that the state itself be~~

~~responsible for the control of such plants in all intercounty waters; but that control of such plants in intracounty waters be the designated responsibility of the appropriate unit of local or county government, special district, authority, or other public body~~. It is the intent of the Legislature that the management ~~control~~ of ~~nonindigenous~~ aquatic plants be carried out primarily by means of maintenance programs, rather than eradication or complaint spray programs, for the purpose of achieving more effective management ~~control~~ at a lower long-range cost. It is also the intent of the Legislature that the commission ~~department~~ guide, review, approve, and coordinate all ~~nonindigenous~~ aquatic plant management ~~control~~ programs within each of the water management districts as defined in paragraph (2)(g) ~~(2)(j)~~. It is the intent of the Legislature to account for the costs of ~~nonindigenous~~ aquatic plant management ~~maintenance~~ programs by watershed for comparison ~~management~~ purposes.

(4) The commission ~~department~~ shall supervise and direct all management ~~maintenance~~ programs for ~~control of nonindigenous~~ aquatic plants, as provided in this section, ~~excluding the authority to use fish as a biological control agent,~~ so as to protect human health, safety, and recreation and, to the greatest degree practicable, prevent injury to plant, fish, and animal life and to property.

(5) When state funds are involved, or when waters of state responsibility are involved, it is the duty of the commission ~~department~~ to guide, review, approve, and coordinate the activities of all public bodies, authorities, state agencies, units of local or county government, commissions, districts, and special districts engaged in operations to manage ~~maintain, control,~~ or eradicate ~~nonindigenous~~ aquatic plants~~, except for activities involving biological control programs using fish as the control agent~~. The commission ~~department~~ may delegate all or part of such functions to any appropriate state agency, special district, unit of local or county government, commission, authority, or other public body. However, special attention shall be given to the keeping of accounting and cost data in order to prepare the annual fiscal report required in subsection (7).

(6) The commission ~~department~~ may disburse funds to any district, special district, or other local authority for the purpose of operating a ~~maintenance~~ program for managing ~~controlling nonindigenous~~ aquatic plants ~~and other noxious aquatic plants~~ in the waters of state responsibility upon:

~~(a) Receipt of satisfactory proof that such district or authority has sufficient funds on hand to match the state funds herein referred to on an equal basis;~~

(a)~~(b)~~ Approval by the commission ~~department~~ of the management ~~maintenance control~~ techniques to be used by the district or authority; and

(b)~~(c)~~ Review and approval of the program of the district or authority by the commission ~~department to be in conformance with the state maintenance control plan~~.

(7) The commission ~~department~~ shall prepare ~~submit~~ an annual report on the status of the ~~nonindigenous~~ aquatic plant management ~~maintenance~~

program which shall be posted on the commission's Internet website ~~to the President of the Senate, the Speaker of the House of Representatives, and the Governor and Cabinet by January 1 of the following year~~. ~~This report shall include a statement of the degree of maintenance control achieved by individual nonindigenous aquatic plant species in the intercounty waters of each of the water management districts for the preceding county fiscal year, together with an analysis of the costs of achieving this degree of control. This cost accounting shall include the expenditures by all governmental agencies in the waters of state responsibility. If the level of maintenance control achieved falls short of that which is deemed adequate by the department, then the report shall include an estimate of the additional funding that would have been required to achieve this level of maintenance control. All measures of maintenance program achievement and the related cost shall be presented by water management districts so that comparisons may be made among the water management districts, as well as with the state as a whole.~~

(8) The commission ~~department~~ shall have the authority to cooperate with the United States and to enter into such cooperative agreements or commitments as the commission ~~department~~ may determine necessary to carry out the ~~maintenance,~~ control~~,~~ or eradication of water hyacinths, alligator weed, and other noxious aquatic plant growths from the waters of the state and to enter into contracts with the United States obligating the state to indemnify and save harmless the United States from any and all claims and liability arising out of the initiation and prosecution of any project undertaken under this section. However, any claim or claims required to be paid under this section shall be paid from money appropriated to the ~~nonindigenous~~ aquatic plant management ~~control~~ program.

