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States' Nutrient Management Plans Statutes & Regulations:

Florida

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FL Stat § 403.061(31)
FL Stat § 403.087
FL Stat § 403.088
FL Stat § 403.0885
FL Admin Code R 62-620.100(1), (2)(a), (d), (k), (l), (m), (n), (3)(r)-(w), (4)
FL Admin Code R 62-670.200
FL Admin Code R 62-670.400
FL Admin Code R 62-670.500(5)(d), (e), (7)(a), (8)
FL Admin Code R 62-670.600(1)(a), (b), (2), (4)(b)
FL Stat § 373.4592
FL Admin Code R 40E-63
FL Stat § 373.4595
FL Admin Code R 5M-3.001, .002, .003, .005, .006, .007
FL Admin Code R 40E-61.041-.321

The statutes and Constitution are current through the 2018 regular and special legislative sessions. The statutes are subject to changes by the Florida Division of Statutory Revision.

FL Stat § 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.
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> (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 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.

[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.

FL Stat § 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.
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> (2) The department shall adopt, and may amend or repeal, rules for the issuance, denial, modification, and revocation of permits under this section.
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> (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:
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> > (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, post closure 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. The permit fee for a Class I injection well construction permit may not exceed $12,500.

4. 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. 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. Domestic waste residuals, construction or operation permit.

d. Industrial waste, operation permit.

e. Industrial waste, construction permit.

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

a. Wetlands resource management—(dredge and fill and mangrove alteration).

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

10. The permit fee for domestic waste collection system permits may not exceed $500.

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

12. 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. 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. 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 5. and 6., 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 does not become a vested right in the permittee. The department may revoke any permit issued by it if it finds that the permitholder has:

(a) Submitted false or inaccurate information in the application for the permit;

(b) Violated law, department orders, rules, or conditions which directly relate to the permit;

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

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

(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.

FL Stat § 403.088. Water pollution operation permits; conditions.

(1) Without the written authorization of the department, a person may not discharge any waste into the waters of the state which, by itself or in combination with the wastes of other sources, reduces the quality of the receiving waters below the classification established for such waters. However, this section does not prohibit the application of pesticides to such waters for the control of insects, aquatic weeds, algae, or other pests if the application is performed in accordance with this section.

(a) Upon execution of the agreement required in s. 487.163(3), the department may develop a permit or other authorization as required by 33 U.S.C. s. 1342 for the application of pesticides. A person must obtain such permit or other authorization before applying pesticides to the waters of the state.

(b) In consultation with the Department of Agriculture and Consumer Services and the Fish and Wildlife Conservation Commission, the department shall also develop a general permit under s. 403.0885(2), for the application of pesticides.

(c) The department shall also enter into agreements with the Department of Agriculture and Consumer Services in the case of insect or other pest control, and with the Fish and Wildlife Conservation Commission in the case of aquatic weed, other aquatic pests, or algae control. Such agreements must provide for public health, welfare, and safety, as well as environmental factors, and must ensure that pesticides applied to waters of the state are regulated uniformly, including provisions for the coordination of agency staff and resources, through the implementation of permitting, compliance, and enforcement activities under s. 403.0885 and this section. Pesticides that are approved for a particular use by the United States Environmental Protection Agency or by the Department of Agriculture and Consumer Services and applied in accordance with registered label instructions, state standards for such application, including any permit or other

authorization required by this subsection, and the Florida Pesticide Law, part I of chapter 487, are allowed a temporary deviation from the acute toxicity provisions of the department's rule establishing surface water quality standards, not to exceed the time necessary to control the target pests and only if the application does not reduce the quality of the receiving waters below the classification for such waters and is not likely to adversely affect any threatened or endangered species.

(2)

(a) Any person intending to discharge wastes into waters of the state shall make application to the department for any appropriate permit required by this chapter. Application shall be made on a form prescribed by the department and shall contain such information as the department requires.

(b)

1. If the department finds that the proposed discharge will reduce the quality of the receiving waters below the classification established for them, it shall deny the application and refuse to issue a permit. The department may not use the results from a field procedure or laboratory method to make such a finding or determine facility compliance unless the field procedure or laboratory method has been adopted by rule or noticed and approved by department order pursuant to department rule. Field procedures and laboratory methods must satisfy the quality assurance requirements of department rule and must produce data of known and verifiable quality. The results of field procedures and laboratory methods shall be evaluated for sources of uncertainty to assure suitability for the intended purposes as properly documented with each procedure or method.

2. If the department finds that the proposed discharge will not reduce the quality of the receiving waters below the classification established for them, it may issue an operation permit if it finds that such degradation is necessary or desirable under federal standards and under circumstances which are clearly in the public interest.

(c) A permit shall:

1. Specify the manner, nature, volume, and frequency of the discharge permitted;

2. Require proper operation and maintenance of any pollution abatement facility by qualified personnel in accordance with standards established by the department;

3. Contain such additional conditions, requirements, and restrictions as the department deems necessary to preserve and protect the quality of the receiving waters;

4. Be valid for the period of time specified therein; and

5. Constitute the state National Pollutant Discharge Elimination System permit when issued pursuant to the authority in s. 403.0885.

(d) An operation permit may be renewed upon application to the department if the discharge complies with permit conditions and applicable statutes and rules. No operation permit shall be renewed or issued if the department finds that the discharge will not comply with permit conditions or applicable statutes and rules.

(e) However, if the discharge will not meet permit conditions or applicable statutes and rules, the department may issue, renew, revise, or reissue the operation permit if:

1. The applicant is constructing, installing, or placing into operation, or has submitted plans and a reasonable schedule for constructing, installing, or placing into operation, an approved pollution abatement facility or alternative waste disposal system;

2. The applicant needs permission to pollute the waters within the state for a period of time necessary to complete research, planning, construction, installation, or operation of an approved and acceptable pollution abatement facility or alternative waste disposal system;

3. There is no present, reasonable, alternative means of disposing of the waste other than by discharging it into the waters of the state;

4. The granting of an operation permit will be in the public interest;

5. The discharge will not be unreasonably destructive to the quality of the receiving waters; or

6. A water quality credit trade that meets the requirements of s. 403.067.

(f) A permit issued, renewed, or reissued pursuant to paragraph (e) shall be accompanied by an order establishing a schedule for achieving compliance with all permit conditions. Such permit may require compliance with the accompanying order.

(g) The Legislature finds that the restoration of the South Florida ecosystem is in the public interest. Accordingly, whenever a facility to be constructed, operated, or maintained in accordance with s. 373.1501, s. 373.1502, s. 373.4595, or s. 373.4592 is subjected to permitting requirements pursuant to chapter 373 or this chapter, and the issuance of the initial permit for a new source, a new discharger, or a recommencing discharger is subjected to a request for hearing pursuant to s. 120.569, the administrative law judge may, upon motion by the permittee, issue a recommended order to the secretary who, within 5 days, shall issue an order authorizing the interim construction, operation, and maintenance of the facility if it complies with all uncontested conditions of the proposed permit and all other conditions recommended by the administrative law judge during the period until the final agency action on the permit.

1. An order authorizing such interim construction, operation, and maintenance shall be granted if requested by motion and no party opposes it.

2. If a party to the administrative hearing pursuant to ss. 120.569 and 120.57 opposes the motion, the administrative law judge shall issue a recommended order granting the motion if the administrative law judge finds that:

a. The facility is likely to receive the permit; and

b. The environment will not be irreparably harmed by the construction, operation, or maintenance of the facility pending final agency action on the permit.

3. Prior to granting a contested motion for interim construction, operation, or maintenance of a facility regulated or otherwise permitted by s. 373.1501, s. 373.1502, s. 373.4595, or s. 373.4592, the administrative law judge shall conduct a hearing using the summary hearing process defined in s. 120.574, which shall be mandatory for motions made pursuant to this paragraph. Notwithstanding the provisions of s. 120.574(1), summary hearing proceedings for these facilities shall begin within 30 days of the motion made by the permittee. Within 15 days of the

conclusion of the summary proceeding, the administrative law judge shall issue a recommended order either denying or approving interim construction, operation, or maintenance of the facility, which shall be submitted to the secretary who shall within 5 days thereafter, enter an order granting or denying interim construction operation or maintenance of the facility. The order shall remain in effect until final agency action is taken on the permit.

(3)

(a) The provisions of this section shall not be construed to repeal or restrict any other provisions of this chapter, but shall be cumulative thereto.

(b) This section shall not be construed to exempt any permittee from the pollution control requirements of any local air and water pollution control rule, regulation, ordinance, or code, or to authorize or allow any violation thereof.

(4) Notwithstanding any act to the contrary, if the discharge from any sewage disposal or treatment plant is permitted pursuant to this chapter and by a local pollution control program, the discharge shall be deemed lawful. Further, any person, firm, corporation, or public body that constructs, reconstructs, extends, or increases the capacity or volume of any sewage disposal or treatment plant pursuant to permits or authorizations under this chapter and through any local pollution control program shall not be subject to an action by the state attorney to restrain, enjoin, or otherwise prevent such construction, reconstruction, extension, or increase.

FL Stat § 403.0885. Establishment of federally approved state National Pollutant Discharge Elimination System (NPDES) Program.

(1) The Legislature finds and declares that it is in the public interest to promote effective and efficient regulation of the discharge of pollutants into waters of the state and eliminate duplication of permitting programs by the United States Environmental Protection Agency under s. 402 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq., and the department under this chapter. It is further found that state implementation of the federal NPDES program, with sufficient time for legislative revision prior to the implementation of the state NPDES permit program by the department, would promote the orderly establishment of a state-administered NPDES program. It is the specific intent of the Legislature that permit fees charged by the department for processing of federally approved NPDES permits be

adequate to cover the entire cost to the department of program management, for reviewing and acting upon any permit application, and to cover the cost of surveillance and other field services of any permits issued pursuant to this section.

(2) The department is empowered to establish a state NPDES program in accordance with s. 402 of the Clean Water Act, as amended. The department shall have the power and authority to assume the NPDES permitting program from the United States Environmental Protection Agency and to implement the program, including the general permitting program under 40 C.F.R. s. 122.28 and the pretreatment program under 40 C.F.R. part 403, in accordance with s. 402(b) of the Clean Water Act, as amended, and 40 C.F.R. part 123. Variance, thermal variance, and provisions for relief from criteria set forth in the Clean Water Act, as amended, and corresponding United States Environmental Protection Agency regulations shall be part of the assumed NPDES permitting program. The department may not accept authorization to administer a state NPDES program for municipal stormwater for a period of 4 years following federal approval of the state NPDES program. The provisions governing upset and bypass conditions contained in 40 C.F.R. s. 122.41 shall apply to the state National Pollutant Discharge Elimination System Program. The state NPDES permit shall be the sole permit issued by the state under this chapter regulating the discharge of pollutants or wastes into surface waters within the state for discharges covered by the United States Environmental Protection Agency approved state NPDES program. This legislative authority is intended to be sufficient to enable the department to qualify for delegation of the federal NPDES program to the state and operate such program in accordance with federal law. Only that portion of the facility permit which authorizes a discharge pursuant to s. 402 of the Clean Water Act, as amended, shall be submitted to the United States Environmental Protection Agency for review under that section. To the extent other sections of this chapter apply and do not conflict with federal requirements, the application of such sections to discharges regulated under this section is not prohibited.

(3) An application for an NPDES permit and other approvals from the state relating to the permitted activity shall be granted or denied by the department within the time allowed for permit review under 40 C.F.R. part 124, subpart A. Other than for stormwater discharge permitting, the decision on issuance or denial of such permit may not be delegated to another agency or governmental authority. The department is specifically exempted from the time limitations provided in ss. 120.60 and 403.0876; provided that upon timely application for renewal, a permit issued under this section shall not expire until the application has been finally acted upon or until the last day for seeking judicial review of the agency order or a later date fixed by order of the

reviewing court. However, if the department fails to render a permitting decision within the time allowed by 40 C.F.R. part 124, subpart A, or a memorandum of agreement executed by the department and the United States Environmental Protection Agency, whichever is shorter, the applicant may apply for an order from the circuit court requiring the department to render a decision within a specified time.

(4) The department shall respond, in writing, to any written comments on a pending application for a state NPDES permit which the department receives from the executive director, or his or her designee, of the Fish and Wildlife Conservation Commission on matters within the commenting agency's jurisdiction. The department's response shall not constitute agency action for purposes of ss. 120.569 and 120.57 or other provisions of chapter 120.

(5) Certified aquaculture activities under s. 597.004 that have individual production units whose annual production and water discharge are less than the parameters established by the NPDES program are exempt from wastewater management regulations. For purposes herein, the term "individual production units" shall be determined by rule of the Department of Agriculture and Consumer Services.

FL Admin Code R 62-620.100. Scope/Applicability/References.

(1) Scope. This chapter sets forth the procedures to obtain a permit to construct, modify, or operate a wastewater facility or activity which discharges wastes into waters of the State or which will reasonably be expected to be a source of water pollution. It also includes requirements and procedures for establishing permit limitations and conditions, issuance or denial of a permit, extension, renewal or revision of a permit, suspension or revocation of a permit, and transfer of a permit to a new owner. It contains requirements for monitoring and reporting after the permit is issued, and lists the forms needed to apply for a permit and to report the results of testing and monitoring required by this chapter.

(2) Applicability.

(a) Where there are conflicts with other existing specific or general rules of the Department, the requirements and procedures set forth in this chapter shall supersede all other procedures and requirements for wastewater facilities or activities.

(b) Requirements in this chapter shall apply to domestic or industrial wastewater facilities which discharge wastes into waters or which can reasonably be expected to be a source of pollution.

(c) The permitting procedures of this chapter apply to stormwater discharges regulated under Section 403.0885, F.S. It is the intent of this chapter as to stormwater discharges to implement the substantive requirements of the Federal NPDES stormwater program.

(d) The requirements of this chapter are in addition to and not in lieu of the requirements of Part IV of Chapter 373, F.S.

(e) This chapter does not apply to septic tank drainfield systems and other on-site sewage treatment and disposal systems with subsurface disposal if:

1. The system serves the complete wastewater needs of an establishment with a design capacity of 10, 000 gallons per day or less of domestic wastewater, or

2. The system serves the complete wastewater needs of a commercial establishment with a design capacity of 5, 000 gallons per day or less of commercial wastewater.

(f) For information purposes, the systems included in paragraph (e) of this rule, are permitted by the State of Florida Department of Health in accordance with the requirements of Chapter 64E-6, F.A.C. For these systems the Department shall use subsection 64E-6.008(1), F.A.C., for determining the estimated volume of sewage from an establishment.

(g) This chapter does not apply to permitting of wastewater collection systems and transmission facilities.

(h) This chapter applies to discharges from mobile point sources such as seafood processing rigs, seafood processing vessels, aggregate plants, oil and gas exploratory drilling rigs, or oil and gas developmental drilling rigs. It does not apply to discharges of sewage from vessels regulated by the U.S. Coast Guard under section 312 of the CWA.

(i) For wastewater facilities which have both an existing Federal NPDES permit for which the Department has been granted administrative authority and an existing Department-issued permit for the same discharge to surface waters, the Department shall, after the implementation of this rule, revise those permits by issuing a letter to the permittee combining the two permits into one Department-issued permit. The letter revising the permits shall change the issuing agency name, include DEP Form 62-620.910(10) for reporting monitoring information, contain an expiration date for the combined permit, incorporate all of the permit conditions of both permits, and state

that if there are conflicts between permit conditions, the more stringent condition shall supersede the less stringent. The existing permits shall be revised as follows:

1. If the permittee has either, but not both, a Department-issued construction or operating permit, the expiration date of the combined permit shall be based on the earlier of the two expiration dates of the Department or the Federal NPDES permit.

2. If the permittee has a Department-issued temporary operating permit, the letter combining the permit conditions of both permits shall include as an enclosure an Administrative Order setting forth the schedule for compliance with the permit conditions.

3. If the permittee has both a Department-issued construction permit and a Department-issued operating permit, the letter shall combine the Federal NPDES and the Department operating permit conditions and establish the expiration date using the earlier of the dates from the Federal NPDES or the Department operating permit. The existing construction permit shall remain in effect until it expires and shall not be renewed or reissued.

(j) For wastewater facilities which have a Federal NPDES permit only, the Department shall, after implementation of this rule, revise the permit by issuing a letter to the permittee. The letter revising the permit shall change the name of the issuing agency and include DEP Form 62-620.910(10) for reporting monitoring information to the Department.

(k) On the date this rule is implemented, applications for renewal of permits to discharge wastes into surface waters which have been filed prior to the implementation date with either EPA or the Department shall be processed as follows:

1. If the application is for renewal of an existing Federal NPDES permit, the Department shall, within 60 days of the implementation date of this rule, send a letter to the permittee requesting payment of the application processing fee set forth in Rule 62-4.050, F.A.C., unless there is pending an application for renewal of a Department permit for which the fee has been paid. On receipt of the application processing fee the Department shall process the application in accordance with Rule 62-620.510, F.A.C., and shall request additional information necessary to meet the requirements of this chapter. The Department

shall not require the applicant to submit a new application form under this chapter.

2. If the application is for renewal of an existing Department permit, the Department shall, within 60 days of the implementation date of this rule, send a letter to the permittee advising him to amend his application for renewal to meet the requirements of this chapter. The Department shall not require the applicant to submit a new application form under this chapter. However, the applicant shall provide additional information requested by the Department in accordance with Rule 62-620.510, F.A.C., to meet the requirements of this chapter.

3. The existing Federal NPDES permit and Department-issued permit, for which application for renewal was timely, shall remain in effect, as revised under paragraph (i), of this rule, until processing has been completed on the renewal in accordance with Rule 62-620.335, F.A.C., and this subsection.

(l) If a pending application is for the initial issuance or substantial revision of a Federal NPDES permit, the Department shall follow the procedures set forth in subparagraph (k)1., above, and the application shall be processed under this chapter. If a pending application is for the initial issuance or substantial revision of a Department permit, the Department shall follow the procedures set forth in subparagraph (k)2., above, and the application shall be processed under this chapter. In either case, the Department shall not require the applicant to submit a new application form under this chapter.

(m) A permit authorizing a discharge solely to ground water shall remain in effect until the expiration date in the permit. If a permit application is being processed on the date this rule is implemented, the Department shall follow the procedures set forth in subparagraph (k)2., above, and the application shall be processed under the requirements of this chapter. The Department shall not require the applicant to submit a new application form under this chapter.

(n) If an application for renewal of a permit is filed in accordance with Rule 62-4.090, F.A.C., within 180 days of implementation of this rule chapter, it shall be deemed to be a timely application for the purposes of the existing permit remaining in effect until processing has been completed on the application under Rule 62-620.335, F.A.C.

(o) Conditional exclusion for "no exposure" of industrial activities and materials to stormwater. Discharges composed entirely of stormwater are not stormwater discharges associated with industrial activity if there is "no exposure" of industrial materials and activities to precipitation and/or runoff, and the discharger satisfies the conditions in subparagraphs (o)1. through (o)3., of this rule. "No exposure" means that all industrial materials and activities are protected by a storm resistant shelter to prevent exposure to precipitation and/or runoff. Industrial materials or activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product or waste product.

1. Qualification. To qualify for this exclusion, the operator of the discharge must:

a. Provide a storm resistant shelter to protect industrial materials and activities from exposure to precipitation and runoff,

b. Submit to the Department a completed and signed Form 62-620.910(17), entitled "No Exposure Certification for Exclusion from NPDES Stormwater Permitting, " effective 2-17-09, incorporated by reference and made part of this chapter, certifying that there are no discharges of stormwater contaminated by exposure to industrial materials and activities from the entire facility, except as provided in subparagraph (o)2., of this rule. This form may be obtained by writing the Department of Environmental Protection, NPDES Stormwater Notices Center, Mail Station #2510, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or from the Department's website. The completed and signed Form 62-620.910(17), and certification fee as required by subparagraph 62-4.050(4)(d) 3., F.A.C., must be submitted either by mail to: Department of Environmental Protection, NPDES Stormwater Notices Center, Mail Station #2510, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400; or electronically using

the Department's Interactive Notice of Intent (iNOI) at http://www.dep.state.fl.us/water/stormwater/npdes/,

c. Renew the certification every 5 years on or before the expiration of each 5 year interval by filing a new completed and signed Form 62-620.910(17) effective 2-17-09, and certification fee as required by subparagraph 62-4.050(4)(d) 3., F.A.C., either by mail to the Department of Environmental Protection, NPDES Stormwater Notices Center, Mail Station #2510, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or electronically using the Department's Interactive Notice of Intent (iNOI) at http://www.dep.state.fl.us/water/stormwater/npdes/,

d. Allow the Department or its agents to inspect the facility to determine compliance with the "no exposure" conditions; and,

e. For facilities that discharge through a Municipal Separate Storm Sewer System (MS4), submit a copy of the certification of "no exposure" to the MS4 operator, as well as allow inspection and public reporting by the MS4 operator.

2. Industrial materials and activities not requiring storm resistant shelter. To qualify for this exclusion, storm resistant shelter is not required for:

a. Drums, barrels, tanks, and similar containers that are tightly sealed, provided those containers are not deteriorated and do not leak ("Sealed" means banded or otherwise secured and without operational taps or valves),

b. Adequately maintained vehicles used in material handling; and,

c. Final products, other than products that would be mobilized in stormwater discharge (e.g., rock salt).

3. Limitations. This conditional exclusion from stormwater permitting under this chapter and/or Chapter 62-621, F.A.C., is not available:

a. For stormwater discharges from construction activities,

b. For individual outfalls. The exclusion is available on a facility-wide basis only,

c. If circumstances change and industrial materials or activities become exposed to precipitation and/or runoff, the conditions for this exclusion no longer apply. In such cases, the discharge becomes subject to enforcement for un-permitted discharge. Any conditionally excluded discharger who anticipates changes in circumstances should apply for and obtain permit authorization prior to the change of circumstances; and,

d. Notwithstanding the provisions of this paragraph, the Department retains the authority to require permit authorization (and deny this exclusion) upon making a determination that the discharge causes or contributes to the violation of an applicable water quality standard, including designated uses.

(3) References. The Department adopts and incorporates by reference the following sections of Title 40 of the Code of Federal Regulations (CFR) revised as of July 1, 2009, or later as specifically indicated, and the Department Guide to Permitting Wastewater Facilities or Activities Under Chapter 62-620, F.A.C., dated 7-10-06. Copies of these documents may be obtained by writing the Department of Environmental Protection, Bureau of Water Facilities Regulation, 2600 Blair Stone Road, MS 3535, Tallahassee, Florida 32399-2400.

(a) 40 C.F.R. Part 122, Appendix A, which lists the NPDES primary industry categories.

(b) 40 C.F.R. Part 122, Appendix D, which contains NPDES permit application testing requirements.

(c) 40 C.F.R. Part 125, subpart G, which contains the criteria for requesting a modification of secondary treatment requirements under section 301(h) of the Clean Water Act.

(d) 40 C.F.R. part 125, subpart D, which contains the criteria and standards for determining fundamentally different factors under sections 301(b)(1)(A), 301(b)(2)(A) and (E) of the Clean Water Act.

(e) 40 C.F.R. Part 125, subpart C, which contains the criteria for extending compliance dates for facilities installing innovative technology under section 301(k) of the Clean Water Act.

(f) 40 C.F.R. Part 125, subpart H, which contains the criteria for determining alternative effluent limitations under section 316(a) of the Clean Water Act.

(g) 40 C.F.R. 133.102(a)(4) and (b), which contains the level of effluent quality required for Carbonaceous Biochemical Oxygen Demand (CBOD5) and for Suspended Solids, which for purposes of this rule means Total Suspended Solids (TSS).

(h) 40 C.F.R. Part 125, subpart A, which contains guidelines for using best professional judgment to develop technology-based effluent limitations on a case-by-case basis.

(i) 40 C.F.R. 122.26, which contains criteria and guidance for permitting of stormwater discharges.

(j) 40 C.F.R. 136, Guidelines for Establishing Test Procedures for the Analysis of Pollutants, revised as of July 1, 2020, (http://www.flrules.org/Gateway/reference.asp?No=Ref-13640), and as amended effective July 19, 2021, at 86 FR 95, pages 27237 through 27260, (http://www.flrules.org/Gateway/reference.asp?No=Ref-13640).

(k) 40 C.F.R. 401.15, which contains the list of toxic pollutants promulgated under the section 307(a)(1) of the CWA.

(l) 40 C.F.R. 122.21(g)(7), solely for the purpose of and only those portions that allow establishment of site-specific sampling procedures for stormwater discharges.

(m) 40 C.F.R. 122.44(k), which contains guidelines for requiring best management practices (BMPs) for facilities and activities regulated under Section 403.0885, F.S.

(n) 40 C.F.R. 122.28(b)(3), which contains certain criteria for requiring individual permits.

(o) 40 C.F.R. 124.66, which contains special procedures for decisions on thermal variance under section 316(a) of the CWA.

(p) The Department of Environmental Protection Guide to Permitting Wastewater Facilities or Activities Under Chapter 62-620, F.A.C., 7-10-06.

(q) For the special case of open ocean dischargers, 40 C.F.R. 133.103(d), which contains the authorization to substitute a lower percent removal requirement or mass loading limit for BOD and TSS limitations for otherwise applicable requirements.

(r) 40 C.F.R. 122.21(a)(1), solely for the purpose of establishing a duty for concentrated animal feeding operations to apply for a permit.

(s) 40 C.F.R. 122.21(i)(1), containing permit application requirements for concentrated animal feeding operations.

(t) 40 C.F.R. 122.23(a) through (g), containing the scope, permit requirements, determinations, dates for permit applications and definitions for concentrated animal feeding operations.

(u) 40 C.F.R. 122.63(h), making it a minor permit modification to incorporate changes to a nutrient management plan.

(v) 40 C.F.R. 412, containing effluent guidelines and standards for concentrated animal feeding operations (CAFO) point source category.

(w) 40 C.F.R. 122.42(e) containing additional conditions that apply to concentrated animal feeding operation NPDES permits.

(x) 40 C.F.R. 125.122 which contains the determination of unreasonable degradation of marine environment.

(y) 40 C.F.R. part 125 subpart I, revised as of July 1, 2013, amended August 15, 2014, at 79 FR 158, pages 48429 through 48430, http://www.flrules.org/Gateway/reference.asp?No=Ref-05086, and http://www.flrules.org/Gateway/reference.asp?No=Ref-05087, containing requirements applicable to cooling water intake structures for new facilities under section 316(b) of the Clean Water Act. This rule shall be effective on June 24, 2015.

(z) 40 C.F.R. 125 subpart J, amended August 15, 2014, at 79 FR 158, pages 48430 through 48439, http://www.flrules.org/Gateway/reference.asp?No=Ref-05087, containing requirements applicable to cooling water intake structures for existing facilities under section 316(b) of the Clean Water Act. This rule shall be effective on June 24, 2015.

(aa) 40 C.F.R. 122.21(r), revised as of July 1, 2013 and amended August 15, 2014, at 79 FR 158, pages 48424 through 48429, http://www.flrules.org/Gateway/reference.asp?No=Ref-05085, and http://www.flrules.org/Gateway/reference.asp?No=Ref-05087, containing application requirements for facilities with cooling water intake structures. This rule shall be effective on June 24, 2015.

(bb) 40 C.F.R. 127, subpart A (except paragraph 127.1(a)(6)), subpart B (except paragraph 127.11(a)(2)), and 40 CFR 127.24,

adopted October 22, 2015, at 80 FR 64063, pages 64102 through 64106, http://www.flrules.org/Gateway/reference.asp?No=Ref-07244, containing requirements for electronic reporting of NPDES information from NPDES-regulated entities.

(cc) Appendix A to 40 C.F.R. 127, adopted October 22, 2015, at 80 FR 64063, pages 64108 through 64156, http://www.flrules.org/Gateway/reference.asp?No=Ref-07244, containing the information NPDES-regulated entities must electronically report and the minimum set of NPDES data that must be entered in or transferred to EPA's national NPDES data system.

(dd) 40 C.F.R. 403.12, paragraphs (e)(1), (h), and (i), amended October 22, 2015, at 80 FR 64063, page 64157, http://www.flrules.org/Gateway/reference.asp?No=Ref-07244, containing pretreatment program electronic reporting requirements for publically owned treatment works (POTWs) and industrial users.

(4) When used in any of the sections adopted from Title 40 of the Code of Federal Regulations (CFR) the following shall apply:

(a) EPA shall mean the Department; and,

(b) Regional Administrator, Director or State Director shall mean the Secretary of the Department or the Secretary's designee where appropriate.

FL Admin Code R 62-670.200. Definitions.

Terms used in this Rule shall have the meaning specified below. The meaning of any term not defined below may be taken from definitions in other rules of the Department, unless such meaning would defeat the purposes or intent of this rule.

(1) "Animal feeding operation" means a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

(a) Animals have been, are or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period; and

(b) Crops, vegetation, forage growth or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

(c) Two or more animal feeding operations under common ownership are deemed to be a single animal feeding operation if they are adjacent to each other or if they utilize a common area or system for the disposal of wastes.

(2) "Animal unit" means a unit of measurement for an animal feeding operation calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 55 pounds multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

(3) "Concentrated animal feeding operation" means a feeding operation where more animals are confined than are specified in the categories listed below. Any animal feeding operation that contains process wastewater and runoff from the 25-year, 24-hour storm event, is not considered a concentrated animal feeding operation regardless of the number of animals at the facility.

(a) 1,000 slaughter and feeder cattle,

(b) 700 mature dairy cattle (whether milked or dry cows), except that dairy farms located in the Lake Okeechobee Drainage Basin as defined in subsection 62-670.200(8), F.A.C., shall be regulated pursuant to Rule 62-670.500, F.A.C.,

(c) 2, 500 swine weighing over 55 pounds each,

(d) 500 horses,

(e) 10,000 sheep or lambs,

(f) 55,000 turkeys,

(g) 100,000 laying hens or broilers (if the facility has continuous overflow watering),

(h) 30,000 laying hens or broilers (if the facility has a liquid manure handling system),

(i) 5,000 ducks, or

(j) 1,000 animals units.

(4) "Dairy Farm" means any operation as defined in subsection 5D-1.001(49), F.A.C., and regulated by the Florida Department of Agriculture and Consumer Services.

(5) "Egg production facility" means a commercial facility housing laying hens or cleaning, sorting and preserving eggs.

(6) "Egg wash wastewater" means wastewater generated as a result of cleaning, sorting and preserving eggs.

(7) "High intensity use area" means all areas of concentrated animal density generally associated with milking barns, feedlots, holding pens, travel lanes and contiguous milk herd pasture where the permanent vegetative cover is equal to or less than 80 percent, under average annual worst-case conditions, as determined by USDA Soil Conservation Service methods.

(8) "Lake Okeechobee Drainage Basin" means the drainage basin consisting of the following sub-drainage basins:

(a) lower Kissimmee River basin below structure S-65;

(b) Taylor Creek - Nubbin Slough basin;

(c) Fish Eating Creek basin;

(d) Indian Prairie and Harney Pond basins;

(e) C-41A basin;

(f) Nicodemus Slough basin; and

(g) drainage areas tributary to the South Florida Water Management District Pump Stations designated as S-127, S-129, S-131, S-133, S-135, S-2, S-3, and S-4. The geographical boundaries of these sub-basins shall be as designated by the South Florida Water Management District in its Technical Publication 81-2, May, 1981.

(9) "Liquid manure system" means a system for conveyance of manure which uses water.

(10) "Major egg production facility" means an egg production facility which has:

(a) More than 100,000 laying hens, or

(b) More than 30,000 laying hens when the facility has a liquid manure system, or

(c) On site facilities which process at least the number of eggs produced by 100,000 laying hens, not necessarily from on site hens, on a daily basis.

(11) "Man-made" means constructed by man and used for the purpose of transporting wastes.

(12) "Management Plan" means a site-specific detailed plan, with design calculations, providing for collection, storage and disposal of all wastewater from the milking barn, and of the runoff from the 25-year, 24-hour storm event from all "high intensity" areas within the dairy farm. In

addition, the plan shall include provision for implementation of required management practices. Such plan shall be prepared in accordance with the standards of the USDA Soil Conservation Service and shall include detailed instructions for operation and maintenance of wastewater/runoff collection, storage and disposal systems.

(13) "Process generated wastewater" means water directly or indirectly used in the operation of a feedlot for any or all of the following: Spillage or overflow from animal or poultry watering systems; washing, cleaning or flushing pens, barns, manure pits or other feedlot activities; direct contact swimming, washing or spray cooling of animals; and dust control.

(14) "Process wastewater" means any process generated wastewater and any precipitation which comes into contact with any manure, litter of bedding, or any other raw material or intermediate product used in or resulting from the production of animals or poultry or direct products.

(15) "25-year, 24-hour Storm Event" means the amount of rainfall within 24 hours that is likely to be exceeded on the average only once in 25 years, as published by the U.S. Weather Bureau in Technical Paper 40 "Rainfall Maps for 24-hour Rainfall Amounts for the Coterminous United States."

FL Admin Code R 62-670.400. Requirements for Concentrated Animal Feeding Operations.

(1) Any person discharging or proposing to discharge pollutants from a concentrated animal feeding operation shall file an application for a permit with the Department.

(2) Each application must be filed on DEP Form 62-620.910(3) and completed in accordance with the instructions provided in such form.

(3) Case-by-Case Designation of Concentrated Animal Feeding Operations. Notwithstanding any other provision of this section, the Secretary or authorized designee may designate as a concentrated animal feeding operation any animal feeding operation not otherwise falling within the definition provided in subsection 62-670.200(3), F.A.C. In making such designation, the Secretary or authorized designee shall consider the following factors:

(a) The size of the animal feeding operation and the amount of wastes reaching waters of the State;

(b) The location of the animal feeding operation relative to waters of the State;

(c) The means of conveyance of animal wastes and process waste waters into waters of the State;

(d) The slope, vegetation, rainfall, and other factors relative to the likelihood or frequency of discharge of animal wastes and process waste waters into waters of the State; and

(e) Other such factors relative to the significance of the pollution problem sought to be regulated.

(f) Provided, however, that no animal feeding operation with less than the number of animals set forth in subsection 62-670.200(3), F.A.C., shall be designated as a concentrated animal feeding operation unless such animal feeding operation meets either of the following conditions:

1. Pollutants are discharged into waters of the state through a man-made ditch, flushing system or other similar man-made device; or

2. Pollutants are discharged directly into waters of the state which originate outside of and pass over, across, through the feeding operation or come into direct contact with the animals confined in the operation.

(4) In no case shall a permit application be required from a concentrated animal feeding operation designated pursuant to this section until there has been an onsite inspection of the operation and a determination that the operation should and could be regulated under the permit program. In addition, no application shall be required from an owner or operator of a concentrated animal feeding operation designated pursuant to this section unless such owner or operator is notified in writing of the requirement to apply for a permit, and the basis for imposing such requirement.

FL Admin Code R 62-670.500. Requirements for Dairy Farms in the Lake Okeechobee Drainage Basin.

(1) The discharge of untreated wastewater and runoff from dairy farms may reasonably be expected to be a source of pollution to waters of the state. The purpose of Rule 62-670.500, F.A.C., is to control pollution of waters of the state due to the discharge of wastewater and runoff from dairy farms in the Lake Okeechobee Drainage Basin to surface and ground water.

(2) Rule 62-670.500, F.A.C., shall be applicable to all dairy farms in the Lake Okeechobee Drainage Basin as defined in subsection 62-670.200(8), F.A.C. Regulation of dairy farms in other drainage basins under this rule will be proposed upon a determination by the Department that such additional

regulations are required to insure that water quality standards are met or maintained.

(3) Discharge of dairy farm wastewater and runoff to waters of the state shall not cause or contribute to a violation of water quality standards.

(4) The system of practices, specified in subsections 62-670.500(5) through (8), F.A.C., for collection and recycling of wastewater by proper land disposal, together with the associated management practices, is established for the purpose of determining compliance with water quality standards. Implementation of these practices will be presumed to provide reasonable assurance that the facility will meet water quality standards in waters of the state.

(5) Fencing.

(a) All dairy cattle, including dry cows and heifers, shall be fenced away from all watercourses, or drainage ditches with a drainage area of 100 acres or more, that will transport storm runoff to surface waters. All new and replacement fences shall be located no closer than 25 feet from the top of the side slopes of the drainage or from the stream bank of natural watercourses. The area between the fence and the watercourses or drainage ditches may be used for forage crop production and shall be so managed as to attenuate the loads of nutrients carried to surface waters. Additional fencing may be required by the management plan on the basis of site-specific factors.

(b) Milk Herd Concentration. The high intensity use area shall be so managed as to encourage congregation of the milk herd in the area. Permanent structures, and watering and feeding facilities shall be located in contiguous high-intensity use areas, whenever practicable, to promote maximum waste/runoff collection.

(c) Barn Waste and High Intensity Runoff. All wastes and flushings from milking barns and runoff from high intensity use areas shall be centrally collected for storage and disposal by land application, or treated prior to discharge. The size of the high intensity use area is expected to vary on a site-specific basis. It is the intent of this rule that this area shall be minimized through adoption of appropriate site designs and management practices developed in the management plan. It is contemplated that in many cases existing high intensity areas will be reduced in size, thus minimizing the amount of runoff to be collected.

1. The design of lagoons, storage ponds and other impoundments for barn wastes and runoff from "high

intensity use" areas shall be based on total containment of effluents for the longest anticipated period between emptyings. The volume should be large enough to store inputs from accumulated manure and wash water, direct rainfall on the pond, and the runoff contributed to the facility for the period minus losses expected due to evaporation. The design will provide for storage of runoff from the 25-year, 24-hour storm event. Runoff shall be determined in accordance with the USDA Soil Conservation Service procedures. The design and construction of the waste management facilities should conform to the criteria contained in the local SCS Field Office Technical Guide.

2. The storage facilities shall be cleaned periodically to remove accumulated sludge, debris or other solids so that their effective capacity (design volume) to provide adequate storage of wastes and runoff before land application will not be reduced. The bottom of the storage facilities shall be sealed, when necessary, to prevent leakage of the contents to the surrounding ground water.

(d) Land Application. Land application of all wastes (solids, sludge, runoff and wastewater) shall be managed to maximize water quality benefits derived from plant uptake of nutrients.

1. The nutrient content of all wastes shall be determined at least quarterly before spreading and the wastewater and runoff shall be applied to meet nutrient requirements of the crops. If the nutrient analyses show consistent results, the frequency of the analysis may be reduced. The degree of consistency required and the specific changes in the frequency of analysis shall be specified in the permit.

2. All sources of nutrients applied shall not exceed the annual nutrient requirements of the grasses or crops in the area.

3. The water table shall be eighteen (18) inches or deeper below the normal ground surface when wastes are applied to the land.

4. Irrigation with wastewater and runoff shall be managed so that no irrigation water is discharged to the surface waters of the state.

5. The frequency and rate of land application shall be managed to avoid secondary environmental problems such as severe odors, insect and pest problems, and other nuisance conditions. If wastes are to be disposed of on property not owned by the

permittee, evidence of an appropriate lease or contract shall be provided for inclusion in the management plan.

(e) Alternative to Land Application. As an alternative to land application, the Department may consider other methods of treatment and disposal of barn wastewater and runoff from high intensity areas. Limits for such treatment or disposal methods will be based on applicable Department rules.

(6) Setback Distances.

(a) All dairy farms that originated after June 3, 1987, shall maintain the following minimum setback distances between storage and treatment facilities, or high intensity areas; and:

Drinking Water Supply Wells:	300 feet
Natural Watercourses:	200 feet
Drainage Ditches:	100 feet

(b) All dairy farms that originated after June 3, 1987, shall maintain the following setback distances buffer zones between land application areas; and:

Drinking Water Supply Wells:	200 feet
Natural Watercourses:	50 feet
Drainage Ditches:	50 feet

(c) Distances other than those in paragraphs (a) and (b), above, shall be specified in the permit if the Department determines based on information provided in the application that because of the type of soils and hydrogeology of the sites involved, a larger distance is necessary to protect the designated uses of the waters, or that allowance of a smaller distance will not impair the designated uses of the waters.

(d) Systems that existed prior to June 3, 1987, shall be evaluated on a case-by-case basis regarding their proximity to water supply wells and surface water bodies and their water quality impacts. A

Total Nitrogen	(as N)
Nitrate Nitrogen	(as N)
Total Phosphorus	(as P)
Ortho Phosphorus	(as P)

report on this evaluation shall be included in the management plan as required in subparagraph 62-670.500(8)(a) 3., F.A.C.

(7) Ground Water Quality Monitoring Requirements.

(a) Ground water near the storage ponds and land application areas shall be monitored for the following parameters on a quarterly basis:

(b) Background water quality shall also be monitored on wells up gradient of ground water flow to the storage ponds and land application sites. The locations and depths of monitoring wells shall be specified in the permits. The monitoring frequency of any parameter may be reduced to semi-annual if more than six consecutive samples show no increase in the concentration of that parameter. These requirements are in lieu of the requirements of subsection 62-28.700(6), F.A.C.

(8) Permit Requirements.

(a) Existing Dairy Farms.

1. By December 3, 1987, the owners or operators of all dairy farms in existence on June 3, 1987, are to have provided the Department with information concerning their operations, including:

a. The number of acres in the dairy farm,

b. The number of milking barns on the farm and the number of acres for each barn,

c. Herd size for each barn,

d. A copy of any current Soil Conservation Service Management Plan(s) for the dairy farm.

2. By December 3, 1987, any dairy farm in existence on June 3, 1987, which is not in compliance with the practice specified herein is to have demonstrated to the Department that it has formally requested such a management plan from the local Soil and

Water Conservation District or that it has contracted with a licensed professional engineer for such a plan.

3. On June 3, 1989, all dairy farms in existence prior to June 3, 1987, are to have submitted to the Department:

a. A management plan prepared by the Soil Conservation Service or a Florida licensed professional engineer that will bring the farm into compliance with the requirements of this rule; and,

b. An application for a construction or operation permit on Forms 62-620.910(1) and 62-620.910(3), to be provided by the Department, which application shall include the ground water monitoring program as required under subsection 62-670.500(7), F.A.C. Any construction permits issued under this rule shall set a date for completion of construction and compliance with this rule.

4. A new management plan shall be prepared and submitted to the Department should there be any plan to increase the number of animals or change the manner of disposal of the wastes.

5. All dairy farms in existence prior to June 3, 1987, shall have completed construction in accordance with their permit as soon as practicable but no later than 18 months from the date of issuance of the construction permit.

(b) New Dairy Farms. Dairy farms originating after June 3, 1987, shall submit an application to the Department for a construction permit together with a management plan prepared by the SCS or a professional engineer licensed to practice in the State of Florida.

FL Admin Code R 62-670.600. Wastewater Treatment for Commercial Egg Production Facilities.

(1) Statement of Intent.

(a) The purpose of Rule 62-670.600, F.A.C., is to control pollution of waters of the state due to the discharge of wastewaters and run off from major egg production facilities. Discharge of process wastewater and runoff from any major egg production facilities. Discharge of process wastewater and runoff from any major egg production facility to surface waters is prohibited except in the event of a 25-year, 24-hour storm event. This rule establishes treatment and ground water

monitoring requirements for major egg production facilities that have a discharge to ground water.

(b) Rule 62-670.600, F.A.C., applies to and requires permits for all major egg production facilities as defined in subsection 62-670.200(10), F.A.C., except major egg production facilities with dry manure systems that combine egg wash wastewater with the dry manure and dispose of it in accordance with an approved Soil and Water Conservation District Board (SWCDB) Plan.

(2) Permitting Requirements for Egg Production Facilities.

(a) All major egg production facilities which generate wastewater must have wastewater treatment, containment and disposal facilities permitted by the Department prior to their construction or operation. Permits will be issued if reasonable assurance is provided by the applicant that the requirements of this rule and other applicable Department rules will be met.

(b) Permit applications shall be submitted on DEP Form 62-620.910(3). A copy of the facility's approved Soil and Water Conservation District Board (SWCDB) Plan shall be submitted, if available, with the application.

(c) Major egg production facilities operating at the time this rule comes into effect shall submit to the Department an application for an operation permit. This application shall be submitted by October 1, 1990. No such application is required if such a facility is operating under a Department industrial wastewater permit. Existing permits will be modified to meet the requirements of this rule upon renewal of the permit.

(d) Egg production facilities not defined as major egg production facilities shall be exempt from permitting, provided all process wastewater and runoff from a 25-year, 24-hour storm event is contained, unless it is reasonable to expect that the facility will cause or contribute to water quality violations.

(3) Disposal and Treatment of Egg Wash Wastewater.

(a) Pretreatment. To enhance additional treatment by the soil, the permittee shall provide pretreatment of the egg wash wastewater prior to spray irrigation or other land disposal systems approved by the Department. Pretreatment systems shall be designed, operated, and monitored so as to provide reasonable assurance that aerobic

conditions can be maintained at the soil surface of the sprayfield and that long term operation will not result in ponding or runoff of applied wastewater. Minimum pretreatment required prior to spray irrigation shall consist of the following:

1. Sedimentation using a settling tank or clarifier to reduce settleable solids and, if needed, scum removal using skimming devices to reduce floating solids prior to discharge to the sprayfield.

2. Aeration adequate to maintain an aerobic condition within the pretreatment system.

3. Neutralization or adjustment of treated effluent to a pH ranging from 6.5-8.5 (standard units).

4. Additional treatment necessary to provide reasonable assurance that oils, detergents, solvents, cleaners, or other substances will not be present in the pretreated effluent in such quantities or concentrations so as to interfere with the spray irrigation (land disposal) system.

(b) Sprayfield (Land Disposal) System Operation. Pretreated egg wash wastewaters disposed of by sprayfield or land disposal systems shall meet the following design and operation requirements:

1. Nutrient and hydraulic loading rates and resting cycles shall be comparable with the rates described in Rule 62-610.423, F.A.C., and those expressed in the U.S. Environmental Protection Agency process design manual, "Land Treatment of Municipal Wastewater" (EPA 625/1-81-013), Chapter 4 - Slow Rate Process Design, adopted herein by reference.

2. Hydraulic loading, application rates and application methods shall be such that odors will not be generated beyond the property boundary of the facility and ponding or soil binding will not occur under normal operating conditions.

3. Long-term sprayfield (land disposal) operation shall provide for crop harvesting as needed to maintain nutrient removal and to maximize performance. Routine maintenance of sprayheads, risers, or other distribution equipment shall be performed as needed to assure optimal operation.

4. Storage of pretreated wastes shall not be required if the sprayfield (land application system) has adequate hydraulic

capacity to accept waste during wet-weather periods. The permittee must provide reasonable assurance runoff will not occur during wet-weather periods. Failure to provide reasonable assurance will result in a requirement for adequate storage.

5. Spray irrigation shall be prohibited where the seasonal high ground water level is 18 inches or less.

6. Setback Distances.

a. The following setback distances shall be maintained between land application areas, and

Drinking Water Supply Wells:	200 feet
Natural Watercourses:	50 feet
Drainage Ditches:	50 feet

b. Distances other than those listed above may be specified in the permit if the Department determines that because of the type of soils and hydrogeology of the sites involved, a larger distance is necessary to protect the designated uses of the waters, or that allowance of a smaller distance will not impair the designated uses of the waters.

(4) Disposal of Egg Wash Wastewater Combined with Manure.

(a) Liquid Manure Systems.

1. Egg wash wastewater combined with chicken manure in a liquid manure system shall be routed to regularly maintained settling basins prior to disposal via ponds or lagoons. The ponds and lagoons shall contain process water and runoff from a 25-year, 24-hour storm event.

2. The pretreatment steps specified in paragraph 62-670.600(3)(a), F.A.C., are not required for egg wash wastewaters disposed of in ponds or lagoons which are also used for liquid manure treatment.