(9) The commission ~~department~~ may delegate various ~~nonindigenous~~ aquatic plant management ~~control and maintenance~~ functions to any appropriate state agency, special district, unit of local or county government, commission, authority, or other public body ~~the Fish and Wildlife Conservation Commission~~. The recipient of such delegation ~~commission~~ shall, in accepting commitments to engage in ~~nonindigenous~~ aquatic plant management ~~control and maintenance~~ activities, be subject to the rules of the commission ~~department, except that the commission shall regulate, control, and coordinate the use of any fish for aquatic weed control in fresh waters of the state~~. In addition, the recipient ~~commission~~ shall render technical and other assistance to the commission ~~department~~ in order to carry out most effectively the purposes of s. 369.20. ~~However, nothing herein shall diminish or impair the regulatory authority of the commission with respect to the powers granted to it by s. 9, Art. IV of the State Constitution.~~

(10) The commission ~~department~~ is directed to use biological agents~~,~~ ~~excluding fish,~~ for the management ~~control~~ of ~~nonindigenous~~ aquatic plants when determined to be appropriate by the commission.

(11) The commission ~~department~~ shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section conferring powers or duties upon it and perform any other acts necessary for the proper administration, enforcement, or interpretation of this section, including adopting rules and forms governing reports.

(12) No person or public agency shall control, eradicate, remove, or otherwise alter any ~~nonindigenous~~ aquatic plants in waters of the state unless a permit for such activity has been issued by the commission ~~department~~, or unless the activity or ~~is in~~ waters are expressly exempted by commission ~~department~~ rule. The commission ~~department~~ shall develop standards by rule which shall address, at a minimum, chemical, biological, and mechanical control activities; an evaluation of the benefits of such activities to the public; specific criteria recognizing the differences between natural and artificially created waters; and the different amount and quality of littoral vegetation on various waters. Applications for a permit to engage in aquatic plant management ~~control~~ activities, including applications to engage in management activities on sovereign submerged lands, shall be made to the commission ~~department~~. In reviewing such applications, the commission ~~department~~ shall consider the criteria set forth in subsection (4) and, in accordance with applicable rules, shall take final agency action on permit applications for the use of aquatic plant activities on sovereign submerged lands.

Section 8. Section 369.25, Florida Statutes, is amended to read:

369.25 Aquatic plants; definitions; permits; powers of department; penalties.—

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

(a) "Aquatic plant" means any plant, including a floating, emersed, submersed, or ditch bank species, growing in, or closely associated with, an aquatic environment and includes any part or seed of such plant.

(b) "Department" means the Department of Agriculture and Consumer Services ~~Environmental Protection~~.

(c) "Nonnursery cultivation" means the tending of aquatic plant species for harvest in the natural environment.

(d) "Noxious aquatic plant" means any part, including, but not limited to, seeds or reproductive parts, of an aquatic plant which has the potential to hinder the growth of beneficial plants, interfere with irrigation or navigation, or adversely affect the public welfare or the natural resources of this state.

(e) "Person" includes a natural person, a public or private corporation, a governmental entity, or any other kind of entity.

(2) No person shall engage in any business involving the importation, transportation, ~~nonnursery~~ cultivation, collection, sale, or possession of any aquatic plant species without a permit issued by the department ~~or the Department of Agriculture and Consumer Services~~. No person shall import, transport, ~~nonnursery~~ cultivate, collect, sell, or possess any noxious aquatic plant listed on the prohibited aquatic plant list established by the department without a permit issued by the department ~~or the Department of Agriculture and Consumer Services~~. No permit shall be issued until the department determines that the proposed activity poses no threat or danger to the waters, wildlife, natural resources, or environment of the state.

(3) The department has the following powers:

(a) To make such rules governing the importation, transportation, nonnursery cultivation, collection, and possession of aquatic plants as may be necessary for the eradication, control, or prevention of the dissemination of noxious aquatic plants that are not inconsistent with rules of the Fish and Wildlife Conservation Commission ~~Department of Agriculture and Consumer Services~~.

(b) To establish by rule lists of aquatic plant species regulated under this section, including those exempted from such regulation, provided ~~the Department of Agriculture and Consumer Services and~~ the Fish and Wildlife Conservation Commission approves ~~approve~~ such lists prior to the lists becoming effective.

(c) To evaluate an aquatic plant species through research or other means to determine whether such species poses a threat or danger to the waters, wildlife, natural resources, or environment of the state.

(d) To declare a quarantine against aquatic plants, including the vats, pools, or other containers or bodies of water in which such plants are growing, ~~except in aquatic plant nurseries,~~ to prevent the dissemination of any noxious aquatic plant.

(e) To make rules governing the application for, issuance of, suspension of, and revocation of permits under this section.