3. Ponds lined sufficiently to prevent ground water pollution shall be used for on-site treatment or storage when an aquifer

classified as G-I or G-II as defined in Rule 62-3.403, F.A.C., may be subject to contamination.

(b) Dry Manure Systems.

1. Egg wash wastewaters combined with dry manure are subject to the requirements of an approved Soil and Water Conservation District Board (SWCDB) Plan. This plan must include management requirements for disposal of the dry manure and provisions to control the runoff from any manure disposal areas.

2. Those facilities not having an approved SWCDB plan must have a permit pursuant to this rule.

(5) Ground Water Monitoring Requirements for Egg Production Facilities. All major egg production facilities are required to perform ground water monitoring and submit ground water monitoring plans pursuant to Rule 62-528.700, F.A.C. This rule establishes the minimum information to be provided in such plans. Requirements of this rule shall supersede any conflicting requirements contained in Rule 62-528.700, F.A.C. Ground water monitor wells shall be installed and monitored as specified below. The location of monitor wells shall be specified in Department permits. The minimum number of monitor wells and frequency of sampling may be increased or decreased based on site specific hydrogeologic factors and the potential for ground water contamination.

(a) Egg Wash Water Spray Sites.

Monitor Wells Required:	Parameters:	Sampling Frequency:
One up gradient	Total Nitrogen	Quarterly
One down gradient	Nitrates	
	Fecal Coliform	
	Specific Conductance	

	pH	
	Depth to Ground Water	
	Ground Water	
	Elevation	

(b) Unlined Lagoon Systems.*

Monitor Wells Required:	Parameters:	Sampling Frequency:
One up gradient	Total Nitrogen	Quarterly
Three down gradient	Nitrates	
	Fecal Coliform	
	Specific Conductance	
	pH	
	Depth to Ground Water	
	Ground Water	
	Elevation	

* In addition an inventory of all supply wells located within a 1/2 mile radius of the site must be provided.

(c) Lined Lagoon Systems.

Monitor Wells Required:	Parameters:	Sampling Frequency:
One down gradient	Total Nitrogen	Quarterly
	Nitrates	
	Fecal Coliform	
	Specific Conductance	
	pH	
	Depth to Ground Water	
	Ground Water	
	Elevation	

(d) Unlined Hen Houses.

Monitor Wells Required:	Parameters:	Sampling Frequency:
One down gradient	Total Nitrogen	Quarterly
	Nitrates	

	Fecal Coliform
	Specific Conductance
	pH
	Depth to Ground Water
	Ground Water
	Elevation

FL Stat § 373.4592. Everglades improvement and management.

(1) FINDINGS AND INTENT.—

(a) The Legislature finds that the Everglades ecological system not only contributes to South Florida's water supply, flood control, and recreation, but serves as the habitat for diverse species of wildlife and plant life. The system is unique in the world and one of Florida's great treasures. The Everglades ecological system is endangered as a result of adverse changes in water quality, and in the quantity, distribution, and timing of flows, and, therefore, must be restored and protected.

(b) The Legislature finds that, although the district and the department have developed plans and programs for the improvement and management of the surface waters tributary to the Everglades Protection Area, implementation of those plans and programs has not been as timely as is necessary to restore and protect unique flora and fauna of the Everglades, including the Everglades National Park and the Arthur R. Marshall Loxahatchee National Wildlife Refuge. Therefore, the Legislature determines that an appropriate method to proceed with Everglades restoration and protection is to authorize the district to proceed expeditiously with implementation of the Everglades Program.

(c) The Legislature finds that, in the last decade, people have come to realize the tremendous cost the alteration of natural systems has exacted on the region. The Statement of Principles of July 1993 among the Federal Government, the South Florida Water Management

District, the Department of Environmental Protection, and certain agricultural industry representatives formed a basis to bring to a close 5 years of costly litigation. That agreement should be used to begin the cleanup and renewal of the Everglades ecosystem.

(d) It is the intent of the Legislature to promote Everglades restoration and protection through certain legislative findings and determinations. The Legislature finds that waters flowing into the Everglades Protection Area contain excessive levels of phosphorus. A reduction in levels of phosphorus will benefit the ecology of the Everglades Protection Area.

(e) It is the intent of the Legislature to pursue comprehensive and innovative solutions to issues of water quality, water quantity, hydroperiod, and invasion of exotic species which face the Everglades ecosystem. The Legislature recognizes that the Everglades ecosystem must be restored both in terms of water quality and water quantity and must be preserved and protected in a manner that is long term and comprehensive. The Legislature further recognizes that the EAA and adjacent areas provide a base for an agricultural industry, which in turn provides important products, jobs, and income regionally and nationally. It is the intent of the Legislature to preserve natural values in the Everglades while also maintaining the quality of life for all residents of South Florida, including those in agriculture, and to minimize the impact on South Florida jobs, including agricultural, tourism, and natural resource-related jobs, all of which contribute to a robust regional economy.

(f) The Legislature finds that improved water supply and hydroperiod management are crucial elements to overall revitalization of the Everglades ecosystem, including Florida Bay. It is the intent of the Legislature to expedite plans and programs for improving water quantity reaching the Everglades, correcting long-standing hydroperiod problems, increasing the total quantity of water flowing through the system, providing water supply for the Everglades National Park, urban and agricultural areas, and Florida Bay, and replacing water previously available from the coastal ridge in areas of southern Miami-Dade County. Whenever possible, wasteful discharges of fresh water to tide shall be reduced, and the water shall be stored for delivery at more optimum times. Additionally, reuse and conservation measures shall be implemented consistent with law. The Legislature further recognizes that additional water storage may be an appropriate use of Lake Okeechobee.

(g) The Legislature finds that the Statement of Principles of July 1993, the Everglades Construction Project, and the regulatory requirements of this section provide a sound basis for the state's long-term cleanup and restoration objectives for the Everglades. It is the intent of the Legislature to provide a sufficient period of time for construction, testing, and research, so that the benefits of the Long-Term Plan will be determined and maximized prior to requiring additional measures. The Legislature finds that STAs and BMPs are currently the best available technology for achieving the water quality goals of the Everglades Program and that implementation of BMPs, funded by the owners and users of land in the EAA, effectively reduces nutrients in waters flowing into the Everglades Protection Area. A combined program of agricultural BMPs, STAs, and requirements of this section is a reasonable method of achieving total phosphorus discharge reductions. The Everglades Program is an appropriate foundation on which to build a long-term program to ultimately achieve restoration and protection of the Everglades Protection Area.

(h) The Everglades Construction Project represents by far the largest environmental cleanup and restoration program of this type ever undertaken, and the returns from substantial public and private investment must be maximized so that available resources are managed responsibly. To that end, the Legislature directs that the Everglades Construction Project and regulatory requirements associated with the Statement of Principles of July 1993 be pursued expeditiously, but with flexibility, so that superior technology may be utilized when available. Consistent with the implementation of the Everglades Construction Project, landowners shall be provided the maximum opportunity to provide treatment on their land.

(2) DEFINITIONS.—As used in this section:

(a) "Best available phosphorus reduction technology" or "BAPRT" means a combination of BMPs and STAs which includes a continuing research and monitoring program to reduce outflow concentrations of phosphorus so as to achieve the phosphorus criterion in the Everglades Protection Area.

(b) "Best management practice" or "BMP" means a practice or combination of practices determined by the district, in cooperation with the department, based on research, field-testing, and expert review, to be the most effective and practicable, including economic and technological considerations, on-farm means of improving water

quality in agricultural discharges to a level that balances water quality improvements and agricultural productivity.

(c) "C-139 Basin" or "Basin" means those lands described in subsection (16).

(d) "Department" means the Florida Department of Environmental Protection.

(e) "District" means the South Florida Water Management District.

(f) "Everglades Agricultural Area" or "EAA" means the Everglades Agricultural Area, which are those lands described in subsection (15).

(g) "Everglades Construction Project" means the project described in the February 15, 1994, conceptual design document together with construction and operation schedules on file with the South Florida Water Management District, except as modified by this section and further described in the Long-Term Plan.

(h) "Everglades Program" means the program of projects, regulations, and research provided by this section, including the Everglades Construction Project.

(i) "Everglades Protection Area" means Water Conservation Areas 1, 2A, 2B, 3A, and 3B, the Arthur R. Marshall Loxahatchee National Wildlife Refuge, and the Everglades National Park.

(j) "Long-Term Plan" or "Plan" means the district's "Everglades Protection Area Tributary Basins Conceptual Plan for Achieving Long-Term Water Quality Goals Final Report" dated March 2003, as subsequently modified in accordance with paragraph (3)(b), and the district's "Restoration Strategies Regional Water Quality Plan" dated April 27, 2012, as may be subsequently modified pursuant to paragraph (3)(b).

(k) "Master permit" means a single permit issued to a legally responsible entity defined by rule, authorizing the construction, alteration, maintenance, or operation of multiple stormwater management systems that may be owned or operated by different persons and which provides an opportunity to achieve collective compliance with applicable department and district rules and the provisions of this section.

(l) "Optimization" shall mean maximizing the potential treatment effectiveness of the STAs through measures such as additional

compartmentalization, improved flow control, vegetation management, or operation refinements, in combination with improvements where practicable in urban and agricultural BMPs, and includes integration with congressionally authorized components of the Comprehensive Everglades Restoration Plan or "CERP".

(m) "Phosphorus criterion" means a numeric interpretation for phosphorus of the Class III narrative nutrient criterion.

(n) "Stormwater management program" shall have the meaning set forth in s. 403.031(15).

(o) "Stormwater treatment areas" or "STAs" means those treatment areas described and depicted in the district's conceptual design document of February 15, 1994, and any modifications as provided in this section.

(p) "Technology-based effluent limitation" or "TBEL" means the technology-based treatment requirements as defined in rule 62-650.200, Florida Administrative Code.

(3) EVERGLADES LONG-TERM PLAN.—

(a) The Legislature finds that the Everglades Program required by this section establishes more extensive and comprehensive requirements for surface water improvement and management within the Everglades than the SWIM plan requirements provided in ss. 373.451 and 373.453. In order to avoid duplicative requirements, and in order to conserve the resources available to the district, the SWIM plan requirements of those sections shall not apply to the Everglades Protection Area and the EAA during the term of the Everglades Program, and the district will neither propose, nor take final agency action on, any Everglades SWIM plan for those areas until the Everglades Program is fully implemented. Funds identified under former s. 259.101(3)(b), Florida Statutes 2014, may be used for acquisition of lands necessary to implement the Everglades Construction Project, to the extent these funds are identified in the Statement of Principles of July 1993. The district's actions in implementing the Everglades Construction Project relating to the responsibilities of the EAA and C-139 Basin for funding and water quality compliance in the EAA and the Everglades Protection Area shall be governed by this section. Other strategies or activities in the March 1992 Everglades SWIM plan may be implemented if otherwise authorized by law.

(b) The Legislature finds that the most reliable means of optimizing the performance of STAs and achieving reasonable further progress in reducing phosphorus entering the Everglades Protection Area is to utilize a long-term planning process. The Legislature finds that the Long-Term Plan provides the best available phosphorus reduction technology based upon a combination of the BMPs and STAs described in the Plan provided that the Plan shall seek to achieve the phosphorus criterion in the Everglades Protection Area. The pre-2006 projects identified in the Long-Term Plan shall be implemented by the district without delay, and revised with the planning goal and objective of achieving the phosphorus criterion to be adopted pursuant to subparagraph (4)(e)2. in the Everglades Protection Area, and not based on any planning goal or objective in the Plan that is inconsistent with this section. Revisions to the Long-Term Plan shall be incorporated through an adaptive management approach including a process development and engineering component to identify and implement incremental optimization measures for further phosphorus reductions. Revisions to the Long-Term Plan shall be approved by the department. In addition, the department may propose changes to the Long-Term Plan as science and environmental conditions warrant.

(c) It is the intent of the Legislature that implementation of the Long-Term Plan shall be integrated and consistent with the implementation of the projects and activities in the congressionally authorized components of the CERP so that unnecessary and duplicative costs will be avoided. Nothing in this section shall modify any existing cost share or responsibility provided for projects listed in s. 528 of the Water Resources Development Act of 1996 (110 Stat. 3769) or provided for projects listed in s. 601 of the Water Resources Development Act of 2000 (114 Stat. 2572). The Legislature does not intend for the provisions of this section to diminish commitments made by the State of Florida to restore and maintain water quality in the Everglades Protection Area, including the federal lands in the settlement agreement referenced in paragraph (4)(e).

(d) The Long-Term Plan shall be implemented and shall achieve water quality standards relating to the phosphorus criterion in the Everglades Protection Area as determined by a network of monitoring stations established for this purpose. Not later than December 31, 2008, and each 5 years thereafter, the department shall review and approve incremental phosphorus reduction measures.

(4) EVERGLADES PROGRAM.—

(a) Everglades Construction Project.—The district shall implement the Everglades Construction Project. By the time of completion of the project, the state, district, or other governmental authority shall purchase the inholdings in the Rotenberger and such other lands necessary to achieve a 2:1 mitigation ratio for the use of Brown's Farm and other similar lands, including those needed for the STA 1 Inflow and Distribution Works. The inclusion of public lands as part of the project is for the purpose of treating waters not coming from the EAA for hydroperiod restoration. It is the intent of the Legislature that the district aggressively pursue the implementation of the Everglades Construction Project in accordance with the schedule in this subsection. The Legislature recognizes that adherence to the schedule is dependent upon factors beyond the control of the district, including the timely receipt of funds from all contributors. The district shall take all reasonable measures to complete timely performance of the schedule in this section in order to finish the Everglades Construction Project. The district shall not delay implementation of the project beyond the time delay caused by those circumstances and conditions that prevent timely performance. The district shall not levy ad valorem taxes in excess of 0.1 mill within the Okeechobee Basin for the purposes of the design, construction, and acquisition of the Everglades Construction Project. The ad valorem tax proceeds not exceeding 0.1 mill levied within the Okeechobee Basin for such purposes shall also be used for design, construction, and implementation of the Long-Term Plan, including operation and maintenance, and research for the projects and strategies in the Long-Term Plan, and including the enhancements and operation and maintenance of the Everglades Construction Project and shall be the sole direct district contribution from district ad valorem taxes appropriated or expended for the design, construction, and acquisition of the Everglades Construction Project unless the Legislature by specific amendment to this section increases the 0.1 mill ad valorem tax contribution, increases the agricultural privilege taxes, or otherwise reallocates the relative contribution by ad valorem taxpayers and taxpayers paying the agricultural privilege taxes toward the funding of the design, construction, and acquisition of the Everglades Construction Project. Notwithstanding the provisions of s. 200.069 to the contrary, any millage levied under the 0.1 mill limitation in this paragraph shall be included as a separate entry on the Notice of Proposed Property Taxes pursuant to s. 200.069. Once the STAs are completed, the district shall allow these areas to be used by the public for recreational purposes in the manner set forth in s. 373.1391(1), considering the suitability of these lands for such uses. These lands shall be made available for

recreational use unless the district governing board can demonstrate that such uses are incompatible with the restoration goals of the Everglades Construction Project or the water quality and hydrological purposes of the STAs or would otherwise adversely impact the implementation of the project. The district shall give preferential consideration to the hiring of agricultural workers displaced as a result of the Everglades Construction Project, consistent with their qualifications and abilities, for the construction and operation of these STAs. The following milestones apply to the completion of the Everglades Construction Project as depicted in the February 15, 1994, conceptual design document:

1. The district must complete the final design of the STA 1 East and West and pursue STA 1 East project components as part of a cost-shared program with the Federal Government. The district must be the local sponsor of the federal project that will include STA 1 East, and STA 1 West if so authorized by federal law;

2. Construction of STA 1 East is to be completed under the direction of the United States Army Corps of Engineers in conjunction with the currently authorized C-51 flood control project;

3. The district must complete construction of STA 1 West and STA 1 Inflow and Distribution Works under the direction of the United States Army Corps of Engineers, if the direction is authorized under federal law, in conjunction with the currently authorized C-51 flood control project;

4. The district must complete construction of STA 3/4 by October 1, 2003; however, the district may modify this schedule to incorporate and accelerate enhancements to STA 3/4 as directed in the Long-Term Plan;

5. The district must complete construction of STA 6;

6. The district must, by December 31, 2006, complete construction of enhancements to the Everglades Construction Project recommended in the Long-Term Plan and initiate other pre-2006 strategies in the plan; and

7. East Beach Water Control District, South Shore Drainage District, South Florida Conservancy District, East Shore Water Control District, and the lessee of agricultural lease number 3420 shall complete any system modifications described in

the Everglades Construction Project to the extent that funds are available from the Everglades Fund. These entities shall divert the discharges described within the Everglades Construction Project within 60 days of completion of construction of the appropriate STA. Such required modifications shall be deemed to be a part of each district's plan of reclamation pursuant to chapter 298.

(b) Everglades water supply and hydroperiod improvement and restoration.—

1. A comprehensive program to revitalize the Everglades shall include programs and projects to improve the water quantity reaching the Everglades Protection Area at optimum times and improve hydroperiod deficiencies in the Everglades ecosystem. To the greatest extent possible, wasteful discharges of fresh water to tide shall be reduced, and water conservation practices and reuse measures shall be implemented by water users, consistent with law. Water supply management must include improvement of water quantity reaching the Everglades, correction of long-standing hydroperiod problems, and an increase in the total quantity of water flowing through the system. Water supply management must provide water supply for the Everglades National Park, the urban and agricultural areas, and the Florida Bay and must replace water previously available from the coastal ridge areas of southern Miami-Dade County. The Everglades Construction Project redirects some water currently lost to tide. It is an important first step in completing hydroperiod improvement.

2. The district shall operate the Everglades Construction Project as specified in the February 15, 1994, conceptual design document, to provide additional inflows to the Everglades Protection Area. The increased flow from the project shall be directed to the Everglades Protection Area as needed to achieve an average annual increase of 28 percent compared to the baseline years of 1979 to 1988. Consistent with the design of the Everglades Construction Project and without demonstratively reducing water quality benefits, the regulatory releases will be timed and distributed to the Everglades Protection Area to maximize environmental benefits.

3. The district shall operate the Everglades Construction Project in accordance with the February 15, 1994,

conceptual design document to maximize the water quantity benefits and improve the hydroperiod of the Everglades Protection Area. All reductions of flow to the Everglades Protection Area from BMP implementation will be replaced. The district shall develop a model to be used for quantifying the amount of water to be replaced. The timing and distribution of this replaced water will be directed to the Everglades Protection Area to maximize the natural balance of the Everglades Protection Area.

4. The Legislature recognizes the complexity of the Everglades watershed, as well as legal mandates under Florida and federal law. As local sponsor of the Central and Southern Florida Flood Control Project, the district must coordinate its water supply and hydroperiod programs with the Federal Government. Federal planning, research, operating guidelines, and restrictions for the Central and Southern Florida Flood Control Project now under review by federal agencies will provide important components of the district's Everglades Program. The department and district shall use their best efforts to seek the amendment of the authorized purposes of the project to include water quality protection, hydroperiod restoration, and environmental enhancement as authorized purposes of the Central and Southern Florida Flood Control Project, in addition to the existing purposes of water supply, flood protection, and allied purposes. Further, the department and the district shall use their best efforts to request that the Federal Government include in the evaluation of the regulation schedule for Lake Okeechobee a review of the regulatory releases, so as to facilitate releases of water into the Everglades Protection Area which further improve hydroperiod restoration.

5. The district, through cooperation with the federal and state agencies, shall develop other programs and methods to increase the water flow and improve the hydroperiod of the Everglades Protection Area.

6. Nothing in this section is intended to provide an allocation or reservation of water or to modify the provisions of part II. All decisions regarding allocations and reservations of water shall be governed by applicable law.

7. The district shall proceed to expeditiously implement the minimum flows and levels for the Everglades Protection Area as required by s. 373.042 and shall expeditiously complete the Lower East Coast Water Supply Plan.

(c) STA 3/4 modification.—The Everglades Program will contribute to the restoration of the Rotenberger and Holey Land tracts. The Everglades Construction Project provides a first step toward restoration by improving hydroperiod with treated water for the Rotenberger tract and by providing a source of treated water for the Holey Land. It is further the intent of the Legislature that the easternmost tract of the Holey Land, known as the "Toe of the Boot," be removed from STA 3/4 under the circumstances set forth in this paragraph. The district shall proceed to modify the Everglades Construction Project, provided that the redesign achieves at least as many environmental and hydrological benefits as are included in the original design, including treatment of waters from sources other than the EAA, and does not delay construction of STA 3/4. The district is authorized to use eminent domain to acquire alternative lands, only if such lands are located within 1 mile of the northern border of STA 3/4.

(d) Everglades research and monitoring program.—

1. The department and the district shall review and evaluate available water quality data for the Everglades Protection Area and tributary waters and identify any additional information necessary to adequately describe water quality in the Everglades Protection Area and tributary waters. The department and the district shall also initiate a research and monitoring program to generate such additional information identified and to evaluate the effectiveness of the BMPs and STAs, as they are implemented, in improving water quality and maintaining designated and existing beneficial uses of the Everglades Protection Area and tributary waters. As part of the program, the district shall monitor all discharges into the Everglades Protection Area for purposes of determining compliance with state water quality standards.

2. The research and monitoring program shall evaluate the ecological and hydrological needs of the Everglades Protection Area, including the minimum flows and levels. Consistent with such needs, the program shall also evaluate water quality standards for the Everglades Protection Area and for the canals of the EAA, so that these canals can be classified in

the manner set forth in paragraph (e) and protected as an integral part of the water management system which includes the STAs of the Everglades Construction Project and allows landowners in the EAA to achieve applicable water quality standards compliance by BMPs and STA treatment to the extent this treatment is available and effective.

3. The research and monitoring program shall include research seeking to optimize the design and operation of the STAs, including research to reduce outflow concentrations, and to identify other treatment and management methods and regulatory programs that are superior to STAs in achieving the intent and purposes of this section.

4. The research and monitoring program shall be conducted to allow the department to propose a phosphorus criterion in the Everglades Protection Area, and to evaluate existing state water quality standards applicable to the Everglades Protection Area and existing state water quality standards and classifications applicable to the EAA canals. In developing the phosphorus criterion, the department shall also consider the minimum flows and levels for the Everglades Protection Area and the district's water supply plans for the Lower East Coast.

5. Beginning March 1, 2006, as part of the consolidated annual report required by s. 373.036(7), the district and the department shall annually issue a peer-reviewed report regarding the research and monitoring program that summarizes all data and findings. The report shall identify water quality parameters, in addition to phosphorus, which exceed state water quality standards or are causing or contributing to adverse impacts in the Everglades Protection Area.

6. The district shall continue research seeking to optimize the design and operation of STAs and to identify other treatment and management methods that are superior to STAs in achieving optimum water quality and water quantity for the benefit of the Everglades. The district shall optimize the design and operation of the STAs described in the Everglades Construction Project prior to expanding their size. Additional methods to achieve compliance with water quality standards shall not be limited to more intensive management of the STAs.

(e) Evaluation of water quality standards.—

1. The department and the district shall employ all means practicable to complete by December 31, 1998, any additional research necessary to:

a. Numerically interpret for phosphorus the Class III narrative nutrient criterion necessary to meet water quality standards in the Everglades Protection Area; and

b. Evaluate existing water quality standards applicable to the Everglades Protection Area and EAA canals.

2. In no case shall such phosphorus criterion allow waters in the Everglades Protection Area to be altered so as to cause an imbalance in the natural populations of aquatic flora or fauna. The phosphorus criterion shall be 10 parts per billion (ppb) in the Everglades Protection Area in the event the department does not adopt by rule such criterion by December 31, 2003. However, in the event the department fails to adopt a phosphorus criterion on or before December 31, 2002, any person whose substantial interests would be affected by the rulemaking shall have the right, on or before February 28, 2003, to petition for a writ of mandamus to compel the department to adopt by rule such criterion. Venue for the mandamus action must be Leon County. The court may stay implementation of the 10 parts per billion (ppb) criterion during the pendency of the mandamus proceeding upon a demonstration by the petitioner of irreparable harm in the absence of such relief. The department's phosphorus criterion, whenever adopted, shall supersede the 10 parts per billion (ppb) criterion otherwise established by this section, but shall not be lower than the natural conditions of the Everglades Protection Area and shall take into account spatial and temporal variability. The department's rule adopting a phosphorus criterion may include moderating provisions during the implementation of the initial phase of the Long-Term Plan authorizing discharges based upon BAPRT providing net improvement to impacted areas. Discharges to unimpacted areas may also be authorized by moderating provisions, which shall require BAPRT, and which must be based upon a determination by the department that the environmental benefits of the discharge clearly outweigh potential adverse impacts and otherwise comply with antidegradation requirements. Moderating provisions authorized by this section shall not extend beyond December 2016 unless further authorized by the Legislature.

3. The department shall use the best available information to define relationships between waters discharged to, and the resulting water quality in, the Everglades Protection Area. The department or the district shall use these relationships to establish discharge limits in permits for discharges into the EAA canals and the Everglades Protection Area necessary to prevent an imbalance in the natural populations of aquatic flora or fauna in the Everglades Protection Area, and to provide a net improvement in the areas already impacted. During the implementation of the initial phase of the Long-Term Plan, permits issued by the department shall be based on BAPRT and shall include technology-based effluent limitations consistent with the Long-Term Plan. Compliance with the phosphorus criterion shall be based upon a long-term geometric mean of concentration levels to be measured at sampling stations recognized from the research to be reasonably representative of receiving waters in the Everglades Protection Area, and so located so as to assure that the Everglades Protection Area is not altered so as to cause an imbalance in natural populations of aquatic flora and fauna and to assure a net improvement in the areas already impacted. For the Everglades National Park and the Arthur R. Marshall Loxahatchee National Wildlife Refuge, the method for measuring compliance with the phosphorus criterion shall be in a manner consistent with Appendices A and B, respectively, of the settlement agreement dated July 26, 1991, entered in case No. 88-1886-Civ-Hoeveler, United States District Court for the Southern District of Florida, that recognizes and provides for incorporation of relevant research.

4. The department's evaluation of any other water quality standards must include the department's antidegradation standards and EAA canal classifications. In recognition of the special nature of the conveyance canals of the EAA, as a component of the classification process, the department is directed to formally recognize by rulemaking existing actual beneficial uses of the conveyance canals in the EAA. This shall include recognition of the Class III designated uses of recreation, propagation and maintenance of a healthy, well-balanced population of fish and wildlife, the integrated water management purposes for which the Central and Southern Florida Flood Control Project was constructed, flood control, conveyance of water to and from Lake Okeechobee for urban and

agricultural water supply, Everglades hydroperiod restoration, conveyance of water to the STAs, and navigation.

(f) EAA best management practices.—

1. The district, in cooperation with the department, shall develop and implement a water quality monitoring program to evaluate the effectiveness of the BMPs in achieving and maintaining compliance with state water quality standards and restoring and maintaining designated and existing beneficial uses. The program shall include an analysis of the effectiveness of the BMPs in treating constituents that are not being significantly improved by the STAs. The monitoring program shall include monitoring of appropriate parameters at representative locations.

2. The district shall continue to require and enforce the BMP and other requirements of chapters 40E-61 and 40E-63, Florida Administrative Code, during the terms of the existing permits issued pursuant to those rules. Chapter 40E-61, Florida Administrative Code, may be amended to include the BMPs required by chapter 40E-63, Florida Administrative Code. Prior to the expiration of existing permits, and during each 5-year term of subsequent permits as provided for in this section, those rules shall be amended to implement a comprehensive program of research, testing, and implementation of BMPs that will address all water quality standards within the EAA and Everglades Protection Area. Under this program:

a. EAA landowners, through the EAA Environmental Protection District or otherwise, shall sponsor a program of BMP research with qualified experts to identify appropriate BMPs.

b. Consistent with the water quality monitoring program, BMPs will be field-tested in a sufficient number of representative sites in the EAA to reflect soil and crop types and other factors that influence BMP design and effectiveness.

c. BMPs as required for varying crops and soil types shall be included in permit conditions in the 5-year permits issued pursuant to this section.

d. The district shall conduct research in cooperation with EAA landowners to identify water quality

parameters that are not being significantly improved either by the STAs or the BMPs, and to identify further BMP strategies needed to address these parameters.

3. The Legislature finds that through the implementation of the Everglades BMPs Program and the implementation of the Everglades Construction Project, reasonable further progress will be made towards addressing water quality requirements of the EAA canals and the Everglades Protection Area. Permittees within the EAA and the C-139 Basin who are in full compliance with the conditions of permits under chapters 40E-61 and 40E-63, Florida Administrative Code, have made all payments required under the Everglades Program, and are in compliance with subparagraph (a)7., if applicable, shall not be required to implement additional water quality improvement measures, prior to December 31, 2006, other than those required by subparagraph 2., with the following exceptions:

a. Nothing in this subparagraph shall limit the existing authority of the department or the district to limit or regulate discharges that pose a significant danger to the public health and safety; and

b. New land uses and new stormwater management facilities other than alterations to existing agricultural stormwater management systems for water quality improvements shall not be accorded the compliance established by this section. Permits may be required to implement improvements or alterations to existing agricultural water management systems.

4. As of December 31, 2006, all permits, including those issued prior to that date, shall require implementation of additional water quality measures, taking into account the water quality treatment actually provided by the STAs and the effectiveness of the BMPs. As of that date, no permittee's discharge shall cause or contribute to any violation of water quality standards in the Everglades Protection Area.

5. Effective immediately, landowners within the C-139 Basin shall not collectively exceed an annual average loading of phosphorus based proportionately on the historical rainfall for the C-139 Basin over the period of October 1, 1978, to September 30, 1988. New surface inflows shall not increase the annual

average loading of phosphorus stated above. Provided that the C-139 Basin does not exceed this annual average loading, all landowners within the Basin shall be in compliance for that year. Compliance determinations for individual landowners within the C-139 Basin for remedial action, if the Basin is determined by the district to be out of compliance for that year, shall be based on the landowners' proportional share of the total phosphorus loading. The total phosphorus discharge load shall be determined as set forth in Appendix B2 of Rule 40E-63, Everglades Program, Florida Administrative Code.

6. The district, in cooperation with the department, shall develop and implement a water quality monitoring program to evaluate the quality of the discharge from the C-139 Basin. Upon determination by the department or the district that the C-139 Basin is exceeding any presently existing water quality standards, the district shall require landowners within the C-139 Basin to implement BMPs appropriate to the land uses within the C-139 Basin consistent with subparagraph 2. Thereafter, the provisions of subparagraphs 2.-4. shall apply to the landowners within the C-139 Basin.

(g) Monitoring and control of exotic species.—

1. The district shall establish a biological monitoring network throughout the Everglades Protection Area and shall prepare a survey of exotic species at least every 2 years.

2. In addition, the district shall establish a program to coordinate with federal, state, or other governmental entities the control of continued expansion and the removal of these exotic species. The district's program shall give high priority to species affecting the largest areal extent within the Everglades Protection Area.

(h) Use attainability analysis.—After completion of all projects and improvements in the Long-Term Plan, the district shall complete a use attainability analysis to determine if those projects and improvements will achieve the water-quality-based effluent limits established in permits and orders authorizing the operation of those facilities.

(5) ACQUISITION AND LEASE OF STATE LANDS.—

(a) As used in this subsection, the term:

1. “Available land” means land within the EAA owned by the board of trustees which is covered by any of the following leases: Numbers 3543, 3420, 1447, 1971-5, and 3433, and the southern one-third of number 2376 constituting 127 acres, more or less.

2. “Board of trustees” means the Board of Trustees of the Internal Improvement Trust Fund.

3. “Designated acre,” as to any impacted farmer, means an acre of land which is designated for STAs or water retention or storage in the February 15, 1994, conceptual design document and which is owned or leased by the farmer or on which one or more agricultural products were produced which, during the period beginning October 1, 1992, and ending September 30, 1993, were processed at a facility owned by the farmer.

4. “Impacted farmer” means a producer or processor of agricultural commodities and includes subsidiaries and affiliates that have designated acres.

5. “Impacted vegetable farmer” means an impacted farmer in the EAA who uses more than 30 percent of the land farmed by that farmer, whether owned or leased, for the production of vegetables.

6. “Vegetable-area available land” means land within the EAA owned by the board of trustees which is covered by lease numbers 3422 and 1935/1935S.

(b) The Legislature declares that it is necessary for the public health and welfare that the Everglades water and water-related resources be conserved and protected. The Legislature further declares that certain lands may be needed for the treatment or storage of water prior to its release into the Everglades Protection Area. The acquisition of real property for this objective constitutes a public purpose for which public funds may be expended. In addition to other authority pursuant to this chapter to acquire real property, the governing board of the district is empowered and authorized to acquire fee title or easements by eminent domain for the limited purpose of implementing stormwater management systems, identified and described in the Everglades Construction Project or determined necessary to meet water quality requirements established by rule or permit.

(c) The Legislature determines it to be in the public interest to minimize the potential loss of land and related product supply to

farmers and processors who are most affected by acquisition of land for Everglades restoration and hydroperiod purposes. Accordingly, subject to the priority established below for vegetable-area available land, impacted farmers shall have priority in the leasing of available land. An impacted farmer shall have the right to lease each parcel of available land, upon expiration of the existing lease, for a term of 20 years and at a rental rate determined by appraisal using established state procedures. For those parcels of land that have previously been competitively bid, the rental rate shall not be less than the rate the board of trustees currently receives. The board of trustees may also adjust the rental rate on an annual basis using an appropriate index, and update the appraisals at 5-year intervals. If more than one impacted farmer desires to lease a particular parcel of available land, the one that has the greatest number of designated acres shall have priority.

(d) Impacted vegetable farmers shall have priority in leasing vegetable-area available land. An impacted vegetable farmer shall have the right to lease vegetable-area available land, upon expiration of the existing lease, for a term of 20 years or a term ending August 25, 2018, whichever term first expires, and at a rental rate determined by appraisal using established state procedures. If the lessee elects, such terms may consist of an initial 5-year term, with successive options to renew at the lessee's option for additional 5-year terms. For extensions of leases on those parcels of land that have previously been competitively bid, the rental rate shall not be less than the rate the board of trustees currently receives. The board of trustees may also adjust the rental rate on an annual basis using an appropriate index, and update the appraisals at 5-year intervals. If more than one impacted vegetable farmer desires to lease vegetable-area available land, the one that has the greatest number of designated acres shall have priority.

(e) Impacted vegetable farmers with farming operations in areas of Florida other than the EAA shall have priority in leasing suitable surplus lands, where such lands are located in the St. Johns River Water Management District and in the vicinity of the other areas where such impacted vegetable farmers operate. The suitability of such use shall be determined solely by the St. Johns River Water Management District. The St. Johns River Water Management District shall make good faith efforts to provide these impacted vegetable farmers with the opportunity to lease such suitable lands to offset their designated acres. The rental rate shall be determined by appraisal using established procedures.

(f) The corporation conducting correctional work programs under part II of chapter 946 shall be entitled to renew, for a period of 20 years, its lease with the Department of Corrections which expires June 30, 1998, which includes the utilization of land for the production of sugar cane, and which is identified as lease number 2671 with the board of trustees.

(g) Except as specified in paragraph (f), once the leases or lease extensions specified in this subsection have been granted and become effective, the trustees shall retain the authority to terminate after 9 years any such lease or lease extension upon 2 years' notice to the lessee and a finding by the trustees that the lessee has ceased to be impacted as provided in this section. In that event, the outgoing lessee is entitled to be compensated for any documented, unamortized planting costs associated with the lease and any unamortized capital costs incurred prior to the notice. In addition, the trustees may terminate such lease or lease extension if the lessee fails to comply with, and after reasonable notice and opportunity to correct or fails to correct, any material provision of the lease or its obligation under this section.

(6) EVERGLADES AGRICULTURAL PRIVILEGE TAX.—

(a) There is hereby imposed an annual Everglades agricultural privilege tax for the privilege of conducting an agricultural trade or business on:

1. All real property located within the EAA that is classified as agricultural under the provisions of chapter 193; and

2. Leasehold or other interests in real property located within the EAA owned by the United States, the state, or any agency thereof permitting the property to be used for agricultural purposes in a manner that would allow such property to be classified as agricultural under the provisions of chapter 193 if not governmentally owned, whether or not such property is actually classified as agricultural under the provisions of chapter 193.

It is hereby determined by the Legislature that the privilege of conducting an agricultural trade or business on such property constitutes a reasonable basis for imposition of the Everglades agricultural privilege tax and that logical differences exist between the agricultural use of such property and the use of other property within the EAA for residential or nonagricultural commercial use. The Everglades agricultural privilege tax shall constitute a lien against the property, or the leasehold or other interest in governmental property permitting such

property to be used for agricultural purposes, described on the Everglades agricultural privilege tax roll. The lien shall be in effect from January 1 of the year the tax notice is mailed until discharged by payment and shall be equal in rank and dignity with the liens of all state, county, district, or municipal taxes and non-ad valorem assessments imposed pursuant to general law, special act, or local ordinance and shall be superior in dignity to all other liens, titles, and claims.

(b) The Everglades agricultural privilege tax, other than for leasehold or other interests in governmental property permitting such property to be used for agricultural purposes, shall be collected in the manner provided for ad valorem taxes. By September 15 of each year, the governing board of the district shall certify by resolution an Everglades agricultural privilege tax roll on compatible electronic medium to the tax collector of each county in which a portion of the EAA is located. The district shall also produce one copy of the roll in printed form which shall be available for inspection by the public. The district shall post the Everglades agricultural privilege tax for each parcel on the roll. The tax collector shall not accept any such roll that is not certified on compatible electronic medium and that does not contain the posting of the Everglades agricultural privilege tax for each parcel. It is the responsibility of the district that such rolls be free of errors and omissions. Alterations to such rolls may be made by the executive director of the district, or a designee, up to 10 days before certification. If the tax collector or any taxpayer discovers errors or omissions on such roll, such person may request the district to file a corrected roll or a correction of the amount of any Everglades agricultural privilege tax. Other than for leasehold or other interests in governmental property permitting such property to be used for agricultural purposes, Everglades agricultural privilege taxes collected pursuant to this section shall be included in the combined notice for ad valorem taxes and non-ad valorem assessments provided for in s. 197.3635. Such Everglades agricultural privilege taxes shall be listed in the portion of the combined notice utilized for non-ad valorem assessments. A separate mailing is authorized only as a solution to the most exigent factual circumstances. However, if a tax collector cannot merge an Everglades agricultural privilege tax roll to produce such a notice, the tax collector shall mail a separate notice of Everglades agricultural privilege taxes or shall direct the district to mail such a separate notice. In deciding whether a separate mailing is necessary, the tax collector shall consider all costs to the district and taxpayers of such a separate mailing and the

adverse effects to the taxpayers of delayed and multiple notices. The district shall bear all costs associated with any separate notice. Everglades agricultural privilege taxes collected pursuant to this section shall be subject to all collection provisions of chapter 197, including provisions relating to discount for early payment, prepayment by installment method, deferred payment, penalty for delinquent payment, and issuance and sale of tax certificates and tax deeds for nonpayment. Everglades agricultural privilege taxes for leasehold or other interests in property owned by the United States, the state, or any agency thereof permitting such property to be used for agricultural purposes shall be included on the notice provided pursuant to s. 196.31, a copy of which shall be provided to lessees or other interest holders registering with the district, and shall be collected from the lessee or other appropriate interest holder and remitted to the district immediately upon collection. Everglades agricultural privilege taxes included on the statement provided pursuant to s. 196.31 shall be due and collected on or prior to the next April 1 following provision of the notice. Proceeds of the Everglades agricultural privilege taxes shall be distributed by the tax collector to the district. Each tax collector shall be paid a commission equal to the actual cost of collection, not to exceed 2 percent, on the amount of Everglades agricultural privilege taxes collected and remitted. Notwithstanding any general law or special act to the contrary, Everglades agricultural privilege taxes shall not be included on the notice of proposed property taxes provided for in s. 200.069.

(c) The initial Everglades agricultural privilege tax roll shall be certified for the tax notices mailed in November 1994. Incentive credits to the Everglades agricultural privilege taxes to be included on the initial Everglades agricultural privilege tax roll, if any, shall be based upon the total phosphorus load reduction for the year ending April 30, 1993. The Everglades agricultural privilege taxes for each year shall be computed in the following manner:

1. Annual Everglades agricultural privilege taxes shall be charged for the privilege of conducting an agricultural trade or business on each acre of real property or portion thereof. The annual Everglades agricultural privilege tax shall be $24.89 per acre for the tax notices mailed in November 1994 through November 1997; $27 per acre for the tax notices mailed in November 1998 through November 2001; $31 per acre for the tax notices mailed in November 2002 through November 2005; and $35 per acre for the tax notices mailed in November 2006 through November 2013.

2. It is the intent of the Legislature to encourage the performance of best management practices to maximize the reduction of phosphorus loads at points of discharge from the EAA by providing an incentive credit against the Everglades agricultural privilege taxes set forth in subparagraph 1. The total phosphorus load reduction shall be measured for the entire EAA by comparing the actual measured total phosphorus load attributable to the EAA for each annual period ending on April 30 to the total estimated phosphorus load that would have occurred during the 1979-1988 base period using the model for total phosphorus load determinations provided in chapter 40E-63, Florida Administrative Code, utilizing the technical information and procedures contained in Section IV-EAA Period of Record Flow and Phosphorus Load Calculations; Section V-Monitoring Requirements; and Section VI-Phosphorus Load Allocations and Compliance Calculations of the Draft Technical Document in Support of chapter 40E-63, Florida Administrative Code - Works of the District within the Everglades, March 3, 1992, and the Standard Operating Procedures for Water Quality Collection in Support of the Everglades Water Condition Report, dated February 18, 1994. The model estimates the total phosphorus load that would have occurred during the 1979-1988 base period by substituting the rainfall conditions for such annual period ending April 30 for the conditions that were used to calibrate the model for the 1979-1988 base period. The data utilized to calculate the actual loads attributable to the EAA shall be adjusted to eliminate the effect of any load and flow that were not included in the 1979-1988 base period as defined in chapter 40E-63, Florida Administrative Code. The incorporation of the method of measuring the total phosphorus load reduction provided in this subparagraph is intended to provide a legislatively approved aid to the governing board of the district in making an annual ministerial determination of any incentive credit.

3. Phosphorus load reductions calculated in the manner described in subparagraph 2. and rounded to the nearest whole percentage point for each annual period beginning on May 1 and ending on April 30 shall be used to compute incentive credits to the Everglades agricultural privilege taxes to be included on the annual tax notices mailed in November of the next ensuing calendar year. Incentive credits, if any, will reduce the Everglades agricultural privilege taxes set forth in

subparagraph 1. only to the extent that the phosphorus load reduction exceeds 25 percent. Subject to subparagraph 4., the reduction of phosphorus load by each percentage point in excess of 25 percent, computed for the 12-month period ended on April 30 of the calendar year immediately preceding certification of the Everglades agricultural privilege tax, shall result in the following incentive credits: $0.33 per acre for the tax notices mailed in November 1994 through November 1997; $0.54 per acre for the tax notices mailed in November 1998 through November 2001; $0.61 per acre for the tax notices mailed in November 2002 through November 2005, and $0.65 per acre for the tax notices mailed in November 2006 through November 2013. The determination of incentive credits, if any, shall be documented by resolution of the governing board of the district adopted prior to or at the time of the adoption of its resolution certifying the annual Everglades agricultural privilege tax roll to the appropriate tax collector.

4. Notwithstanding subparagraph 3., incentive credits for the performance of best management practices shall not reduce the minimum annual Everglades agricultural privilege tax to less than $24.89 per acre, which annual Everglades agricultural privilege tax as adjusted in the manner required by paragraph (e) shall be known as the "minimum tax." To the extent that the application of incentive credits for the performance of best management practices would reduce the annual Everglades agricultural privilege tax to an amount less than the minimum tax, then the unused or excess incentive credits for the performance of best management practices shall be carried forward, on a phosphorus load percentage basis, to be applied as incentive credits in subsequent years. Any unused or excess incentive credits remaining after certification of the Everglades agricultural privilege tax roll for the tax notices mailed in November 2013 shall be canceled.

5. Notwithstanding the schedule of Everglades agricultural privilege taxes set forth in subparagraph 1., the owner, lessee, or other appropriate interest holder of any property shall be entitled to have the Everglades agricultural privilege tax for any parcel of property reduced to the minimum tax, commencing with the tax notices mailed in November 1996 for parcels of property participating in the early baseline option as defined in chapter 40E-63, Florida Administrative Code, and with the

tax notices mailed in November 1997 for parcels of property not participating in the early baseline option, upon compliance with the requirements set forth in this subparagraph. The owner, lessee, or other appropriate interest holder shall file an application with the executive director of the district prior to July 1 for consideration of reduction to the minimum tax on the Everglades agricultural privilege tax roll to be certified for the tax notice mailed in November of the same calendar year and shall have the burden of proving the reduction in phosphorus load attributable to such parcel of property. The phosphorus load reduction for each discharge structure serving the parcel shall be measured as provided in chapter 40E-63, Florida Administrative Code, and the permit issued for such property pursuant to chapter 40E-63, Florida Administrative Code. A parcel of property which has achieved the following annual phosphorus load reduction standards shall have the minimum tax included on the annual tax notice mailed in November of the next ensuing calendar year: 30 percent or more for the tax notices mailed in November 1994 through November 1997; 35 percent or more for the tax notices mailed in November 1998 through November 2001; 40 percent or more for the tax notices mailed in November 2002 through November 2005; and 45 percent or more for the tax notices mailed in November 2006 through November 2013. In addition, any parcel of property that achieves an annual flow weighted mean concentration of 50 parts per billion (ppb) of phosphorus at each discharge structure serving the property for any year ending April 30 shall have the minimum tax included on the annual tax notice mailed in November of the next ensuing calendar year. Any annual phosphorus reductions that exceed the amount necessary to have the minimum tax included on the annual tax notice for any parcel of property shall be carried forward to the subsequent years' phosphorus load reduction to determine if the minimum tax shall be included on the annual tax notice. The governing board of the district shall deny or grant the application by resolution adopted prior to or at the time of the adoption of its resolution certifying the annual Everglades agricultural privilege tax roll to the appropriate tax collector.

6. The annual Everglades agricultural privilege tax shall be: for the tax notices mailed in November 2014 through November 2026, $25 per acre; for the tax notices mailed in November 2027 through 2029, $20 per acre; for the tax notices mailed in

November 2030 through 2035, $15 per acre; and for the tax notices mailed in November 2036 and thereafter, $10 per acre. Proceeds from the tax shall be used for design, construction, and implementation of the Long-Term Plan, including operation and maintenance, and research for the projects and strategies in the Long-Term Plan, including the enhancements and operation and maintenance of the Everglades Construction Project.

(d) For purposes of this paragraph, "vegetable acreage" means, for each tax year, any portion of a parcel of property used for a period of not less than 8 months for the production of vegetable crops, including sweet corn, during the 12 months ended September 30 of the year preceding the tax year. Land preparation, crop rotation, and fallow periods shall not disqualify property from classification as vegetable acreage if such property is actually used for the production of vegetable crops.

1. It is hereby determined by the Legislature that vegetable farming in the EAA is subject to volatile market conditions and is particularly subject to crop loss or damage due to freezes, flooding, and drought. It is further determined by the Legislature that, due to the foregoing factors, imposition of an Everglades agricultural privilege tax upon vegetable acreage in excess of the minimum tax could create a severe economic hardship and impair the production of vegetable crops. Notwithstanding the schedule of Everglades agricultural privilege taxes set forth in subparagraph (c)1., the Everglades agricultural privilege tax for vegetable acreage shall be the minimum tax, and vegetable acreage shall not be entitled to any incentive credits.