(f) To enter into cooperative agreements with any person as necessary or desirable to carry out and enforce the provisions of this section.

(g) To purchase all necessary supplies, material, facilities, and equipment and accept all grants and donations useful in the implementation and enforcement of the provisions of this section.

(h) To enter upon and inspect any facility or place~~, except aquatic plant nurseries regulated by the Department of Agriculture and Consumer Services,~~ where aquatic plants are cultivated, held, packaged, shipped, stored, or sold, or any vehicle of conveyance of aquatic plants, to ascertain whether the provisions of this section and department regulations are being complied with, and to seize and destroy, without compensation, any aquatic plants imported, transported, cultivated, collected, or otherwise possessed in violation of this section or department regulations.

~~(i) To conduct a public information program, including, but not limited to, erection of road signs, in order to inform the public and interested parties of this section and its associated rules and of the dangers of noxious aquatic plant introductions.~~

(i)~~(j)~~ To adopt rules requiring the revegetation of a site on sovereignty lands where excessive collection has occurred.

(j)~~(k)~~ To enforce this chapter in the same manner and to the same extent as provided in s. 581.211 ~~ss. 403.121, 403.131, 403.141, and 403.161~~.

(4) The department shall adopt rules that ~~which~~ limit the sanctions available for violations under this act to quarantine and confiscation:

(a) If the prohibited activity apparently results from natural dispersion; or

(b) If a small amount of noxious aquatic plant material incidentally adheres to a boat or boat trailer operated by a person who is not involved in any phase of the aquatic plant business and if that person is not knowingly violating this act.

(5)(a) Any person who violates the provisions of this section commits ~~is guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) All law enforcement officers of the state and its agencies with power to make arrests for violations of state law shall enforce the provisions of this section.

Section 9. Section 369.251, Florida Statutes, is amended to read:

369.251 Invasive nonnative plants; prohibitions; study; removal; rules.—

(1) A person may not sell, transport, collect, cultivate, or possess any plant, including any part or seed, of the species Melaleuca quinquenervia, Schinus terebinthifolius, Casuarina equisetifolia, Casuarina glauca, or Mimosa pigra without a permit from the Department of Agriculture and Consumer Services. Any person who violates this section commits a misdemeanor of the second degree, punishable by fine only, as provided in s. 775.083.

(2) The department, in coordination with the Fish and Wildlife Conservation Commission, shall study methods of control of plants of the species Melaleuca quinquenervia, Schinus terebinthifolius, Casuarina equisetifolia, Casuarina glauca, and Mimosa pigra. The South Florida Water Management District shall undertake programs to remove such plants from conservation area I, conservation area II, and conservation area III of the district.

(3) The department has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section. Possession or transportation resulting from natural dispersion, mulching operations, control and disposal, or use in herbaria or other educational or research institutions, or for other reasons determined by the department to be consistent with this section and where there is neither the danger of, nor intent to, further disperse any plant species prohibited by this section, is not subject to the permit or penalty provisions of this section.

Section 10. Section 369.252, Florida Statutes, is amended to read:

369.252 Invasive ~~exotic~~ plant control on public lands.—The Fish and Wildlife Conservation Commission ~~department~~ shall establish a program to:

(1) Achieve eradication or maintenance control of invasive exotic plants on public lands when the scientific data indicate that they are detrimental

to the state's natural environment or when the Commissioner of Agriculture finds that such plants or specific populations thereof are a threat to the agricultural productivity of the state;

(2) Assist state and local government agencies in the development and implementation of coordinated management plans for the eradication or maintenance control of invasive exotic plant species on public lands;

(3) Contract, or enter into agreements, with entities in the State University System or other governmental or private sector entities for research concerning control agents; production and growth of biological control agents; and development of workable methods for the eradication or maintenance control of invasive exotic plants on public lands; and

(4) Use funds in the Invasive Plant Control Trust Fund as authorized by the Legislature for carrying out activities under this section on public lands. A minimum of 20 ~~Twenty~~ percent of the amount credited to the Invasive Plant Control Trust Fund pursuant to s. 201.15(6) shall be used for the purpose of controlling nonnative, upland, invasive plant species on public lands.

Section 11. Paragraph (a) of subsection (1) of section 206.606, Florida Statutes, is amended to read:

206.606 Distribution of certain proceeds.—

(1) Moneys collected pursuant to ss. 206.41(1)(g) and 206.87(1)(e) shall be deposited in the Fuel Tax Collection Trust Fund. Such moneys, after deducting the service charges imposed by s. 215.20, the refunds granted pursuant to s. 206.41, and the administrative costs incurred by the department in collecting, administering, enforcing, and distributing the tax, which administrative costs may not exceed 2 percent of collections, shall be distributed monthly to the State Transportation Trust Fund, except that:

(a) $6.30 million shall be transferred to the Fish and Wildlife Conservation Commission ~~Department of Environmental Protection~~ in each fiscal year and deposited in the Invasive Plant Control Trust Fund to be used for aquatic plant management, including nonchemical control of aquatic weeds, research into nonchemical controls, and enforcement activities. Beginning in fiscal year 1993-1994, the department shall allocate at least $1 million of such funds to the eradication of melaleuca.

Section 12. Paragraphs (b) and (c) of subsection (1) of section 328.76, Florida Statutes, are amended to read:

328.76 Marine Resources Conservation Trust Fund; vessel registration funds; appropriation and distribution.—

(1) Except as otherwise specified in this subsection and less $1.4 million for any administrative costs which shall be deposited in the Highway Safety Operating Trust Fund, in each fiscal year beginning on or after July 1, 2001, all funds collected from the registration of vessels through the Department of Highway Safety and Motor Vehicles and the tax collectors of the state,

except for those funds designated as the county portion pursuant to s. 328.72(1), shall be deposited in the Marine Resources Conservation Trust Fund for recreational channel marking; public launching facilities; law enforcement and quality control programs; aquatic weed control; manatee protection, recovery, rescue, rehabilitation, and release; and marine mammal protection and recovery. The funds collected pursuant to s. 328.72(1) shall be transferred as follows:

(b) An amount equal to $2 from each recreational vessel registration fee, except that for class A-1 vessels, shall be transferred by the Department of Highway Safety and Motor Vehicles to the Invasive Plant Control Trust Fund in the Fish and Wildlife Conservation Commission ~~Department of Environmental Protection~~ for aquatic weed research and control.

(c) An amount equal to 40 percent of the registration fees from commercial vessels shall be transferred by the Department of Highway Safety and Motor Vehicles to the Invasive Plant Control Trust Fund in the Fish and Wildlife Conservation Commission ~~Department of Environmental Protection~~ for aquatic plant research and control.

Section 13. Section 373.228, Florida Statutes, is amended to read:

373.228 Landscape irrigation design.—

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

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

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

(4) The water management districts shall work with the Florida Nurserymen and Growers Association, the Florida Chapter of the American Society of Landscape Architects, the Florida Irrigation Society, the Department of Agriculture and Consumer Services, the Institute of Food and Agricultural Sciences, the Department of Environmental Protection, the Department of Transportation, the Florida League of Cities, the Florida Association of Counties, and the Florida Association of Community Developers to develop landscape irrigation and xeriscape design standards for new construction which incorporate a landscape irrigation system and develop scientifically based model guidelines for urban, commercial, and residential landscape irrigation, including drip irrigation, for plants, trees, sod, and other landscaping. The landscape and irrigation design standards shall be based on the irrigation code defined in the Florida Building Code, Plumbing Volume, Appendix F. Local governments shall use the standards and guidelines

when developing landscape irrigation and xeriscape ordinances. By January 1, 2011 ~~Every 5 years~~, the agencies and entities specified in this subsection shall review the standards and guidelines to determine whether new research findings require a change or modification of the standards and guidelines.

Section 14. Paragraph (d) of subsection (1) of section 376.303, Florida Statutes, is amended to read:

376.303 Powers and duties of the Department of Environmental Protection.—

(1) The department has the power and the duty to:

(d) Establish a registration program for drycleaning facilities and wholesale supply facilities.

1. Owners or operators of drycleaning facilities and wholesale supply facilities and real property owners shall jointly register each facility owned and in operation with the department by June 30, 1995, pay initial registration fees by December 31, 1995, and pay annual renewal registration fees by December 31, 1996, and each year thereafter, in accordance with this subsection. If the registration form cannot be jointly submitted, then the applicant shall provide notice of the registration to other interested parties. The department shall establish reasonable requirements for the registration of such facilities. The department shall use reasonable efforts to identify and notify drycleaning facilities and wholesale supply facilities of the registration requirements by certified mail, return receipt requested. The department shall provide to the Department of Revenue a copy of each applicant's registration materials, within 30 working days of the receipt of the materials. This copy may be in such electronic format as the two agencies mutually designate.