2. If either the Governor, the President of the United States, or the United States Department of Agriculture declares the existence of a state of emergency or disaster resulting from extreme natural conditions impairing the ability of vegetable acreage to produce crops, payment of the Everglades agricultural privilege taxes imposed for the privilege of conducting an agricultural trade or business on such property shall be deferred for a period of 1 year, and all subsequent annual payments shall be deferred for the same period.

a. If the declaration occurs between April 1 and October 31, the Everglades agricultural privilege tax to be included on the next annual tax notice will be deferred to the subsequent annual tax notice.

b. If the declaration occurs between November 1 and March 31 and the Everglades agricultural privilege tax included on the most recent tax notice has not been paid, such Everglades agricultural privilege tax will be deferred to the next annual tax notice.

c. If the declaration occurs between November 1 and March 31 and the Everglades agricultural privilege tax included on the most recent tax notice has been paid, the Everglades agricultural privilege tax to be included on the next annual tax notice will be deferred to the subsequent annual tax notice.

3. In the event payment of Everglades agricultural privilege taxes is deferred pursuant to this paragraph, the district must record a notice in the official records of each county in which vegetable acreage subject to such deferment is located. The recorded notice must describe each parcel of property as to which Everglades agricultural privilege taxes have been deferred and the amount deferred for such property. If all or any portion of the property as to which Everglades agricultural privilege taxes have been deferred ceases to be classified as agricultural under the provisions of chapter 193 or otherwise subject to the Everglades agricultural privilege tax, all deferred amounts must be included on the tax notice for such property mailed in November of the first tax year for which such property is not subject to the Everglades agricultural privilege tax. After a property owner has paid all outstanding Everglades agricultural privilege taxes, including any deferred amounts, the district shall provide the property owner with a recordable instrument evidencing the payment of all outstanding amounts.

4. The owner, lessee, or other appropriate interestholder must file an application with the executive director of the district prior to July 1 for classification of a portion of the property as vegetable acreage on the Everglades agricultural privilege tax roll to be certified for the tax notice mailed in November of the same calendar year and shall have the burden of proving the number of acres used for the production of vegetable crops during the year in which incentive credits are determined and the period of such use. The governing board of the district shall deny or grant the application by resolution adopted prior to or at the time of the adoption of its resolution certifying the annual

Everglades agricultural privilege tax roll to the appropriate tax collector.

5. This paragraph does not relieve vegetable acreage from the performance of best management practices specified in chapter 40E-63, Florida Administrative Code.

(e) If, for any tax year, the number of acres subject to the Everglades agricultural privilege tax is less than the number of acres included on the Everglades agricultural privilege tax roll certified for the tax notices mailed in November 1994, the minimum tax shall be subject to increase in the manner provided in this paragraph. In determining the number of acres subject to the Everglades agricultural privilege tax for purposes of this paragraph, property acquired by a not-for-profit entity for purposes of conservation and preservation, the United States, or the state, or any agency thereof, and removed from the Everglades agricultural privilege tax roll after January 1, 1994, shall be treated as subject to the tax even though no tax is imposed or due: in its entirety, for tax notices mailed prior to November 2000; to the extent its area exceeds 4 percent of the total area of property subject to the Everglades agricultural tax, for tax notices mailed in November 2000 through November 2005; and to the extent its area exceeds 8 percent of the total area of property subject to the Everglades agricultural tax, for tax notices mailed in November 2006 and thereafter. For each tax year, the district shall determine the amount, if any, by which the sum of the following exceeds $12,367,000:

1. The product of the minimum tax multiplied by the number of acres subject to the Everglades agricultural privilege tax; and

2. The ad valorem tax increment, as defined in this subparagraph.

The aggregate of such annual amounts, less any portion previously applied to eliminate or reduce future increases in the minimum tax, as described in this paragraph, shall be known as the “excess tax amount.” If for any tax year, the amount computed by multiplying the minimum tax by the number of acres then subject to the Everglades agricultural privilege tax is less than $12,367,000, the excess tax amount shall be applied in the following manner. If the excess tax amount exceeds such difference, an amount equal to the difference shall be deducted from the excess tax amount and applied to eliminate any increase in the minimum tax. If such difference exceeds the excess tax amount, the excess tax amount shall be applied to reduce any increase in the minimum tax. In such event, a new

minimum tax shall be computed by subtracting the remaining excess tax amount from $12,367,000 and dividing the result by the number of acres subject to the Everglades agricultural privilege tax for such tax year. For purposes of this paragraph, the "ad valorem tax increment" means 50 percent of the difference between the amount of ad valorem taxes actually imposed by the district for the immediate prior tax year against property included on the Everglades agricultural privilege tax roll certified for the tax notices mailed in November 1994 that was not subject to the Everglades agricultural privilege tax during the immediate prior tax year and the amount of ad valorem taxes that would have been imposed against such property for the immediate prior tax year if the taxable value of each acre had been equal to the average taxable value of all other land classified as agricultural within the EAA for such year; however, the ad valorem tax increment for any year shall not exceed the amount that would have been derived from such property from imposition of the minimum tax during the immediate prior tax year.

(f) Any owner, lessee, or other appropriate interestholder of property subject to the Everglades agricultural privilege tax may contest the Everglades agricultural privilege tax by filing an action in circuit court.

1. No action may be brought to contest the Everglades agricultural privilege tax after 60 days from the date the tax notice that includes the Everglades agricultural privilege tax is mailed by the tax collector. Before an action to contest the Everglades agricultural privilege tax may be brought, the taxpayer shall pay to the tax collector the amount of the Everglades agricultural privilege tax which the taxpayer admits in good faith to be owing. The tax collector shall issue a receipt for the payment, and the receipt shall be filed with the complaint. Payment of an Everglades agricultural privilege tax shall not be deemed an admission that such tax was due and shall not prejudice the right to bring a timely action to challenge such tax and seek a refund. No action to contest the Everglades agricultural privilege tax may be maintained, and such action shall be dismissed, unless all Everglades agricultural privilege taxes imposed in years after the action is brought, which the taxpayer in good faith admits to be owing, are paid before they become delinquent. The requirements of this subparagraph are jurisdictional.

2. In any action involving a challenge of the Everglades agricultural privilege tax, the court shall assess all costs. If the court finds that the amount of tax owed by the taxpayer is greater than the amount the taxpayer has in good faith admitted and paid, it shall enter judgment against the taxpayer for the deficiency and for interest on the deficiency at the rate of 12 percent per year from the date the tax became delinquent. If it finds that the amount of tax which the taxpayer has admitted to be owing is grossly disproportionate to the amount of tax found to be due and that the taxpayer's admission was not made in good faith, the court shall also assess a penalty at the rate of 25 percent of the deficiency per year from the date the tax became delinquent. The court may issue injunctions to restrain the sale of property for any Everglades agricultural privilege tax which appears to be contrary to law or equity.

(g) Notwithstanding any contrary provisions in chapter 120, or any provision of any other law, an action in circuit court shall be the exclusive remedy to challenge the assessment of an Everglades agricultural privilege tax and owners of property subject to the Everglades agricultural privilege tax shall have no right or standing to initiate administrative proceedings under chapter 120 to challenge the assessment of an Everglades agricultural privilege tax, including specifically, and without limitation, the annual certification by the district governing board of the Everglades agricultural privilege tax roll to the appropriate tax collector, the annual calculation of any incentive credit for phosphorus level reductions, the denial of an application for exclusion from the Everglades agricultural privilege tax, the calculation of the minimum tax adjustments provided in paragraph (e), the denial of an application for reduction to the minimum tax, and the denial of any application for classification as vegetable acreage, deferment of payment for vegetable acreage, or correction of any alleged error in the Everglades agricultural privilege tax roll.

(h) In recognition of the findings set forth in subsection (1), the Legislature finds that the assessment and use of the Everglades agricultural privilege tax is a matter of concern to all areas of Florida. The Legislature intends this act to be a general law authorization of the Everglades agricultural privilege tax within the meaning of s. 9, Art. VII of the State Constitution and further intends that payment of the tax, in addition to payment of the cost of continuing implementation of BMPs, fulfills the obligations of owners and users of land under s. 7(b), Art. II of the State Constitution.

(7) C-139 AGRICULTURAL PRIVILEGE TAX.—

(a) There is hereby imposed an annual C-139 agricultural privilege tax for the privilege of conducting an agricultural trade or business on:

1. All real property located within the C-139 Basin that is classified as agricultural under the provisions of chapter 193; and

2. Leasehold or other interests in real property located within the C-139 Basin owned by the United States, the state, or any agency thereof permitting the property to be used for agricultural purposes in a manner that would result in such property being classified as agricultural under the provisions of chapter 193 if not governmentally owned, whether or not such property is actually classified as agricultural under the provisions of chapter 193.

It is hereby determined by the Legislature that the privilege of conducting an agricultural trade or business on such property constitutes a reasonable basis for imposing the C-139 agricultural privilege tax and that logical differences exist between the agricultural use of such property and the use of other property within the C-139 Basin for residential or nonagricultural commercial use. The C-139 agricultural privilege tax shall constitute a lien against the property, or the leasehold or other interest in governmental property permitting such property to be used for agricultural purposes, described on the C-139 agricultural privilege tax roll. The lien shall be in effect from January 1 of the year the tax notice is mailed until discharged by payment and shall be equal in rank and dignity with the liens of all state, county, district, or municipal taxes and non-ad valorem assessments imposed pursuant to general law, special act, or local ordinance and shall be superior in dignity to all other liens, titles, and claims.

(b) The C-139 agricultural privilege tax, other than for leasehold or other interests in governmental property permitting such property to be used for agricultural purposes, shall be collected in the manner provided for ad valorem taxes. By September 15 of each year, the governing board of the district shall certify by resolution a C-139 agricultural privilege tax roll on compatible electronic medium to the tax collector of each county in which a portion of the C-139 Basin is located. The district shall also produce one copy of the roll in printed form which shall be available for inspection by the public. The district shall post the C-139 agricultural privilege tax for each parcel on the roll. The tax

collector shall not accept any such roll that is not certified on compatible electronic medium and that does not contain the posting of the C-139 agricultural privilege tax for each parcel. It is the responsibility of the district that such rolls be free of errors and omissions. Alterations to such rolls may be made by the executive director of the district, or a designee, up to 10 days before certification. If the tax collector or any taxpayer discovers errors or omissions on such roll, such person may request the district to file a corrected roll or a correction of the amount of any C-139 agricultural privilege tax. Other than for leasehold or other interests in governmental property permitting such property to be used for agricultural purposes, C-139 agricultural privilege taxes collected pursuant to this section shall be included in the combined notice for ad valorem taxes and non-ad valorem assessments provided for in s. 197.3635. Such C-139 agricultural privilege taxes shall be listed in the portion of the combined notice utilized for non-ad valorem assessments. A separate mailing is authorized only as a solution to the most exigent factual circumstances. However, if a tax collector cannot merge a C-139 agricultural privilege tax roll to produce such a notice, the tax collector shall mail a separate notice of C-139 agricultural privilege taxes or shall direct the district to mail such a separate notice. In deciding whether a separate mailing is necessary, the tax collector shall consider all costs to the district and taxpayers of such a separate mailing and the adverse effects to the taxpayers of delayed and multiple notices. The district shall bear all costs associated with any separate notice. C-139 agricultural privilege taxes collected pursuant to this section shall be subject to all collection provisions of chapter 197, including provisions relating to discount for early payment, prepayment by installment method, deferred payment, penalty for delinquent payment, and issuance and sale of tax certificates and tax deeds for nonpayment. C-139 agricultural privilege taxes for leasehold or other interests in property owned by the United States, the state, or any agency thereof permitting such property to be used for agricultural purposes shall be included on the notice provided pursuant to s. 196.31, a copy of which shall be provided to lessees or other interestholders registering with the district, and shall be collected from the lessee or other appropriate interestholder and remitted to the district immediately upon collection. C-139 agricultural privilege taxes included on the statement provided pursuant to s. 196.31 shall be due and collected on or prior to the next April 1 following provision of the notice. Proceeds of the C-139 agricultural privilege taxes shall be distributed by the tax collector to the district. Each tax collector shall be paid a commission equal to the actual cost of collection, not to exceed 2 percent, on the amount of C-139 agricultural

privilege taxes collected and remitted. Notwithstanding any general law or special act to the contrary, C-139 agricultural privilege taxes shall not be included on the notice of proposed property taxes provided in s. 200.069.

(c)

1. The initial C-139 agricultural privilege tax roll shall be certified for the tax notices mailed in November 1994. The C-139 agricultural privilege taxes for the tax notices mailed in November 1994 through November 2002 shall be computed by dividing $654,656 by the number of acres included on the C-139 agricultural privilege tax roll for such year, excluding any property located within the C-139 Annex.

2. The C-139 agricultural privilege taxes for the tax notices mailed in November 2003 through November 2013 shall be computed by dividing $654,656 by the number of acres included on the C-139 agricultural privilege tax roll for November 2001, excluding any property located within the C-139 Annex.

3. The C-139 agricultural privilege taxes for the tax notices mailed in November 2014 and thereafter shall be $1.80 per acre.

(d) For purposes of this paragraph, "vegetable acreage" means, for each tax year, any portion of a parcel of property used for a period of not less than 8 months for the production of vegetable crops, including sweet corn, during the 12 months ended September 30 of the year preceding the tax year. Land preparation, crop rotation, and fallow periods shall not disqualify property from classification as vegetable acreage if such property is actually used for the production of vegetable crops.

1. If either the Governor, the President of the United States, or the United States Department of Agriculture declares the existence of a state of emergency or disaster resulting from extreme natural conditions impairing the ability of vegetable acreage to produce crops, payment of the C-139 agricultural privilege taxes imposed for the privilege of conducting an agricultural trade or business on such property shall be deferred for a period of 1 year, and all subsequent annual payments shall be deferred for the same period.

a. If the declaration occurs between April 1 and October 31, the C-139 agricultural privilege tax to be included on

the next annual tax notice will be deferred to the subsequent annual tax notice.

b. If the declaration occurs between November 1 and March 31 and the C-139 agricultural privilege tax included on the most recent tax notice has not been paid, such C-139 agricultural privilege tax will be deferred to the next annual tax notice.

c. If the declaration occurs between November 1 and March 31 and the C-139 agricultural privilege tax included on the most recent tax notice has been paid, the C-139 agricultural privilege tax to be included on the next annual tax notice will be deferred to the subsequent annual tax notice.

2. In the event payment of C-139 agricultural privilege taxes is deferred pursuant to this paragraph, the district must record a notice in the official records of each county in which vegetable acreage subject to such deferment is located. The recorded notice must describe each parcel of property as to which C-139 agricultural privilege taxes have been deferred and the amount deferred for such property. If all or any portion of the property as to which C-139 agricultural privilege taxes have been deferred ceases to be classified as agricultural under the provisions of chapter 193 or otherwise subject to the C-139 agricultural privilege tax, all deferred amounts must be included on the tax notice for such property mailed in November of the first tax year for which such property is not subject to the C-139 agricultural privilege tax. After a property owner has paid all outstanding C-139 agricultural privilege taxes, including any deferred amounts, the district shall provide the property owner with a recordable instrument evidencing the payment of all outstanding amounts.

3. The owner, lessee, or other appropriate interestholder shall file an application with the executive director of the district prior to July 1 for classification of a portion of the property as vegetable acreage on the C-139 agricultural privilege tax roll to be certified for the tax notice mailed in November of the same calendar year and shall have the burden of proving the number of acres used for the production of vegetable crops during the year in which incentive credits are determined and the period of such use. The governing board of the district shall deny or grant the application by resolution adopted prior to or at the time of

the adoption of its resolution certifying the annual C-139 agricultural privilege tax roll to the appropriate tax collector.

4. This paragraph does not relieve vegetable acreage from the performance of best management practices specified in chapter 40E-63, Florida Administrative Code.

(e) Any owner, lessee, or other appropriate interestholder of property subject to the C-139 agricultural privilege tax may contest the C-139 agricultural privilege tax by filing an action in circuit court.

1. No action may be brought to contest the C-139 agricultural privilege tax after 60 days from the date the tax notice that includes the C-139 agricultural privilege tax is mailed by the tax collector. Before an action to contest the C-139 agricultural privilege tax may be brought, the taxpayer shall pay to the tax collector the amount of the C-139 agricultural privilege tax which the taxpayer admits in good faith to be owing. The tax collector shall issue a receipt for the payment and the receipt shall be filed with the complaint. Payment of an C-139 agricultural privilege tax shall not be deemed an admission that such tax was due and shall not prejudice the right to bring a timely action to challenge such tax and seek a refund. No action to contest the C-139 agricultural privilege tax may be maintained, and such action shall be dismissed, unless all C-139 agricultural privilege taxes imposed in years after the action is brought, which the taxpayer in good faith admits to be owing, are paid before they become delinquent. The requirements of this paragraph are jurisdictional.

2. In any action involving a challenge of the C-139 agricultural privilege tax, the court shall assess all costs. If the court finds that the amount of tax owed by the taxpayer is greater than the amount the taxpayer has in good faith admitted and paid, it shall enter judgment against the taxpayer for the deficiency and for interest on the deficiency at the rate of 12 percent per year from the date the tax became delinquent. If it finds that the amount of tax which the taxpayer has admitted to be owing is grossly disproportionate to the amount of tax found to be due and that the taxpayer's admission was not made in good faith, the court shall also assess a penalty at the rate of 25 percent of the deficiency per year from the date the tax became delinquent. The court may issue injunctions to restrain the sale of property for any C-139

agricultural privilege tax which appears to be contrary to law or equity.

(f) Notwithstanding any contrary provisions in chapter 120, or any provision of any other law, an action in circuit court shall be the exclusive remedy to challenge the assessment of an C-139 agricultural privilege tax and owners of property subject to the C-139 agricultural privilege tax shall have no right or standing to initiate administrative proceedings under chapter 120 to challenge the assessment of an C-139 agricultural privilege tax including specifically, and without limitation, the annual certification by the district governing board of the C-139 agricultural privilege tax roll to the appropriate tax collector, the denial of an application for exclusion from the C-139 agricultural privilege tax, and the denial of any application for classification as vegetable acreage, deferment of payment for vegetable acreage, or correction of any alleged error in the C-139 agricultural privilege tax roll.

(g) In recognition of the findings set forth in subsection (1), the Legislature finds that the assessment and use of the C-139 agricultural privilege tax is a matter of concern to all areas of Florida and the Legislature intends this section to be a general law authorization of the tax within the meaning of s. 9, Art. VII of the State Constitution.

(8) SPECIAL ASSESSMENTS.—

(a) In addition to any other legally available funding mechanism, the district may create, alone or in cooperation with counties, municipalities, and special districts pursuant to s. 163.01, the Florida Interlocal Cooperation Act of 1969, one or more stormwater management system benefit areas including property located outside the EAA and the C-139 Basin, and property located within the EAA and the C-139 Basin that is not subject to the Everglades agricultural privilege tax or the C-139 agricultural privilege tax. The district may levy special assessments within said benefit areas to fund the planning, acquisition, construction, financing, operation, maintenance, and administration of stormwater management systems for the benefited areas. Any benefit area in which property owners receive substantially different levels of stormwater management system benefits shall include stormwater management system benefit subareas within which different per acreage assessments shall be levied from subarea to subarea based upon a reasonable relationship to benefits received. The assessments shall be calculated to generate sufficient funds to plan, acquire, construct,

finance, operate, and maintain the stormwater management systems authorized pursuant to this section.

(b) The district may use the non-ad valorem levy, collection, and enforcement method as provided in chapter 197 for assessments levied pursuant to paragraph (a).

(c) The district shall publish notice of the certification of the non-ad valorem assessment roll pursuant to chapter 197 in a newspaper of general circulation in the counties wherein the assessment is being levied, within 1 week after the district certifies the non-ad valorem assessment roll to the tax collector pursuant to s. 197.3632(5). The assessments levied pursuant to paragraph (a) shall be final and conclusive as to each lot or parcel unless the owner thereof shall, within 90 days of certification of the non-ad valorem assessment roll pursuant to s. 197.3632(5), commence an action in circuit court. Absent such commencement of an action within such period of time by an owner of a lot or parcel, such owner shall thereafter be estopped to raise any question related to the special benefit afforded the property or the reasonableness of the amount of the assessment. Except with respect to an owner who has commenced such an action, the non-ad valorem assessment roll as finally adopted and certified by the South Florida Water Management District to the tax collector pursuant to s. 197.3632(5) shall be competent and sufficient evidence that the assessments were duly levied and that all other proceedings adequate to the adoption of the non-ad valorem assessment roll were duly held, taken, and performed as required by s. 197.3632. If any assessment is abated in whole or in part by the court, the amount by which the assessment is so reduced may, by resolution of the governing board of the district, be payable from funds of the district legally available for that purpose, or at the discretion of the governing board of the district, assessments may be increased in the manner provided in s. 197.3632.

(d) In no event shall the amount of funds collected for stormwater management facilities pursuant to paragraph (a) exceed the cost of providing water management attributable to water quality treatment resulting from the operation of stormwater management systems of the landowners to be assessed. Such water quality treatment may be required by the plan or permits issued by the district. Prior to the imposition of assessments pursuant to paragraph (a) for construction of new stormwater management systems or the acquisition of necessary land, the district shall establish the general purpose, design, and function of the new system sufficient to make a fair and

reasonable determination of the estimated costs of water management attributable to water quality treatment resulting from operation of stormwater management systems of the landowners to be assessed. This determination shall establish the proportion of the total anticipated costs attributable to the landowners. In determining the costs to be imposed by assessments, the district shall consider the extent to which nutrients originate from external sources beyond the control of the landowners to be assessed. Costs for hydroperiod restoration within the Everglades Protection Area shall be provided by funds other than those derived from the assessments. The proportion of total anticipated costs attributable to the landowners shall be apportioned to individual landowners considering the factors specified in paragraph (e). Any determination made pursuant to this paragraph or paragraph (e) may be included in the plan or permits issued by the district.

(e) In determining the amount of any assessment imposed on an individual landowner under paragraph (a), the district shall consider the quality and quantity of the stormwater discharged by the landowner, the amount of treatment provided to the landowner, and whether the landowner has provided equivalent treatment or retention prior to discharge to the district's system.

(f) No assessment shall be imposed under this section for the operation or maintenance of a stormwater management system or facility for which construction has been completed on or before July 1, 1991, except to the extent that the operation or maintenance, or any modification of such system or facility, is required to provide water quality treatment.

(g) The district shall suspend, terminate, or modify projects and funding for such projects, as appropriate, if the projects are not achieving applicable goals specified in the plan.

(h) The Legislature hereby determines that any property owner who contributes to the need for stormwater management systems and programs, as determined for each individual property owner either through the plan or through permits issued to the district or to the property owner, is deemed to benefit from such systems and programs, and such benefits are deemed to be directly proportional to the relative contribution of the property owner to such need. The Legislature also determines that the issuance of a master permit provides benefits, through the opportunity to achieve collective compliance, for all persons within the area of the master permit which may be considered by the district in the imposition of assessments under this section.

(9) PERMITS.—

(a) The Legislature finds that construction and operation of the Everglades Construction Project will benefit the water resources of the district and is consistent with the public interest. The district shall construct, maintain, and operate the Everglades Construction Project in accordance with this section.

(b) The Legislature finds that there is an immediate need to initiate cleanup and restoration of the Everglades Protection Area through the Everglades Construction Project. In recognition of this need, the district may begin construction of the Everglades Construction Project prior to final agency action, or notice of intended agency action, on any permit from the department under this section.

(c) The department may issue permits to the district to construct, operate, and maintain the Everglades Construction Project based on the criteria set forth in this section. The permits to be issued by the department to the district under this section shall be in lieu of other permits under this part or part VIII of chapter 403, 1992 Supplement to the Florida Statutes 1991.

(d) By June 1, 1994, the district shall apply to the department for a permit or permits for the construction, operation, and maintenance of the Everglades Construction Project. The district may comply with this paragraph by amending its pending Everglades permit application.