2.a. The department shall issue an invoice for annual registration fees to each registered drycleaning facility or wholesale supply facility by December 31 of each year. Owners of drycleaning facilities and wholesale supply facilities shall submit to the department an initial fee of $100 and an annual renewal registration fee of $100 for each drycleaning facility or wholesale supply facility owned and in operation. The fee shall be paid within 30 days after receipt of billing by the department. Facilities that fail to pay their renewal fee within 30 days after receipt of billing are subject to a late fee of $75.

b. Revenues derived from registration, renewal, and late fees shall be deposited into the Water Quality Assurance Trust Fund to be used as provided in s. 376.3078.

3. Effective March 1, 2009, a registered drycleaning facility shall display in the vicinity of its drycleaning machines the original or a copy of a valid and current certificate evidencing registration with the department pursuant to this paragraph. After that date, a person may not sell or transfer any drycleaning solvents to an owner or operator of a drycleaning facility unless the owner or operator of the drycleaning facility displays the certificate

issued by the department. Violators of this subparagraph are subject to the remedies available to the department pursuant to s. 376.302.

Section 15. Subsection (19) of section 403.031, Florida Statutes, is amended to read:

403.031 Definitions.—In construing this chapter, or rules and regulations adopted pursuant hereto, the following words, phrases, or terms, unless the context otherwise indicates, have the following meanings:

(19) "Regulated air pollutant" means any pollutant regulated under the federal Clean Air Act.~~:~~

~~(a) Nitrogen oxides or any volatile organic compound;~~

~~(b) Any pollutant regulated under 42 U.S.C. s. 7411 or s. 7412; or~~

~~(c) Any pollutant for which a national primary ambient air quality standard has been adopted.~~

Section 16. Section 403.0623, Florida Statutes, is amended to read:

403.0623 Environmental data; quality assurance.—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.

Section 17. Subsection (1) of section 403.0872, Florida Statutes, is amended to read:

403.0872 Operation permits for major sources of air pollution; annual operation license fee.—Provided that program approval pursuant to 42 U.S.C. s. 7661a has been received from the United States Environmental Protection Agency, beginning January 2, 1995, each major source of air pollution, including electrical power plants certified under s. 403.511, must obtain from the department an operation permit for a major source of air pollution under this section. This operation permit is the only department operation permit for a major source of air pollution required for such source; provided, at the applicant's request, the department shall issue a separate acid rain permit for a major source of air pollution that is an affected source within the meaning of 42 U.S.C. s. 7651a(1). Operation permits for major sources of air pollution, except general permits issued pursuant to s. 403.814, must be issued in accordance with the procedures contained in this section and in accordance with chapter 120; however, to the extent that chapter 120 is inconsistent with the provisions of this section, the procedures contained in this section prevail.

(1) For purposes of this section, a major source of air pollution means a stationary source of air pollution, or any group of stationary sources within

a contiguous area and under common control, which emits any regulated air pollutant and which is ~~any of the following~~:

(a) A major source within the meaning of 42 U.S.C. s. 7412(a)(1);

(b) A major stationary source or major emitting facility within the meaning of 42 U.S.C. s. 7602(j) or 42 U.S.C. subchapter I, part C or part D;

(c) An affected source within the meaning of 42 U.S.C. s. 7651a(1);

(d) An air pollution source subject to standards or regulations under 42 U.S.C. s. 7411 or s. 7412; provided that a source is not a major source solely because of its regulation under 42 U.S.C. s. 7412(r); or

(e) A stationary air pollution source belonging to a category designated as a 40 C.F.R. part 70 source by regulations adopted by the administrator of the United States Environmental Protection Agency under 42 U.S.C. ss. 7661 et seq. The department shall exempt those facilities that are subject to this section solely because they are subject to requirements under 42 U.S.C. s. 7411 or s. 7412 or solely because they are subject to reporting requirements under 42 U.S.C. s. 7412 for as long as the exemption is available under federal law.

Section 18. Section 373.109, Florida Statutes, is amended to read:

373.109 Permit application fees.—When a water management district governing board, the department, or a local government implements a regulatory system under this chapter or one which has been delegated pursuant to chapter 403, it may establish a schedule of fees for filing applications for the required permits. Such fees shall not exceed the cost to the district, the department, or the local government for processing, monitoring, and inspecting for compliance with the permit.