(e) The department shall issue a permit for a term of 5 years for the construction, operation, and maintenance of the Everglades Construction Project upon the district's providing reasonable assurances that:

1. The project will be constructed, operated, and maintained in accordance with the Everglades Construction Project;

2. The BMP program set forth in paragraph (4)(f) has been implemented; and

3. The final design of the Everglades Construction Project shall minimize wetland impacts, to the maximum extent practicable and consistent with the Everglades Construction Project.

(f) At least 60 days prior to the expiration of any permit issued under this section, the district may apply for renewal for a period of 5 years.

(g) Permits issued under this section may include any standard conditions provided by department rule which are appropriate and consistent with this section.

(h) Discharges shall be allowed, provided the STAs are operated in accordance with this section, if, after a stabilization period:

1. The STAs achieve the design objectives of the Everglades Construction Project for phosphorus;

2. For water quality parameters other than phosphorus, the quality of water discharged from the STAs is of equal or better quality than inflows; and

3. Discharges from STAs do not pose a serious danger to the public health, safety, or welfare.

(i) The district may discharge from any STA into waters of the state upon issuance of final agency action authorizing such action or in accordance with s. 373.439.

(j)

1. Modifications to the Everglades Construction Project shall be submitted to the department for a determination as to whether permit modification is necessary. The department shall notify the district within 30 days after receiving the submittal as to whether permit modification is necessary.

2. The Legislature recognizes that technological advances may occur during the construction of the Everglades Construction Project. If superior technology becomes available in the future which can be implemented to more effectively meet the intent and purposes of this section, the district is authorized to pursue that alternative through permit modification to the department. The department may issue or modify a permit provided that the alternative is demonstrated to be superior at achieving the restoration goals of the Everglades Construction Project considering:

a. Levels of load reduction;

b. Levels of discharge concentration reduction;

c. Water quantity, distribution, and timing for the Everglades Protection Area;

d. Compliance with water quality standards;

e. Compatibility of treated water with the balance in natural populations of aquatic flora or fauna in the Everglades Protection Area;

f. Cost-effectiveness; and

g. The schedule for implementation.

Upon issuance of permit modifications by the department, the district is authorized to use available funds to finance the modification.

3. The district shall modify projects of the Everglades Construction Project, as appropriate, if the projects are not achieving the design objectives. Modifications that are inconsistent with the permit shall require a permit modification from the department. Modifications which substitute the treatment technology must meet the requirements of subparagraph 2. Nothing in this section shall prohibit the district from refining or modifying the final design of the project based upon the February 14, 1994, conceptual design document in accordance with standard engineering practices.

(k) By October 1, 1994, the district shall apply for a permit under this section to operate and maintain discharge structures within the control of the district which discharge into, within, or from the Everglades Protection Area and are not included in the Everglades Construction Project. The district may comply with this subsection by amending its pending permit application regarding these structures. In addition to the requirements of ss. 373.413 and 373.416, the application shall include the following:

1. Schedules and strategies for:

a. Achieving and maintaining water quality standards;

b. Evaluation of existing programs, permits, and water quality data;

c. Acquisition of lands and construction and operation of water treatment facilities, if appropriate, together with development of funding mechanisms; and

d. Development of a regulatory program to improve water quality, including identification of structures

or systems requiring permits or modifications of existing permits.

2. A monitoring program to ensure the accuracy of data and measure progress toward achieving compliance with water quality standards.

(l) The department shall issue one or more permits for a term of 5 years for the operation and maintenance of structures identified by the district in paragraph (k) upon the district's demonstration of reasonable assurance that those elements identified in paragraph (k) will provide compliance with water quality standards to the maximum extent practicable and otherwise comply with the provisions of ss. 373.413 and 373.416. The department shall take agency action on the permit application by October 1, 1996. At least 60 days prior to the expiration of any permit, the district may apply for a renewal thereof for a period of 5 years.

(m) The district may apply for modification of any permit issued pursuant to this subsection, including superior technology in accordance with the procedures set forth in this subsection.

(n) The district also shall apply for a permit or modification of an existing permit, as provided in this subsection, for any new structure or for any modification of an existing structure.

(o) Except as otherwise provided in this section, nothing in this subsection shall relieve any person from the need to obtain any permit required by the department or the district pursuant to any other provision of law.

(p) The district shall publish notice of rulemaking pursuant to chapter 120 by October 1, 1991, allowing for a master permit or permits authorizing discharges from landowners within that area served by structures identified as S-5A, S-6, S-7, S-8, and S-150. For discharges within this area, the district shall not initiate any proceedings to require new permits or permit modifications for nutrient limitations prior to the adoption of the master permit rule by the governing board of the district or prior to April 1, 1992, whichever first occurs. The district's rules shall also establish conditions or requirements allowing for a single master permit for the Everglades Agricultural Area including those structures and water releases subject to chapter 40E-61, Florida Administrative Code. No later than the adoption of rules allowing for a single master permit, the department and the district shall provide

appropriate procedures for incorporating into a master permit separate permits issued by the department under this chapter. The district's rules authorizing master permits for the Everglades Agricultural Area shall provide requirements consistent with this section and with interim or other permits issued by the department to the district. Such a master permit shall not preclude the requirement that individual permits be obtained for persons within the master permit area for activities not authorized by, or not in compliance with, the master permit. Nothing in this subsection shall limit the authority of the department or district to enforce existing permit requirements or existing rules, to require permits for new structures, or to develop rules for master permits for other areas. To the greatest extent possible the department shall delegate to the district any authority necessary to implement this subsection which is not already delegated.

(10) LONG-TERM COMPLIANCE PERMITS.—By December 31, 2006, the department and the district shall take such action as may be necessary to implement the pre-2006 projects and strategies of the Long-Term Plan so that water delivered to the Everglades Protection Area achieves in all parts of the Everglades Protection Area state water quality standards, including the phosphorus criterion and moderating provisions.

(a) By December 31, 2003, the district shall submit to the department an application for permit modification to incorporate proposed changes to the Everglades Construction Project and other district works delivering water to the Everglades Protection Area as needed to implement the pre-2006 projects and strategies of the Long-Term Plan in all permits issued by the department, including the permits issued pursuant to subsection (9). These changes shall be designed to achieve state water quality standards, including the phosphorus criterion and moderating provisions. During the implementation of the initial phase of the Long-Term Plan, permits issued by the department shall be based on BAPRT, and shall include technology-based effluent limitations consistent with the Long-Term Plan, as provided in subparagraph (4)(e)3.

(b) If the Everglades Construction Project or other discharges to the Everglades Protection Area are in compliance with state water quality standards, including the phosphorus criterion, the permit application shall include:

1. A plan for maintaining compliance with the phosphorus criterion in the Everglades Protection Area.

2. A plan for maintaining compliance in the Everglades Protection Area with state water quality standards other than the phosphorus criterion.

(11) APPLICABILITY OF LAWS AND WATER QUALITY STANDARDS; AUTHORITY OF DISTRICT AND DEPARTMENT.—

(a) Except as otherwise provided in this section, nothing in this section shall be construed:

1. As altering any applicable state water quality standards, laws, or district or department rules in areas impacted by this section; or

2. To restrict the authority otherwise granted the department and the district pursuant to this chapter or chapter 403, and provisions of this section shall be deemed supplemental to the authority granted pursuant to this chapter and chapter 403.

(b) Mixing zones, variances, and moderating provisions, or relief mechanisms for compliance with water quality standards as provided by department rules, shall not be permitted for discharges which are subject to paragraph (4)(f) and subject to this section, except that site specific alternative criteria may be allowed for nonphosphorus parameters if the applicant shows entitlement under applicable law. After December 31, 2006, all such relief mechanisms may be allowed for nonphosphorus parameters if otherwise provided for by applicable law.

(c) Those landowners or permittees who are not in compliance as provided in paragraph (4)(f) must meet a discharge limit for phosphorus of 50 parts per billion (ppb) unless and until some other limit has been established by department rule or order or operation of paragraph (4)(e).

(12) 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 stormwater treatment without the consent of the tribe.

(13) ANNUAL REPORTS.—Beginning March 1, 2006, as part of the consolidated annual report required by s. 373.036(7), the district shall

report on implementation of the section. The annual report will include a summary of the water conditions in the Everglades Protection Area, the status of the impacted areas, the status of the construction of the STAs, the implementation of the BMPs, and actions taken to monitor and control exotic species. The district must prepare the report in coordination with federal and state agencies.

(14) EVERGLADES FUND.—The South Florida Water Management District is directed to separately account for all moneys used for the purpose of funding the Everglades Construction Project as part of the consolidated annual report required by s. 373.036(7).

(15) DEFINITION OF EVERGLADES AGRICULTURAL AREA.—As used in this section, "Everglades Agricultural Area" or "EAA" means the following described property: BEGINNING at the intersection of the North line of Section 2, Township 41, Range 37 East, with the Easterly right-of-way line of U.S. Army Corps of Engineers' Levee D-9, in Palm Beach County, Florida; thence, easterly along said North line of said Section 2 to the Northeast corner of said Section 2; thence, northerly along the West line of Section 36, Township 40 South, Range 37 East, to the West one-quarter corner of said Section 36; thence, easterly along the East-West half section line of said Section 36 to the center of said Section 36; thence northerly along the North-South half section line of said Section 36 to the North one-quarter corner of said Section 36, said point being on the line between Palm Beach and Martin Counties; thence, easterly along said North line of said Section 36 and said line between Palm Beach and Martin Counties to the Westerly right-of-way line of the South Florida Water Management District's Levee 8 North Tieback; thence, southerly along said Westerly right-of-way line of said Levee 8 North Tieback to the Southerly right-of-way line of South Florida Water Management District's Levee 8 at a point near the Northeast corner of Section 12, Township 41 South, Range 37 East; thence, easterly along said Southerly right-of-way line of said Levee 8 to a point in Section 7, Township 41 South, Range 38 East, where said right-of-way line turns southeasterly; thence, southeasterly along the Southwesterly right-of-way line of said Levee 8 to a point near the South line of Section 8, Township 43 South, Range 40 East, where said right-of-way line turns southerly; thence, southerly along the Westerly right-of-way line of said Levee 8 to the Northerly right-of-way line of State Road 80, in Section 32, Township 43 South, Range 40 East; thence, westerly along the Northerly right-of-way line of said State Road 80 to the northeasterly extension of the Northwesterly right-of-way line of South Florida Water Management District's Levee 7; thence, southwesterly along said northeasterly extension, and along the northwesterly right-of-way line of said Levee 7 to a point near the Northwest corner of Section 3, Township 45 South, Range 39 East, where

said right-of-way turns southerly; thence, southerly along the Westerly right-of-way line of said Levee 7 to the Northwesterly right-of-way line of South Florida Water Management District's Levee 6, on the East line of Section 4, Township 46 South, Range 39 East; thence, southwesterly along the Northwesterly right-of-way line of said Levee 6 to the Northerly right-of-way line of South Florida Water Management District's Levee 5, near the Southwest corner of Section 22, Township 47 South, Range 38 East; thence, westerly along said Northerly right-of-way lines of said Levee 5 and along the Northerly right-of-way line of South Florida Water Management District's Levee 4 to the Northeasterly right-of-way line of South Florida Water Management District's Levee 3 and the Northeast corner of Section 12, Township 48 South, Range 34 East; thence, northwesterly along said Northeasterly right-of-way line of said Levee 3 to a point near the Southwest corner of Section 9, Township 47 South, Range 34 East, where said right-of-way line turns northerly; thence, northerly along the Easterly right-of-way lines of said Levee 3 and South Florida Water Management District's Levee 2 to the southerly line of Section 4, Township 46 South, Range 34 East; thence, easterly along said southerly line of said Section 4 to the Southeast corner of said Section 4; thence, northerly along the East lines of said Section 4 and Section 33, Township 45 South, Range 34 East, to the Northeast corner of said Section 33; thence, westerly along the North line of said Section 33 to said Easterly right-of-way line of said Levee 2; thence, northerly along said Easterly right-of-way lines of said Levee 2 and South Florida Water Management District's Levee 1, to the North line of Section 16, Township 44 South, Range 34 East; thence, easterly along the North lines of said Section 16 and Section 15, Township 44 South, Range 34 East, to the Northeast corner of said Section 15; thence, northerly along the West lines of Section 11 and Section 2, Township 44 South, Range 34 East, and the West lines of Section 35, Section 26 and Section 23, Township 43 South, Range 34 East to a point 25 feet north of the West quarter-corner (W1/4) of said Section 23; thence, easterly along a line that is 25 feet north and parallel to the East-West half section line of said Section 23 and Section 24 to a point that is 25 feet north of the center of said Section 24; thence, northerly along the North-South half section lines of said Section 24 and Section 13, Township 43 South, Range 34 East, to the intersection with the North right-of-way line of State Road 80A (old U.S. Highway 27); thence, westerly along said North right-of-way line of said State Road 80A (old U.S. Highway 27) to the intersection with the Southerly right-of-way line of State Road 80; thence, easterly along said Southerly right-of-way line of said State Road 80 to the intersection with the North line of Section 19, Township 43 South, Range 35 East; thence, easterly along said North line of said Section 19 to the intersection with Southerly right-of-way of U.S. Army Corps of Engineers Levee D-2; thence, easterly along said Southerly right-of-way of said Levee D-2 to the intersection with the

north right-of-way line of State Road 80 (new U.S. Highway 27); thence, easterly along said North right-of-way line of said State Road 80 (new U.S. Highway 27) to the East right-of-way line of South Florida Water Management District's Levee 25 (Miami Canal); thence, North along said East right-of-way line of said Levee 25 to the said south right-of-way line of said Levee D-2; thence, easterly and northeasterly along said Southerly and Easterly right-of-way lines of said Levee D-2 and said Levee D-9 to the point of beginning.

(16) DEFINITION OF C-139 BASIN.—For purposes of this section:

(a) "C-139 Basin" or "Basin" means the following described property: beginning at the intersection of an easterly extension of the south bank of Deer Fence Canal with the center line of South Florida Water Management District's Levee 3 in Section 33, Township 46 South, Range 34 East, Hendry County, Florida; thence, westerly along said easterly extension and along the South bank of said Deer Fence Canal to where it intersects the center line of State Road 846 in Section 33, Township 46 South, Range 32 East; thence, departing from said top of bank to the center line of said State Road 846, westerly along said center line of said State Road 846 to the West line of Section 4, Township 47 South, Range 31 East; thence, northerly along the West line of said section 4, and along the west lines of Sections 33 and 28, Township 46 South, Range 31 East, to the northwest corner of said Section 28; thence, easterly along the North line of said Section 28 to the North one-quarter (N1/4) corner of said Section 28; thence, northerly along the West line of the Southeast one-quarter (SE1/4) of Section 21, Township 46 South, Range 31 East, to the northwest corner of said Southeast one-quarter (SE1/4) of Section 21; thence, easterly along the North line of said Southeast one-quarter (SE1/4) of Section 21 to the northeast corner of said Southeast one-quarter (SE1/4) of Section 21; thence, northerly along the East line of said Section 21 and the East line of Section 16, Township 46 South, Range 31, East, to the northeast corner thereof; thence, westerly along the North line of said Section 16, to the northwest corner thereof; thence, northerly along the West line of Sections 9 and 4, Township 46 South, Range 31, East, to the northwest corner of said Section 4; thence, westerly along the North lines of Section 5 and Section 6, Township 46 South, Range 31 East, to the South one-quarter (S1/4) corner of Section 31, Township 45 South, Range 31 East; thence, northerly to the South one-quarter (S1/4) corner of Section 30, Township 45 South, Range 31 East; thence, easterly along the South line of said Section 30 and the South lines of Sections 29 and 28, Township 45 South, Range 31 East, to the Southeast corner of said Section 28; thence, northerly along the East line of said Section 28 and the East lines of Sections 21 and 16, Township 45

South, Range 31 East, to the Northwest corner of the Southwest one-quarter of the Southwest one-quarter (SW1/4 of the SW1/4) of Section 15, Township 45 South, Range 31 East; thence, northeasterly to the east one-quarter (E1/4) corner of Section 15, Township 45 South, Range 31 East; thence, northerly along the East line of said Section 15, and the East line of Section 10, Township 45 South, Range 31 East, to the center line of a road in the Northeast one-quarter (NE1/4) of said Section 10; thence, generally easterly and northeasterly along the center line of said road to its intersection with the center line of State Road 832; thence, easterly along said center line of said State Road 832 to its intersection with the center line of State Road 833; thence, northerly along said center line of said State Road 833 to the north line of Section 9, Township 44 South, Range 32 East; thence, easterly along the North line of said Section 9 and the north lines of Sections 10, 11 and 12, Township 44 South, Range 32 East, to the northeast corner of Section 12, Township 44 South, Range 32 East; thence, easterly along the North line of Section 7, Township 44 South, Range 33 East, to the center line of Flaghole Drainage District Levee, as it runs to the east near the northwest corner of said Section 7, Township 44 South, Range 33 East; thence, easterly along said center line of the Flaghole Drainage District Levee to where it meets the center line of South Florida Water Management District's Levee 1 at Flag Hole Road; thence, continue easterly along said center line of said Levee 1 to where it turns south near the Northwest corner of Section 12, Township 44 South, Range 33 East; thence, Southerly along said center line of said Levee 1 to where the levee turns east near the Southwest corner of said Section 12; thence, easterly along said center line of said Levee 1 to where it turns south near the Northeast corner of Section 17, Township 44 South, Range 34 East; thence, southerly along said center line of said Levee 1 and the center line of South Florida Water Management District's Levee 2 to the intersection with the north line of Section 33, Township 45 South, Range 34 East; thence, easterly along the north line of said Section 33 to the northeast corner of said Section 33; thence, southerly along the east line of said Section 33 to the southeast corner of said Section 33; thence, southerly along the east line of Section 4, Township 46 South, Range 34 East to the southeast corner of said Section 4; thence, westerly along the south line of said Section 4 to the intersection with the centerline of South Florida Water Management District's Levee 2; thence, southerly along said Levee 2 centerline and South Florida Water Management District's Levee 3 centerline to the POINT OF BEGINNING.

(b) Sections 21, 28, and 33, Township 46 South, Range 31 East, are not included within the boundary of the C-139 Basin.

(c) If the district issues permits in accordance with all applicable rules allowing water from the "C-139 Annex" to flow into the drainage system for the C-139 Basin, the C-139 Annex shall be added to the C-139 Basin for all tax years thereafter, commencing with the next C-139 agricultural privilege tax roll certified after issuance of such permits. "C-139 Annex" means the following described property: that part of the S.E. 1/4 of Section 32, Township 46 South, Range 34 East and that portion of Sections 5 and 6, Township 47 South, Range 34 East lying west of the L-3 Canal and South of the Deer Fence Canal; all of Sections 7, 17, 18, 19, 20, 28, 29, 30, 31, 32, 33, and 34, and that portion of Sections 8, 9, 16, 21, 22, 26, 27, 35, and 36 lying south and west of the L-3 Canal, in Township 47 South, Range 34 East; and all of Sections 2, 3, 4, 5, 6, 8, 9, 10, and 11 and that portion of Section 1 lying south and west of the L-3 Canal all in Township 48 South, Range 34 East.

(17) SHORT TITLE.—This section shall be known as the "Everglades Forever Act."

FL Admin Code R 40E-63

PART I EVERGLADES REGULATORY PROGRAM: EVERGLADES AGRICULTURAL AREA (EAA) BASIN

FL Admin Code R 40E-63.011. Policy and Purpose.

(1) The Everglades is a unique national resource. It has a high diversity of species, and provides habitat for large populations of wading birds and several threatened and endangered species, including wood storks, snail kites, bald eagles, Florida panthers, and American crocodiles. Large portions of the northern and eastern Everglades have been drained and converted to agricultural or urban land uses. Only 50% of the original Everglades ecosystem remains today. The remainder is the largest and most important freshwater sub-tropical peatland in North America. The remaining components of the historic Everglades are located in the Water Conservation Areas (WCAs) and Everglades National Park (ENP). ENP and Loxahatchee National Wildlife Refuge (WCA 1) are Outstanding Florida Waters, a designation which requires special protection for the resource.

(2) Large portions of the Everglades ecosystem have evolved in response to low ambient concentrations of nutrients and seasonal fluctuations of water levels. Prior to creation of the Everglades Agricultural Area (EAA), nitrogen and phosphorus were mainly supplied to large areas only in

rainfall. Phosphorus is the primary limiting nutrient throughout the remaining Everglades. Sawgrass has lower phosphorus requirements than other species of Everglades vegetation.

(3) A substantial portion of EAA nutrients is transported to the remaining Everglades either in dissolved or in particulate form in surface waters. The introduction of phosphorus from EAA drainage water has resulted in ecological changes in substantial areas of Everglades marsh. These changes are cultural eutrophication, which is an increase in the supply of nutrients available in the marsh. The increased supply of phosphorus in Everglades marshes has resulted in documented impacts in several trophic levels, including microbial, periphyton, and macrophyte. The areal extent of these impacts is increasing.

(4) The State of Florida enacted The Marjory Stoneman Douglas Everglades Protection Act in 1991. The Act required the District to publish notice of rulemaking by October 1, 1991, allowing for a master permit or permits authorizing discharges, subject to conditions or requirements, from landowners within the area served by the drainage structures listed in Appendix A3, TABLE A1. That law was substantially revised in 1994 and is codified today as the Everglades Forever Act, Section 373.4592, F.S.

(5) The regulatory program to address the reduction of total phosphorus loads from the Everglades Agricultural Area (EAA) in general was adopted initially by this chapter in December 1991 and was amended in 1992 to add a specific phosphorus load allocation.

FL Admin Code R 40E-63.091. Publications Incorporated by Reference.

(1) "Appendix A1 – Description: Regulated Portion of Everglades Agricultural Area Basins Palm Beach, Broward and Hendry Counties," dated March 15, 2018 [http://www.flrules.org/Gateway/reference.asp?No=Ref-09163].

(2) "Appendix A2 – Typical Best Management Practices for the EAA Basin," dated January 2001, and including nutrient control practices, water management practices, particulate matter and sediment control, pasture management, and other BMPs.

(3) "Appendix A3 – EAA Basin Compliance," dated March 15, 2018, [http://www.flrules.org/Gateway/reference.asp?No=Ref-09164], and setting forth the procedures the District will follow to determine whether the entire EAA Basin has met the applicable total Phosphorus reduction goals based upon mathematical data analysis.

(4) "Appendix A3.1 – FORTRAN Program for Calculating EAA Basin Flows and Phosphorus Loads," dated March 15, 2018, [http://www.flrules.org/Gateway/reference.asp?No=Ref-09165].

(5) "Appendix A3.2 – Flow Computation Methods Used to Calculate EAA Basin Flows," dated March 15, 2018, [http://www.flrules.org/Gateway/reference.asp?No=Ref-09166], providing applicable mathematical formulas for calculating flow rates through water management structures.

(6) "Appendix A4 – EAA Basin Farm Scale Allocation," dated March 15, 2018, [http://www.flrules.org/Gateway/reference.asp?No=Ref-09167], setting forth the procedure the District will follow to regulate total Phosphorus loads from individual farms when the EAA Basin has been determined to be not in compliance with applicable requirements.

(7) "Appendix A5 – Outline of Compliance and Enforcement Procedures in the EAA Basin," dated January 2001.

(8) "Appendix A6 – EAA Basin Examples of Permit Modifications," dated January 2001, distinguishing permit modifications, letter modifications, and administrative updates.

(9) South Florida Water Management District Form 0779, dated January 2001, entitled "Application for a Works of the District Permit."

(10) "South Florida Water Management District Guidance for Preparing an application for "A Works of the District" Permit in the Everglades Pursuant to Chapter 40E-63, F.A.C.", dated May, 1992.

(11) The documents listed in subsections (1) through (10) are incorporated by reference herein, and are available at no cost by contacting the South Florida Water Management District Clerk, 3301 Gun Club Road, West Palm Beach, FL 33406, (800)432-2045, ext. 6805 or (561)682-6805.