(1)(a) The department shall initiate rulemaking no later than December 1, 2008, to increase each application fee authorized under part IV of this chapter and adopted by rule to ensure that such fees 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. The department shall establish by rule the inflation index to be used for this purpose.

(b) The department shall charge a fee of at least $250 for a noticed general permit or individual permit as established in department rules.

(c) Notwithstanding s. 120.60(2), the fee for verification that an activity is exempt from regulation under s. 403.813 or part IV of this chapter shall be at least $100 or as otherwise established by department rule, but not to exceed $500.

(d) The department shall charge a fee of at least $100 and not to exceed $500 for conducting informal wetland boundary determinations as a public service to applicants or potential applicants for permits under part IV of this chapter. An informal wetland boundary determination is not an application

for a permit, is not subject to the permit review timeframes established in this chapter or chapter 120, and does not constitute final agency action.

(2) The department shall review the fees authorized under part IV of this chapter at least once every 5 years and shall adjust the fees upward, as necessary, 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.

(3)~~(1)~~ All moneys received under the provisions of this section shall be allocated for the use of the water management district, the department, or the local government, whichever processed the permit, and shall be in addition to moneys otherwise appropriated in any general appropriation act. All moneys received by the department under the provisions of this section shall be deposited in the Florida Permit Fee Trust Fund established by s. 403.0871 and shall be used by the department as provided therein. Moneys received by a water management district or the department under the provisions of this section shall be in addition to moneys otherwise appropriated in any general appropriation act.

(4)~~(2)~~ The failure of any person to pay the fees established hereunder constitutes grounds for revocation or denial of the permit.

(5) Effective July 1, 2008, the minimum fee amounts shall be the minimum fees prescribed in this section, and such fee amounts shall remain in effect until the effective date of fees adopted by rule by the department.

Section 19. Section 403.087, Florida Statutes, is amended to read:

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

(1) A stationary installation that is reasonably expected to be a source of air or water pollution must not be operated, maintained, constructed, expanded, or modified without an appropriate and currently valid permit issued by the department, unless exempted by department rule. In no event shall a permit for a water pollution source be issued for a term of more than 10 years, nor may an operation permit issued after July 1, 1992, for a major source of air pollution have a fixed term of more than 5 years. However, upon expiration, a new permit may be issued by the department in accordance with this chapter and the rules of the department.

(2) The department shall adopt, and may amend or repeal, rules for the issuance, denial, modification, and revocation of permits under this section.

(3) A renewal of an operation permit for a domestic wastewater treatment facility other than a facility regulated under the National Pollutant Discharge Elimination System (NPDES) Program under s. 403.0885 must be issued upon request for a term of up to 10 years, for the same fee and under the same conditions as a 5-year permit, in order to provide the owner or operator with a financial incentive, if:

(a) The waters from the treatment facility are not discharged to Class I municipal injection wells or the treatment facility is not required to comply with the federal standards under the Underground Injection Control Program under chapter 62-528 of the Florida Administrative Code;

(b) The treatment facility is not operating under a temporary operating permit or a permit with an accompanying administrative order and does not have any enforcement action pending against it by the United States Environmental Protection Agency, the department, or a local program approved under s. 403.182;

(c) The treatment facility has operated under an operation permit for 5 years and, for at least the preceding 2 years, has generally operated in conformance with the limits of permitted flows and other conditions specified in the permit;

(d) The department has reviewed the discharge-monitoring reports required under department rule and is satisfied that the reports are accurate;

(e) The treatment facility has generally met water quality standards in the preceding 2 years, except for violations attributable to events beyond the control of the treatment plant or its operator, such as destruction of equipment by fire, wind, or other abnormal events that could not reasonably be expected to occur; and

(f) The department, or a local program approved under s. 403.182, has conducted, in the preceding 12 months, an inspection of the facility and has verified in writing to the operator of the facility that it is not exceeding the permitted capacity and is in substantial compliance.

The department shall keep records of the number of 10-year permits applied for and the number and duration of permits issued for longer than 5 years.

(4) The department shall issue permits on such conditions as are necessary to effect the intent and purposes of this section.

(5) The department shall issue permits to construct, operate, maintain, expand, or modify an installation which may reasonably be expected to be a source of pollution only when it determines that the installation is provided or equipped with pollution control facilities that will abate or prevent pollution to the degree that will comply with the standards or rules adopted by the department, except as provided in s. 403.088 or s. 403.0872. However, separate construction permits shall not be required for installations permitted under s. 403.0885, except that the department may require an owner or operator proposing to construct, expand, or modify such an installation to submit for department review, as part of application for permit or permit modification, engineering plans, preliminary design reports, or other information 90 days prior to commencing construction. The department may also require the engineer of record or another registered professional engineer, within 30 days after construction is complete, to certify that the construction was completed in accordance with the plans submitted to the department, noting minor deviations which were necessary because of site-specific conditions.

(6)(a) The department shall require a processing fee in an amount sufficient, to the greatest extent possible, to cover the costs of reviewing and acting upon any application for a permit or request for site-specific alternative criteria or for an exemption from water quality criteria and to cover the costs of surveillance and other field services and related support activities associated with any permit or plan approval issued pursuant to this chapter. The department shall review the fees authorized under this chapter at least once every 5 years and shall adjust the fees upward, as necessary, within the fee caps established in this paragraph to reflect changes in the Consumer Price Index or similar inflation indicator. The department shall establish by rule the inflation index to be used for this purpose. 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. However, when an application is received without the required fee, the department shall acknowledge receipt of the application and shall immediately return the unprocessed application to the applicant and shall take no further action until the application is received with the appropriate fee. The department shall adopt a schedule of fees by rule, subject to the following limitations:

1. The fee for any of the following may not exceed $32,500:

a. Hazardous waste, construction permit.

b. Hazardous waste, operation permit.

c. Hazardous waste, postclosure permit, or clean closure plan approval.

d. Hazardous waste, corrective action permit.

2. The permit fee for a drinking water construction or operation permit, not including the operation license fee required under s. 403.861(7), shall be at least $500 and may not exceed $15,000.

3.~~2~~. The permit fee for a Class I injection well construction permit may not exceed $12,500.

4.~~3.~~ The permit fee for any of the following permits may not exceed $10,000:

a. Solid waste, construction permit.

b. Solid waste, operation permit.

c. Class I injection well, operation permit.

5.~~4.~~ The permit fee for any of the following permits may not exceed $7,500:

a. Air pollution, construction permit.

b. Solid waste, closure permit.

~~c. Drinking water, construction or operation permit.~~

c.~~d.~~ Domestic waste residuals, construction or operation permit.

d.~~e.~~ Industrial waste, operation permit.

e.~~f.~~ Industrial waste, construction permit.

6.~~5.~~ The permit fee for any of the following permits may not exceed $5,000:

a. Domestic waste, operation permit.

b. Domestic waste, construction permit.

7.~~6.~~ The permit fee for any of the following permits may not exceed $4,000:

a. Wetlands resource management—(dredge and fill and mangrove alteration)~~, standard form permit~~.

b. Hazardous waste, research and development permit.

c. Air pollution, operation permit, for sources not subject to s. 403.0872.

d. Class III injection well, construction, operation, or abandonment permits.

8. The permit fee for a drinking water distribution system permit, including a general permit, shall be at least $500 and may not exceed $1,000.

9.~~7.~~ The permit fee for Class V injection wells, construction, operation, and abandonment permits may not exceed $750.

10.~~8.~~ The permit fee for domestic waste collection system permits ~~any of the following permits~~ may not exceed $500:

~~a. Domestic waste, collection system permits.~~

~~b. Wetlands resource management—(dredge and fill and mangrove alterations), short permit form.~~

~~c. Drinking water, distribution system permit.~~

11.~~9.~~ The permit fee for stormwater operation permits may not exceed $100.

12.~~10.~~ Except as provided in subparagraph 8., the general permit fees for permits that require certification by a registered professional engineer or professional geologist may not exceed $500, and~~.~~ the general permit fee for other permit types may not exceed $100.

13.~~11.~~ The fee for a permit issued pursuant to s. 403.816 is $5,000, and the fee for any modification of such permit requested by the applicant is $1,000.

14.~~12.~~ The regulatory program and surveillance fees for facilities permitted pursuant to s. 403.088 or s. 403.0885, or for facilities permitted pursuant to s. 402 of the Clean Water Act, as amended, 33 U.S.C. ss. 1251 et seq., and for which the department has been granted administrative authority, shall be limited as follows:

a. The fees for domestic wastewater facilities shall not exceed $7,500 annually. The department shall establish a sliding scale of fees based on the permitted capacity and shall ensure smaller domestic waste dischargers do not bear an inordinate share of costs of the program.

b. The annual fees for industrial waste facilities shall not exceed $11,500. The department shall establish a sliding scale of fees based upon the volume, concentration, or nature of the industrial waste discharge and shall ensure smaller industrial waste dischargers do not bear an inordinate share of costs of the program.

c. The department may establish a fee, not to exceed the amounts in subparagraphs 4. and 5., to cover additional costs of review required for permit modification or construction engineering plans.