FL Admin Code R 40E-63.101. Scope.

(1) The goal of the regulatory program contained in Part I of this chapter is to reduce by 25% the total phosphorus loads discharged from the EAA.

(a) The EAA is generally depicted in Appendix A1 Figure 2 and includes the drainage Basins of S-2, S-3, S-5A, S-6, S-7, S-8 and S-150.

(b) The Everglades Protection Area is generally depicted in Appendix A1 Figure 1 and includes Water Conservation Areas 1, 2A, 2B, 3A and 3B, the Arthur R. Marshall Loxahatchee National Wildlife Refuge and the Everglades National Park.

(c) Both areas are more specifically identified and described in Rule 40E-63.104, F.A.C. (Boundaries).

(2) In Part I of this chapter, the "Works of the District within the Everglades" are specifically named. These include water control structures, rights-of-way, canals, and other water resources which the South Florida Water Management District owns, has accepted responsibility for, or has specifically named. All lands within the EAA are deemed to be users of the Works of the District within the Everglades, and as such, must comply with the applicable provisions of this chapter. Any owner of a parcel of land in the EAA must obtain the applicable general, individual, or master permit, and comply with applicable rule criteria.

(3) This rule is based on the assumption that implementation of the regulatory program for the EAA will not reduce the quantity of water discharged from the S-2, S-3, S-5A, S-6, S-7, S-8 and S-150 Basins by more than 20% of the quantity discharged historically. The District will evaluate water quantity data collected from the structures, beginning on the effective date of this rule, to determine whether the quantity discharged from the structures after implementation of this regulatory program is less than 80% of the historical amount. If the quantity of water discharged is less than assumed or the water supply for the Everglades is inadequate, the District intends to take appropriate actions in the future to insure water supply for the Everglades. Appropriate actions may include, but are not limited to operational changes, or the initiation of proceedings pursuant to Chapter 120, F.S., to modify or revoke District permits or rules relating to water quantity used or discharged (surface water management, consumptive water use and works of the district). This section is not intended to modify or limit in any way the District's authority and responsibilities to plan for and regulate consumptive water use, water shortages and water supply.

(4) The District shall consider alternatives to the requirements specified in this chapter, if the District obtains or is presented with evidence that the alternatives are more appropriate for the particular facts and circumstances presented and are consistent with the policy and purpose of this chapter. This section is intended to allow additional methods for achieving equivalent performance and compliance and not to establish more or less strict requirements. Any proposals for alternative requirements shall be reviewed by District staff, and presented to the Governing Board for action.

(5) The District intends to continue research and evaluation of the data collection procedures and methodology specified in Parts I, II and III of this chapter, the effectiveness of the regulatory program in accomplishing the goal, and the water quality of the Everglades. The regulatory program

and requirements set forth in this chapter, including all compliance and enforcement procedures for permittees, are subject to revision if future evaluations indicate that the goal of reducing total phosphorus loads discharged from the EAA by 25% is not met. The District will initiate Chapter 120, F.S., rulemaking procedures to incorporate any significant changes to the data collection procedures, methodology, program requirements, or program compliance and enforcement procedures specified in this chapter. In addition, other water quality parameters, water quantity withdrawal conditions, or requirements may be added, and funding requirements for fulfilling other District objectives could be affected.

(6) The District is also responsible for implementing SWIM Plans for other priority water bodies. However, these areas are not included in the scope of this rule, except to the extent that they are identified and described as part of the area in Rule 40E-63.104, F.A.C. (Boundaries).

(7) Permits issued under this chapter do not eliminate or alter permit requirements for discharges which may also impact other water bodies, such as Lake Okeechobee, or permits which may be required by other District regulatory programs.

FL Admin Code R 40E-63.102. Definitions.

When used in this chapter:

(1) "Best Management Practice (BMP) Plan" means the plan required by subsection 40E-63.136(1), F.A.C.

(2) "EAA Basin" means the entire EAA, which is described in subsection 40E-63.104(2), F.A.C. (Boundaries).

(3) "Everglades Agricultural Area Environmental Protection District" (EAA EPD) was established by the State Legislature as a special district representing landowners within the EAA Basin for the purposes of ensuring environmental protection by means of conducting scientific research on environmental matters related to air and water and land management practices and implementing the financing, construction, and operation of works and facilities designed to prevent, control, abate or correct environmental problems and improve the environmental quality of air and water resources.

(4) "FDEP Comprehensive Quality Assurance Plan" means an approved Florida Department of Environmental Protection (FDEP) plan pursuant to Rule Chapter 62-160, F.A.C., which specifies the proper field sampling procedures and protocols for particular projects which include sampling equipment, equipment cleaning and preparation procedures, sample collection

procedures, sample preservation protocols, sample storage and transport protocols, and sample chain-of-custody protocols and documentation.

(5) "Individual Permit" means a single permit issued to any entity, and the owners of all parcels which discharge water tributary to the structures identified in the permit, that is responsible for implementing Best Management Practices and conducting water quality monitoring for all lands specified within the permit.

(6) "Land Practice" means agricultural or other activities conducted on a parcel pursuant to an approved BMP Plan.

(7) "Land Practice Change" means any change in the use of a parcel which is likely to result in significant changes to the scope or type of Best Management Practice specified in the permitted BMP Plan for the parcel or in the effectiveness of the Best Management Practice specified in the permitted BMP Plan.

(8) "Master Permit" means a single permit issued for the entire Everglades Agricultural Area to a legally responsible entity that provides an opportunity to achieve collective compliance with the provisions of this chapter.

(9) "Parcel" means a contiguous land area under single ownership within the Everglades Agricultural Area Basin.

(10) "Structure" means a structural device or hydrologic feature through which water is discharged from a parcel or parcels to a receiving water.

(11) "Total Phosphorus" means the amount of phosphorus in an unfiltered sample which has been converted to ortho phosphate by an acid persulfate digestion.

(12) "Water Management System" means the collection of devices, improvements or natural systems whereby surface waters are conveyed, controlled, impounded or obstructed.

FL Admin Code R 40E-63.104. EAA Basin Boundaries.

(1) The Everglades Protection Area is generally described as: Water Conservation Areas 1, 2A, 2B, 3A and 3B, the Arthur R. Marshall Loxahatchee National Wildlife Refuge, and the Everglades National Park. It is depicted on maps and legally described in "Appendix A1" which is incorporated by reference in Rule 40E-63.091, F.A.C.

(2) The EAA is generally described as:

(a) The area including, but not limited to, the drainage basins of S-2, S-3, S-5A, S-6, S-7, S-8 and S-150. The EAA is depicted on maps and legally described in "Appendix A1," which is incorporated by reference in Rule 40E-63.091, F.A.C.; and,

(b) The Everglades Construction Project diversion basins, consisting of the areas within the boundaries of the South Florida Conservancy District, South Shore Drainage District, East Shore Water Control District, East Beach Water Control District, and Closter Farms (also known as 715 Farms or the lessee of agricultural lease number 3420). These basins previously released stormwater to Lake Okeechobee, but stormwater was redirected as new releases to Works of the District within the Everglades under Rule 40E-63.108, F.A.C., when the diversion projects were completed. The Everglades Construction Project Diversion Basins are depicted on maps and described in "Appendix A1," which is incorporated by reference in Rule 40E-63.091, F.A.C.

(3) The areas described in paragraphs (2)(a) and (b), are regulated under Part I of this chapter and are included in calculating phosphorus load reductions as set forth in "Appendix A3" and "Appendix A4," which are incorporated by reference in Rule 40E-63.091, F.A.C.

FL Admin Code R 40E-63.106. Works of the District within the Everglades.

The Works of The District within the Everglades Agricultural Area Basin include: S-2, S-3, S-5A, S-6, S-7, S-8, S-150, G-88, G-136, G-200, G-344A, G-344B, G-344C, G-344D, G-349B, G-350B, G-357, G-404, G-410, G-402-A, G-402-B, G-402-C, G-402-D, G-605, G-606, Miami Canal, North New River Canal, Hillsboro Canal, C-51 (at both current and ultimate discharge locations into the Everglades Protection Area), and their open channel connections. The Works of the District and other structures which are or have been used for calculating compliance with the phosphorus load reduction objectives of the Everglades program are set forth in "Appendix A3," which is incorporated by reference in Rule 40E-63.091, F.A.C.

FL Admin Code R 40E-63.108. Implementation.

The effective date of Parts I, II, and III of this chapter is 1-22-92. The rules shall apply to existing and new releases of water to Works of the District within the Everglades.

FL Admin Code R 40E-63.110. EAA Basin – Permits Required.

(1) The lands in the EAA, as described in subsection 40E-63.104(2), F.A.C., (Boundaries) release water that ultimately makes use of, connects to, is released to, or is discharged to the Works of the District within the Everglades, as defined in Rule 40E-63.106, F.A.C., (Works of the District

within the Everglades) and a general permit, individual permit, or master permit must be obtained pursuant to Subpart A, B or C of Part I of this chapter.

(2) Any landowner in the EAA, as described in subsection 40E-63.104(2), F.A.C., (Boundaries) may submit evidence to the District demonstrating that the water discharged from their property does not use the Works of the District within the Everglades, and request District staff to make a written determination that the requirements of this chapter do not apply to their property. The request and supporting evidence must be submitted no later than 90 days prior to the application date specified below for Subparts B and C for Individual and Master Permits. District staff will review the evidence submitted and other available information and issue a written statement within 60 days specifying whether the property is subject to the requirements of Part I of this chapter.

(3) If the BMP Plan submitted pursuant to Part I of this chapter proposes activities which require new or modified consumptive water use, surface water management, environmental resource, right-of-way, or well construction permits from the District, applications for the other permits shall be submitted at the same time the Works of the District permit application is submitted. The permit applications for the new or modified activities must be complete by the time the Works of The District permit application is complete. If the applications are not complete, the proposed activities will be excluded from the Works of The District application.

Subpart A EAA Basin – General Permits

FL Admin Code R 40E-63.120. General Permits for Use of Works of the District Within the Everglades.

(1) Parcels of land that connect to or make use of the Works of The District Within The Everglades, and that meet the conditions specified below in subsection (2), are granted a General Permit to connect to and make use of the Works Of The District Within The Everglades, subject to the requirements of Part I of this chapter.

(2) The parcels of land described below qualify for a General Permit, subject to the conditions specified below:

(a) The property is less than 40 acres in size, is residential, and is not served by a central drainage system; or

(b) The property is less than 5 acres in size, is commercial or industrial, and is not served by a central drainage system.

(3) The District shall require the submission of applications for individual permits from general permittees if the District determines that the

additional participation in this permit program is needed to meet the program goals. Notice of the requirement shall be provided to parcel owners in writing by certified mail.

(4) General permits granted upon adoption of Part I of this chapter do not relieve the permittee of the responsibility to comply with all other laws or regulations applicable to the use of or discharges from the parcel.

(5) General permits granted upon adoption of Part I of this chapter remain effective unless the District notifies a permittee in writing by certified mail pursuant to subsection (3), above, that the permit is revoked.

(6) Parcel owners granted a general permit, who choose to participate in a Master Permit shall notify the District of their participation within 30 days of signing an agreement or other legal document with the master permit application.

(7) No Notice of Intent, permit application, or application fee is required.

Subpart B EAA Basin – Individual Permits

FL Admin Code R 40E-63.130. Individual Permit Application Requirements in the EAA Basin.

(1) Individual Permits are required for all structures which discharge or release water to one of the Works of the District within the Everglades as defined in Rule 40E-63.106, F.A.C., (Works of the District within the Everglades), unless granted a general permit or included in a Master Permit pursuant to Part I of this chapter.

(a) Individual permit applications must be submitted by the owner of land on which a structure is located and any entity responsible for operating the structure. The permit application must include the owners of all parcels which discharge water tributary to the structure.

(b) Individual permit applications must be submitted by the owners of all parcels not included in either paragraph (a) above, a general permit, or a master permit.

(c) Applications may be submitted by a lessee of a parcel provided the lease is in writing, and reasonable assurance is provided that the lessee has the legal and financial capability of implementing the BMP Plan, monitoring plan and other permit conditions. Reasonable assurance shall be provided by a lease with a duration as long as the duration of an individual permit issued pursuant to Part I of this chapter together

with an application co-signed by the parcel owner; however, other alternatives submitted by an applicant will be considered.

(2) An applicant may submit evidence to the District regarding questions about which lands are tributary to a structure, and request District staff to make a written determination. The request and supporting evidence must be submitted no later than June 1, 1992. District staff will review the evidence submitted and other available information and issue a written statement within 60 days of receipt of the request and evidence.

(3) Applications for Individual Permits are due by September 1, 1992.

(4) The District expects to take final agency action on all initial permits issued pursuant to Part I of this chapter no later than July 1993. Accordingly, the District shall process the applications submitted pursuant to Part I of this chapter in strict accordance with the 90-day time provisions set forth in Section 120.60, F.S. Applicants are expected to make good faith efforts to complete applications within a reasonable time. Applications which are not complete within a reasonable time are subject to denial and administrative or judicial enforcement action.

FL Admin Code R 40E-63.132. Content of Application for Individual Permits in the EAA Basin.

Applications for Individual Permits shall contain all the following:

(1) Date and signature of the owner or entity responsible for operating all control structures that discharge to District primary canals and of owners of all parcels included in the permit application.

(2) A clear delineation of the area and acreage contained in the permit application, including a map which is correlated with the list of parcel owners in subsection (1) above.

(3) Copies of any existing contracts, agreements, or equivalent regarding use or operation of the control structure between the entity responsible for operating the control structure and the parcel owners included in the application.

(4) A list of all District permits required for the application area and their status.

(5) A completed copy of Form 0779, entitled "Application For A Works Of The District Permit", which is published by reference and incorporated into this chapter.

(6) All the information specified in Application Guidebook 0779, entitled "Guidance For Preparing An Application For A Works Of The District

Permit In The Everglades Pursuant To Chapter 40E-63, F.A.C.", dated May 14, 1992, which is published by reference and incorporated into this chapter.

(7) All the information necessary to satisfy the conditions for issuance of Individual Permits in Rule 40E-63.136, F.A.C.

FL Admin Code R 40E-63. 134. Permit Application Processing Fee for Individual Permits in the EAA Basin.

The following permit application processing fees shall be paid to the District at the time the following actions on Individual Permits are filed.

(1) For new applications for Individual Permits: a minimum fee of $1,880, plus $1.50 per acre for each acre above 320 acres in size, with a total maximum fee of $30,000.

(2) For renewals (with or without modifications) to existing Individual Permits: a fee of $1,560, plus $0.25 per acre for each acre over 320 acres, with a maximum fee of $5,000.

(3) For a Modification of an existing Individual Permit: a fee of $1880.

(4) For a Letter Modification of an existing Individual Permit: a fee of $500.

(5) For Administrative Information Updates to an existing Individual Permit: No Fee.

(6) For Transfers of existing Individual Permits: a fee of $200.

(7) An application shall not be considered complete until the appropriate application fee is submitted. These fees are assessed in order to defray the cost of evaluating, processing, monitoring, and inspecting for compliance required in connection with consideration of such applications. Failure of any applicant to pay the applicable fees established herein will result in denial of an application.

FL Admin Code R 40E-63.136. Conditions for Issuance of Individual Permits in the EAA Basin.

In order to obtain a permit under Part I of this chapter, an applicant must satisfy all the following conditions:

(1) Submit and implement a BMP Plan which includes:

(a) A description of Best Management Practice implementation and operation;

(b) A description of Best Management Practice rationale (Best Management Practice research can be used to supplement data where appropriate);

(c) A consideration of the Best Management Practices listed in Appendix A2, incorporated by reference into this chapter, and an explanation of why Best Management Practices not included in the BMP Plan are not suitable for implementation;

(d) A fertilization and water management plan for each crop, combination of crops or farming units;

(e) A water management system design plan, including a water budget, probable volume and timing of discharge, nutrient recovery rationale, field water management strategies, infrastructure descriptions, and inter-and intra-operation water routing;

(f) A monitoring plan to verify Best Management Practice implementation, operation and effectiveness (Best Management Practice research can be used to supplement data where appropriate);

(g) An education and training program for management and operation staff responsible for implementing and monitoring the approved BMP Plan;

(h) A schedule for implementing the BMP Plan. The schedule must require Best Management Practices to be in place by February 1, 1995.

(2) Submit an acceptable water quality monitoring plan which provides reasonable assurance that annual water discharge and total phosphorus load are accurately documented. A plan which contains the following items generally provides reasonable assurance, but other alternatives may be proposed by the applicant and authorized by the District:

(a) A description of the proposed monitoring program, including an explanation of how it will measure flow and total phosphorus concentration;

(b) A map, description, and latitude and longitude of all proposed monitoring locations, which shall include, at a minimum, all structures that discharge into District primary canals;

(c) A description of proposed sample collection methods and schedules, which specifies:

1. Periods of discharge (e.g., biweekly) over which samples will be collected (If there has been no discharge during a period, no samples need to be collected);

2. Water depth location of sample collection;

3. Consistent site location of sample collection (e.g., on the upstream side of the culvert discharging to the District canal, in the tailwater of the pump, if present, etc.);

4. Collection technique (e.g., automatic sampler or grab sampling; automatic samplers may be configured to collect flow-proportional or time-proportional composite samples);

5. Written specification of items 1, 2, 3 and 4 above for each sample location;

6. How samples will be treated (e.g. compositing versus individual analysis);

7. Sample preservation method (acidification shall be required during collection periods prior to pick-up, but refrigeration shall not be required);

8. For sites with a single variable speed pump or more than one pump, a flow proportional sampling method shall be required; for sites with single or multiple pumps run at constant speed, the time-proportional method may be used for each pump (constant volumes of water are collected at set intervals as long as the pump is operating);

9. How water discharges are measured or estimated from pump operating logs (if estimated by operation logs, the pump calibration methodology and results of calibration methodology must be certified by a Professional Engineer);

10. Identification and qualification of individuals who will collect samples;

(d) A description of the proposed sample handing and laboratory analyses, including identification of the laboratory (which must have an approved QA/QC Plan from a laboratory certified in accordance with Section 403.0625, F.S.) to be used to perform the chemical analyses on the samples, a specified schedule for processing samples, and chain of custody documentation. The plan shall include "split sampling",

to furnish the District with samples to ensure field and laboratory accuracy;

(e) A description of data management techniques, including a schedule for the delivery of data from the analytical laboratory which provides for data to be transmitted to the District in electronic format monthly and annually, unless another time period is authorized by the District. The electronic format shall be a DOS formatted 3.5 inch disk that contains, in ASCII, horizontal records with evenly spaced columns of owner; site location (latitude-longitude), sample location (u for upstream or d for downstream), water quantity discharges (mgd for million gallons per day), total phosphorus concentrations (mg/1 as P) (including QA/QC results), date (mmddyy) and time (military) of sample collection, period of discharge (mmddyy-mmddyy), whether samples were taken by grab (g) or automatic techniques (t for time proportional or f for flow proportional), whether samples were composited (c for composited or nc for not composited), daily loads (kg/d), and identification of methods used to compute water quantity discharges and phosphorus load;

(f) A description of data review procedures, including the identification of the reports required pursuant to paragraphs 40E-63.143(2)(c) and (d), F.A.C., (Limiting Conditions for Individual Permits), and a schedule for submission of reports monthly and annually, unless another time period is authorized by the District; methodology for calculating daily total phosphorus loads shall be identified by monitoring location when reporting loads;

(g) A backup plan that will be implemented for guaranteeing resumption of sampling if planned sampling devices or techniques become inoperable for whatever reason;

(h) A schedule for implementing the monitoring plan, which shall require water quality monitoring to begin no later than 90 days after permit issuance and water quantity monitoring to begin no later than 180 days after permit issuance.

(3) Submit applications for new permits or modifications to existing permits required pursuant to other District rules (e.g., Surface Water Management, Environmental Resource, Consumptive Water Use, Well Construction, Right-of-Way, or Lake Okeechobee SWIM), as a result of activities proposed by the BMP Plan.

FL Admin Code R 40E-63.138. Duration of Individual Permits in the EAA Basin.

(1) Individual Permits issued pursuant to Part I of this chapter remain effective until January 1, 1997. The duration of renewals of or modifications to Individual Permits issued pursuant to Part I of this chapter will be specified by the District as a permit condition in the renewal or modification.

(2) An application for renewal must be submitted prior to expiration of the permit. Applications for renewals must contain all information required for new applications. Applications for renewals will be evaluated based on the criteria in effect at the time the application is filed.

(3) When timely application is made, the existing permit shall not expire until final agency action. If the permit is denied or the pending approved permit conditions are modified from the previous issuance, the existing permit shall not expire until the last day for seeking review of the District order.

FL Admin Code R 40E-63.140. Modification of Individual Permits in the EAA Basin.

A permittee may apply for a modification to an Individual Permit issued under Part I of this chapter by submitting the same information required for new applications, unless the permit has expired or has been otherwise revoked or suspended and provided the permit is in compliance with all applicable permit conditions. Modifications will be evaluated based on the criteria in effect at the time the application to modify is submitted.

(1) Applications to modify an existing Works of the District Individual Permit shall contain the information required by Rule 40E-63.132, F.A.C., and shall identify the portion of the existing authorization for which the modification is requested.

(2) Applications to modify existing Works of the District Individual Permits shall be made by the following methods:

(a) Modification requiring District Governing Board action for final determination; or

(b) Letter Modifications and Administrative Information Updates for which the District Governing Board has delegated authority for final action pursuant to Rule 40E-63.141, F.A.C., below.

Letter Modifications and Administrative Information Updates to existing Individual Permits pursuant to subsections (4) and (5) below are acknowledged and approved by letter with an accompanying Permit Review Summary (Staff Report) from the District or designee through correspondence to the permittee.

(3) Modifications requiring Board action are those that:

(a) Result in a change in the permit conditions;

(b) Result in a change in the land use;

(c) Require public notice because it is determined to be of heightened public concern in accordance with Rule 40E-1.5095, F.A.C.; or

(d) Result in the addition of acreage not previously included in an existing Everglades Works of the District Permit.

(4) Letter Modifications are those that result in:

(a) A change in an existing permitted boundary basin;

(b) Moving an existing basin from one Everglades Works of the District Permit to another;

(c) The addition of a water control structure to the previously permitted Water Quality Monitoring Plan; or

(d) A change to the previously approved BMP Plan.

(5) Administrative Information Updates are updates to the information in the Permit Review Summary (Staff Report) necessary for administration of the permit.

Examples of Modifications, Letter Modifications and Administrative Information Updates are provided in Appendix A6.

(6) The same review time and informational requirements which apply to new permit applications shall apply to all applications to modify an existing valid permit.

FL Admin Code R 40E-63.141. Delegation of Authority Pertaining to Letter Modifications and Administrative Information Updates of Existing Individual Permits.

The Governing Board delegates to and appoints the Executive Director, Deputy Executive Director, Water Resource Regulation Department Director, Water Resource Regulation Deputy Department Director, Everglades Regulation Director and Service Center Directors, as its agents to review and take final action on all Letter Modifications and Administrative Information Updates issued under Chapter 40E-63, F.A.C. However, staff recommendations for denial of such applications shall be considered by the Governing Board.

FL Admin Code R 40E-63.142. Transfer of Individual Permits in the EAA Basin.

A permittee and prospective owner must notify the District within 30 days of any transfer of interest or control, sale or conveyance of real property or works permitted under Part I of this chapter. The permittee/seller shall notify the District of the transfer using Form 0779, Section 1, providing the name and address of the new owner or person in control and a copy of the instrument effectuating the transfer. The transferee shall submit the appropriate transfer application and fee using a completed Form 0779, Section 2. The District will transfer the permit provided the land practice remains the same and the permittee is in compliance with all conditions of the permit. All conditions of the permit remain applicable to the new permittee. If the District is not so notified by the transferee within 90 days of the sale or conveyance of the property, the permit is void and the transferee will be required to apply for a new permit.