(b) If substantially similar air pollution sources are to be constructed or modified at the same facility, the applicant may submit a single application and permit fee for construction or modification of the sources at that facility. If substantially similar air pollution sources located at the same facility do not constitute a major source of air pollution subject to permitting under s. 403.0872, the applicant may submit a single application and permit fee for the operation of those sources. The department may develop, by rule, criteria for determining what constitutes substantially similar sources.

(c) The fee schedule shall be adopted by rule. The amount of each fee shall be reasonably related to the costs of permitting, field services, and related support activities for the particular permitting activity taking into consideration consistently applied standard cost-accounting principles and economies of scale. If the department requires, by rule or by permit condition, that a permit be renewed more frequently than once every 5 years, the permit fee shall be prorated based upon the permit fee schedule in effect at the time of permit renewal.

(d) Nothing in this subsection authorizes the construction or expansion of any stationary installation except to the extent specifically authorized by department permit or rule.

(e) For all domestic waste collection system permits and drinking water distribution system permits, the department shall adopt a fee schedule, by rule, based on a sliding scale relating to pipe diameter, length of the proposed main, or equivalent dwelling units, or any combination of these factors. The department shall require a separate permit application and fee for each noncontiguous project within the system.

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

(a) Has submitted false or inaccurate information in his or her application;

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

(c) Has failed to submit operational reports or other information required by department rule or regulation; or

(d) Has refused lawful inspection under s. 403.091.

(8) The department shall not issue a permit to any person for the purpose of engaging in, or attempting to engage in, any activity relating to the extraction of solid minerals not exempt pursuant to chapter 211 within any state or national park or state or national forest when the activity will degrade the ambient quality of the waters of the state or the ambient air within those areas. In the event the Federal Government prohibits the mining or leasing of solid minerals on federal park or forest lands, then, and to the extent of such prohibition, this act shall not apply to those federal lands.

(9) A violation of this section is punishable as provided in this chapter.

(10) Effective July 1, 2008, the minimum fee amounts shall be the minimum fees prescribed in this section, and such fee amounts shall remain in effect until the effective date of fees adopted by rule by the department.

Section 20. Subsections (7) and (8) of section 403.861, Florida Statutes, are amended to read:

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:

(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, ~~and~~ a completed permit application form, and other required information as set forth in department rule, including receipt of an appropriate fee. The department may

~~(8)~~ 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 ~~$7,500~~. 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.

Section 21. Section 403.873, Florida Statutes, is amended to read:

403.873 Renewal of license.—

(1) The department shall renew a license upon receipt of the renewal application, proof of completion of department-approved continuing education units during the current biennium, and the renewal fee, and in accordance with the other provisions of ss. 403.865-403.876.

(2) The department shall adopt rules establishing a procedure for the biennial renewal of licenses, including the requirements for continuing education.

Section 22. Section 403.874, Florida Statutes, is amended to read:

403.874 Inactive status.—

(1) The department shall reactivate an inactive license upon receipt of the reactivation application and fee within the 2-year period immediately

following the expiration date of the license. Any license not reactivated within this 2-year period shall be null and void and an operator seeking a license thereafter must meet the training, examination, and experience requirements for the type and class or level of license sought.

(2) The department shall adopt rules relating to licenses that have become inactive and for the reactivation of inactive licenses, and procedures for null and void licenses and how to obtain a new license after a license has become null and void.

Section 23. The Department of Environmental Protection may not issue any permit for a Class I landfill that will be located on or adjacent to a Class III landfill that was permitted on or before January 1, 2006, and that is located in the Southern Water Use Caution Area designated by rule by the Southwest Florida Water Management District. This section applies to all applications for any Class I landfill permit submitted after January 1, 2006, for which the department has not issued a final permit.

Section 24. Section 378.011, Florida Statutes, is repealed.

Section 25. Chapter 325, Florida Statutes, consisting of ss. 325.2055, 325.221, 325.222, and 325.223, Florida Statutes, is repealed.

Section 26. Section 403.08725, Florida Statutes, is repealed.

Section 27. This act shall take effect upon becoming a law.

Approved by the Governor June 11, 2008.

Filed in Office Secretary of State June 11, 2008.