FL Admin Code R 40E-63.143. Limiting Conditions for Individual Permits in the EAA Basin.

(1) The Board shall impose on any Individual Permit granted under Part I of this chapter such reasonable conditions as are necessary to assure that the permitted discharge will be consistent with the overall objectives of the District and will not be harmful to the water resources of the District.

(2) In addition to special conditions, all the following standard limiting conditions (a)-(l) shall be attached to all Individual permits:

(a) The permittee shall successfully implement all elements and requirements of the approved BMP Plan according to schedule, including monitoring of implementation, operation and rationale.

(b) The permittee shall implement all elements and requirements of the approved monitoring program adequately and according to the approved schedule to ensure that flow, total phosphorus concentration, and phosphorus load are documented.

(c) The permittee shall submit to the District the reports of monitoring results as required by the approved monitoring plan. Quantitative data must be submitted in electronic format. The first report is due 180 days after issuance of the permit. The first annual report is due one year and 180 days after issuance of the permit.

(d) The permittee shall submit to the District reports summarizing implementation of the approved BMP Plan. The report must contain a summary of all required activities including Best

Management Practice installation, Best Management Practice operation activities (pertinent to water management and nutrient management), water quality assurance audits, and monitoring. The first report is due November 1, 1993; subsequent reports are due July 1, 1994, January 1, 1995, and February 1 annually thereafter.

(e) The permittee shall allow District staff or designated agents reasonable access to the permitted property at any time for the purpose of evaluating the water quality monitoring system on site, collecting water quality samples, or monitoring Best Management Practice implementation. District staff shall attempt to notify by telephone a person designated by the permittee prior to a site visit. Since it is not possible to predict precisely when discharges will occur or problems will arise resulting in the need for a site visit, the District may not be able to provide a lengthy period of notice to the designated person in advance of a visit. However, at a minimum, the District will provide notice at least one hour prior to a site visit for the purpose of water quality monitoring and at least 24 hours prior to a site visit for Best Management Practice installation or operation inspections.

(f) The permittee shall notify the District in writing within 30 days after any significant change in land practice, as described in subsection 40E-63.102(7), F.A.C., is made on the permitted parcel.

(g) This permit does not relieve the permittee of the responsibility to comply with all other laws or regulations applicable to the use of or discharges from the parcel.

(h) This permit does not convey to the permittee any property right nor any rights or privileges other than those specified in the permit.

(i) This permit does not relieve the permittee from liability from harm or injury to: human health or welfare; animal, plant or aquatic life; or property.

(j) The surface water management and monitoring systems must be effectively operated and maintained, and any changes in drainage, land use or operations that could affect validity or interpretation of monitoring data must be reported in writing to the District.

(k) The permitted discharge shall not otherwise be harmful, or adversely affect property use and operation of the works of the District.

(l) The permittee shall achieve the phosphorus load limitations specified in Appendices A3 (EAA Basin Compliance) and A4 (EAA

Farm Scale Allocation), in accordance with the procedures described in Rule 40E-63.145, F.A.C. (Compliance and Enforcement of Individual Permits).

FL Admin Code R 40E-63.145. Compliance and Enforcement of Individual Permits in the EAA Basin.

(1) The District shall begin reviewing compliance with permit application requirements by parcel owners in the EAA Basin no later than September 1, 1992. Parcel owners who are not in compliance with permit application due dates are subject to immediate enforcement action by the District, as described in subsection (6) below.

(2) The District shall begin reviewing compliance with monitoring plan requirements by parcel owners in the EAA Basin no later than October 1, 1993, and compliance with Best Management Practice implementation, operation and rationale by parcel owners in the EAA Basin no later than January 1, 1995. All permittees who are not in compliance with their approved monitoring plan or BMP Plan requirements are subject to notification by the District. All permittees who receive notice from the District must submit to the District within 10 working days a plan and schedule for achieving compliance within 60 days after transmittal of the notice. Permittees who do not comply with this requirement are subject to enforcement action as outlined in subsection (6) below.

(3)

(a) The District shall begin collecting monitoring data from the EAA Basin on January 1, 1995, for the purpose of determining compliance with the phosphorus load reduction requirement calculated in accordance with Appendix A3 (EAA Basin Compliance).

(b) When the District periodically evaluates the monitoring data collected to assess the general trend in phosphorus load reduction, the evaluation shall be included in an annual report.

(c) The District shall determine whether the EAA Basin is in compliance with the phosphorus load reduction requirement calculated in accordance with Appendix A3, as of April 30, 1996, and annually thereafter. The District shall attempt to make the determination and publish the results by July 1, 1996, and annually thereafter.

(d) If the EAA Basin is determined to be in compliance with the phosphorus load reduction requirement, permittees in the EAA Basin shall not be subject to compliance and enforcement action

by the District in regard to achievement of the phosphorus load reduction requirement, so long as the EAA Basin remains in compliance. However, permittees are still subject to monitoring and enforcement action for failure to comply with an approved monitoring plan or BMP Plan requirements, pursuant to subsections (1) and (2) above.

(e) If the EAA Basin is determined to be not in compliance on April 30, 1996, or any subsequent year, with the phosphorus load reduction requirement calculated in accordance with Appendix A3, permittees in the EAA Basin shall be subject to the following compliance and enforcement actions:

1. The District shall determine, according to Appendix A4 (EAA Basin Farm Scale Allocation), which structures shall be required to meet a Maximum Unit Area Load (MUAL) in order to bring the EAA Basin in compliance with the phosphorus load reduction requirement calculated in accordance with Appendix A3 (EAA Basin Compliance).

2. The District shall provide written notice to permittees of structures required to meet a Maximum Unit Area Load. The notice shall specify the Maximum Unit Area Load assigned to the permittee. The District shall attempt to transmit the written notices by July 1, 1996, and by July 1 of any subsequent year the EAA Basin is determined to be not in compliance with the phosphorus load reduction requirement calculated in accordance with Appendix A3 (EAA Basin Compliance).

3. Permittees shall submit to the District within 45 days of transmittal of the written notice, a revised BMP Plan which proposes changes in BMPs needed to ensure that the Maximum Unit Area Load will be met. The revised plan shall include all the elements specified in subsection 40E-63.132(6), F.A.C. (Content of Application for Individual Permits in the EAA Basin), or explain why an omitted element is not relevant to evaluation of the revised Plan. The implementation schedule shall require complete installation within 6 months of District approval of the revised BMP Plan. Permittees shall make good faith efforts to provide complete revised BMP Plans. Failure to provide a complete revised BMP Plan within 45 days shall not justify a corresponding delay of the date on which a permittee is required to meet a Maximum Unit Area Load pursuant to subparagraph 40E-63.145(3)(e)6., F.A.C.

4. The District shall review and take final agency action on the revised BMP Plan within 60 days of receipt of a complete plan.

5. Permittees who fail to complete the revised BMPs according to the approved implementation schedule shall be subject to enforcement action pursuant to subsection (6) below.

6. Permittees shall be required to meet the Maximum Unit Area Load on the first April 30 occurring 24 months after the April 30 on which the EAA Basin was determined to be not in compliance with the load allocation calculated in accordance with Appendix A3 (EAA Basin Compliance).

7. If the EAA Basin does not achieve the phosphorus load reduction sufficient to bring the Basin in compliance with the phosphorus load reduction requirement calculated in accordance with Appendix A3 on the April 30 occurring 24 months after the April 30 on which the EAA Basin was determined to be not in compliance, the District shall repeat the procedures specified in subparagraphs 1.-6. above, and seek whatever enforcement or corrective action is appropriate, including those set forth in subsection (6) below against permittees who failed to achieve their Maximum Unit Area Load.

(4) Applicants may elect to participate in an "Early Baseline Option," which is described below in paragraphs (a)-(i). Participation is optional. Applicants should make the decision on whether to participate after careful evaluation of all relevant factors, including site specific data, farming practices, and personal circumstances. The compliance and enforcement actions specified in subparagraphs (3)(e)1.-7. above will not be applied to permittees who elect to participate in the Early Baseline Option, except as specifically provided below.

(a) Applicants who elect to participate in the Early Baseline Option must declare their intention to do so in the initial permit application due in 1992. In addition to the information required by Rule 40E-63.132, F.A.C. (Content of Application for Individual Permits in the EAA Basin), the application must identify soil type, include soil phosphorus test results and methods, describe crops for the last five years, indicate expected future crops, describe the automatic recording rainfall collectors to be installed at each structure discharging to a District primary canal, and identify the acreage served by each collector.

(b) Applicants who elect to participate in the Early Baseline Option must implement the required monitoring plan for water quality

and quantity by January 1, 1993. The plan shall require monitoring reports to be submitted monthly and annually, beginning on February 1, 1993. The plan must be approved by the District before implementation.

(c) Applicants who elect to participate in the Early Baseline Option are encouraged to complete their permit applications promptly, so that the District can take final agency action on the entire application before January 1, 1993. However, if requested by the applicant, the District will take final agency action on the monitoring plan only in December 1992, subject to the condition that subsequent final agency action on the entire permit application may include revisions to the monitoring plan.

(d) Applicants who elect to participate in the Early Baseline Option must have the approved BMPs in place by January 1, 1994.

(e) Permits issued to applicants who elect to participate in the Early Baseline Option shall have special limiting conditions reflecting the monitoring and BMP deadlines and any other requirements necessary to implement the Early Baseline Option.

(f) The District will calculate the Early Baseline for each permittee who has elected to participate. The Early Baseline is the total phosphorus load for each participating permittee against which future reductions will be compared. The District shall attempt to transmit the Early Baseline results to the permittee in writing by July 1, 1994. The results shall identify any permitted structures excluded from further participation in the Early Baseline Option pursuant to subparagraph 2. below.

1. The Early Baseline calculation shall be based on data collected from May 1, 1993 to April 30, 1994.

2. The District shall evaluate the data reported by each permittee who participates in the Early Baseline Option to determine whether the reported load for each permitted structure is reasonable. The determination shall be based on an analysis of outliers, an analysis of consistency with existing total phosphorus load data, evaluation of data from rainfall automatic collectors, and other relevant information. Any permitted structure for which the Early Baseline load is determined to be unreasonable shall be excluded from further participation in the Early Baseline Option, unless the permittee can demonstrate to the District, by a preponderance of evidence, that the reported loads are accurate and unbiased.

3. The District shall consider requests presented by permittees under subsection 40E-63.101(4), F.A.C., to calculate the baseline to reflect implementation of BMPs prior to implementation of the plan for monitoring water quantity and quality. Such requests should be accompanied by adequate supporting evidence, for example data from the area subject to the request and from a similar area on which BMPs have not been implemented regarding soil type, depth of muck, crop type, historical usage, drainage system, water quality and water quantity.

(g) If the EAA Basin is determined to be in compliance with the phosphorus load reduction requirement calculated in accordance with Appendix A3, as of April 30, 1996, or annually thereafter, permittees who elected to participate in the Early Baseline Option shall not be subject to compliance and enforcement action by the District in regard to achievement of the phosphorus load limitation, so long as the EAA Basin remains in compliance. However, permittees are still subject to monitoring and enforcement action for failure to comply with the requirements of an approved monitoring plan or BMP Plan, pursuant to subsection (2) above.

(h) If the EAA Basin is determined to be not in compliance as of April 30, 1996, or any subsequent year, with the allocation calculated in accordance with Appendix A3, permittees who elected to participate in the Early Baseline Option shall be subject to the following compliance and enforcement actions:

1. The District shall determine whether the permittee has reduced the Early Baseline load from permitted structures by 25%, adjusted for hydrological variability. The District shall provide written notice of the determination to permittees. The District shall attempt to transmit the written notices by July 1, 1996, and by July 1 of any subsequent year the EAA Basin is found to be not in compliance with the phosphorus load reduction requirement calculated in accordance with Appendix A3 (EAA Basin Compliance).

2. Permittees who have reduced the Early Baseline load by 25% are in compliance with the goal of this chapter and shall not be subject to further compliance and enforcement action by the District in regard to reduction of phosphorus load, so long as the 25% reduction is maintained, unless this chapter is amended to provide otherwise.

3. Permittees who have not reduced the Early Baseline load by 25% shall submit to the District, within 45 days of transmittal of the written notice, a revised BMP Plan which proposes changes in BMPs needed to ensure that the 25% reduction will be achieved. The revised Plan shall include all the elements specified in subsection 40E-63.132(6), F.A.C. (Content of Application for Individual Permits in the EAA Basin), except for elements not relevant to evaluation of the revised Plan. The revised Plan shall contain an explanation of why any omitted elements are not relevant. The implementation schedule shall require complete installation of revised BMPs within 6 months of District approval of the revised BMP Plan. Permittees shall make good faith efforts to provide complete revised BMP Plans. Permittees shall be required to meet the 25% reduction the next time the EAA Basin is determined to be not in compliance with the load allocation calculated in accordance with Appendix A3 (EAA Basin Compliance). Failure to provide a complete revised BMP Plan within 45 days shall not justify a corresponding delay of the date on which a permittee is required to meet the 25% reduction.

(i) If the EAA Basin is determined to be not in compliance for a subsequent year, permittees who elected to participate in the Early Baseline Option shall be required to reduce the Early Baseline load by 25%. Any permittee who has not reduced the Early Baseline load by 25% is subject to the Compliance and Enforcement actions set forth in subparagraphs (3)(e)2.-7. above, including compliance with the MUAL and legal enforcement proceedings.

(5) In applying the requirements of this Chapter after the EAA has been determined to be not in compliance with the allocation calculated in accordance with Appendix A3, the District shall determine whether to accept an alternative method or level of phosphorus reduction for a particular permittee based on the demonstrated site-specific impracticability of achieving the required reduction of phosphorus in accordance with an approved Best Management Plan, if requested by a permittee.

(a) The Permittee shall have the burden of demonstrating that compliance with the BMP or phosphorus reduction requirements is impracticable at the permittee's site or sites of operation. Any such request for a determination of impracticability shall:

1. Specify the facts showing that the required reduction of phosphorus cannot be reasonably accomplished at the site or sites in question, and

2. Set forth the alternative methods of reducing the loading of phosphorus that are proposed or have been considered, the reasons for choosing any such alternatives, and

3. The amount of reduction of phosphorus that reasonably could be expected to result at the site.

(b) Such requests shall apply only to the portion of a site to which the showing of impracticability applies.

(c) The District shall send a copy of each such request and correspondence concerning it to the Department.

(d) By order of the Governing Board, the District shall grant the request and any related permit modifications if the permittee makes the required showing and the request (including the proposed alternative requirements and other special permit conditions imposed by the District as necessary) would not conflict with the intent of Chapter 373, Part IV, F.S., or with the intent of this chapter.

(6) The District is authorized to seek any enforcement or corrective action available under Florida law for permittees out of compliance with the provisions of this chapter, including:

(a) Enforcement orders issued pursuant to Chapter 373, F.S., and rules adopted thereunder;

(b) Court actions for injunctive or other appropriate relief pursuant to Sections 373.044 and 373.136, F.S.;

(c) Court actions to recover civil penalties, including fines, pursuant to Section 373.129, F.S.;

(d) Warrants for arrest pursuant to Section 373.603, F.S.;

(e) Administrative enforcement orders pursuant to Section 373.119, F.S.

An outline of the compliance and enforcement procedures for the EAA Basin is provided in Appendix A5 which is incorporated by reference.

Subpart C EAA Basin – Master Permits

FL Admin Code R 40E-63.150. Master Permit Application Requirements in the EAA Basin.

(1) A Master Permit application may be submitted for lands which:

(a) Meet the responsibility requirements specified in paragraph 40E-63.156(1)(b), F.A.C., below; and

(b) Are either contiguous, have interconnected drainage systems or propose coordinated BMP Plans.

(2) Applications for Master Permits are due by October 1, 1992.

(3) The District expects to take final agency action on all initial permits issued pursuant to this chapter no later than July 1993. Accordingly the District shall process the applications submitted pursuant to Part I of this chapter in strict accordance with the 90-day time provisions set forth in Section 120.60, F.S. Applicants are expected to make good faith efforts to complete applications within a reasonable time. Applications which are not complete within a reasonable time are subject to denial and administrative or judicial enforcement action.

FL Admin Code R 40E-63.152. Content of Application for Master Permits in the EAA Basin.

Applications for Master Permits shall contain the following:

(1) Date and signature of the applicant entity or group of owners submitting the application;

(2) All information required by subsections 40E-63.132(2), (3), (4), (5), (6) and (7), F.A.C. (Content of Application for Individual Permits in the EAA Basin).

(3) Information which demonstrates that the applicant entity or cooperating group of landowners possesses the legal, financial, and institutional authority and ability to carry out all acts necessary to implement the terms and conditions of the permit, including, at a minimum:

(a) A description of the legally responsible entity or cooperating group of landowners, and copies of enabling legislation, articles of incorporation, interlocal agreements, deeds, contracts, or other evidence of authority;

(b) A description of financial, institutional and other resources available to implement BMP programs, monitoring plans, and enforcement and compliance efforts;

(c) Interlocal agreements with any participating municipalities and other entities of local government, indicating their consent and intent to participate in the Master Permit and specifying the terms of the participation;

(d) Written contracts with participating landowners indicating their consent and intent to participate and specifying the terms of participation;

(e) Identification of the area covered by the Master Permit application, including identification of all areas and owners within the general area who have elected to participate in the Master Permit application.

FL Admin Code R 40E-63.154. Permit Application Processing Fee for Master Permits in the EAA Basin.

The following permit application processing fees shall be paid to the District at the time the following actions on Master Permits are filed.

(1) For new applications for a Master Permit: a minimum fee of $1,880, plus $1.50 per acre for each acre above 320 acres in size, with a total maximum fee of $750,000.

(2) For renewals (with or without modifications) to existing Master Permits: a fee of $1,680, plus $0.25 per acre for each acre above 320, with a total maximum fee of $150,000.

(3) For a Modification of an existing Master Permit: a fee of $1880.

(4) For a Letter Modification of an existing Master Permit: a fee of $500.

(5) For Administrative Information Updates to an existing Master Permit: No Fee.

(6) For Transfers of existing Master Permits: a fee of $500.

(7) An application shall not be considered complete until the appropriate application fee is submitted. These fees are assessed in order to defray the cost of evaluating, processing, monitoring, and inspecting for compliance required in connection with consideration of such applications. Failure of any applicant to pay the applicable fees established herein will result in denial of an application.

FL Admin Code R 40E-63.156. Conditions for Issuance for Master Permits in the EAA Basin.

(1) In order to obtain a permit under Part I of this Chapter, an applicant must satisfy all the following conditions:

(a) The permittee shall comply with all conditions required by subsections 40E-63.136(1), (2) and (3), F.A.C. (Conditions for Issuance of Individual Permits in the EAA Basin); and

(b) The permittee shall demonstrate sufficient legal and financial capability to carry out all acts necessary to implement the terms and conditions of the Master Permit, including the ability to take necessary enforcement action.

(2) The number of monitoring sites required for a Master Permit may be reduced by the District provided the proposed monitoring plan can reasonably be expected to accomplish the plan rationale, including the documentation of flow and total phosphorus concentration discharged from all lands included in the Master Permit.

FL Admin Code R 40E-63.158. Duration of Master Permits in the EAA Basin.

(1) Master Permits issued pursuant to Part I of this chapter remain effective until January 1, 1997. The duration of or modifications to Master Permits issued pursuant to Part I of this chapter will be specified by the District as a permit condition in the renewal or modification.

(2) An application for renewal must be submitted prior to expiration of a permit. Applications for renewals must contain information required for new applications. Applications for renewals will be evaluated based on the criteria in effect at the time the application is filed.

(3) When timely application is made, the existing permit shall not expire until final agency action. If the permit is denied or the pending approved permit conditions are modified from the previous issuance, the existing permit shall not expire until the last day for seeking review of the District order.

FL Admin Code R 40E-63.160. Modification of Master Permits in the EAA Basin.

A permittee may apply for a modification to a Master Permit issued under Part I of this chapter by submitting the same information required for new applications, unless the permit has expired or has been otherwise revoked or suspended and provided the permit is in compliance with all applicable permit conditions. Modifications will be evaluated based on criteria in effect at the time the application to modify is submitted.

(1) Applications to modify an existing Works of the District Master Permit shall contain the information required by Rule 40E-63.152, F.A.C., and shall identify the portion of the existing authorization for which the modification is requested.

(2) Applications to modify existing Works of the District Master Permits shall be made by the following methods:

(a) Modification requiring District Governing Board action for final determination; or

(b) Letter Modifications and Administrative Information Updates for which the District Governing Board has delegated authority for final action pursuant to Rule 40E-63.161, F.A.C., below.

Letter Modifications and Administrative Information Updates to existing Master Permits pursuant to subsections (4) and (5) below are acknowledged and approved by letter with an accompanying Permit Review Summary (Staff Report) from the District or designee through correspondence to the permittee.

(3) Modifications requiring Board action are those that:

(a) Result in a change in the permit conditions;

(b) Result in a change in the land use;

(c) Require public notice because it is determined to be of heightened public concern in accordance with Rule 40E-1.5095, F.A.C.; or

(d) Result in the addition of acreage not previously included in an existing Everglades Works of the District Permit.

(4) Letter Modifications are those that result in:

(a) A change in an existing permitted boundary basin;

(b) Moving an existing basin from one Everglades Works of the District Permit to another;

(c) The addition of a water control structure to the previously permitted Water Quality Monitoring Plan; or

(d) A change to the previously approved BMP Plan.

(5) Administrative Information Updates are updates to the information in the Permit Review Summary (Staff Report) necessary for administration of the permit.

Examples of Modifications, Letter Modifications and Administrative Information Updates are provided in Appendix A6 which is incorporated by reference.

(6) The same review time and informational requirements which apply to new permit applications shall apply to all applications to modify an existing valid permit.

FL Admin Code R 40E-63.161. Delegation of Authority Pertaining to Letter Modifications and Administrative Information Updates of Existing Master Permits.

The Governing Board delegates to and appoints the Executive Director, Deputy Executive Director, Water Resource Regulation Department Director, Water Resource Regulation Deputy Department Director, Everglades Regulation Director and Service Center Directors, as its agents to review and take final action on all Letter Modifications and Administrative Information Updates issued under Chapter 40E-63, F.A.C. However, staff recommendations for denial of such applications shall be considered by the Governing Board.

FL Admin Code R 40E-63.162. Transfer of Master Permits in the EAA Basin.

A permittee and prospective owner must notify the District within 30 days of any transfer of interest or control, sale or conveyance of real property or works permitted under Part I of this chapter. The permittee/seller shall notify the District of the transfer using Form 0779, Section 1, providing the name and address of the new owner or person in control and a copy of the instrument effectuating the transfer. The transferee shall submit the appropriate transfer application and fee using a completed Form 0779, Section 3. The District will transfer the permit provided the land practice remains the same and the permittee is in compliance with all conditions of the permit. All conditions of the permit remain applicable to the new permittee, including the legal, financial and institutional capability to carry out all acts necessary to the terms and conditions of the Master Permit. If the District is not so notified by the transferee within 90 days of the sale or conveyance of the property, the permit is void and the transferee will be required to apply for a new permit.

FL Admin Code R 40E-63.163. Limiting Conditions for Master Permits in the EAA Basin.

(1) The Board shall impose on any Master Permit granted under Part I of this chapter such reasonable conditions as are necessary to assure that the permitted discharge will be consistent with the overall objectives of the District and will not be harmful to the water resources of the District.

(2) In addition to special conditions, all the following standard limiting conditions (a)-(c) shall be attached to all master permits:

(a) All conditions required by paragraphs 40E-63.143(2)(a)-(l), F.A.C. (Limiting Conditions for Individual Permits in the EAA Basin).

(b) Legal entities or groups of cooperating landowners responsible for implementing a Master Permit shall remain capable of performing

their responsibilities required by permits issued pursuant to Part I of this chapter.

(c) In the event that the District determines that any participant in a Master Permit is not complying with the specific terms and conditions of the Master Permit, the District will institute enforcement proceedings against either the Master Permit holder, the participant, or both, and if necessary, require the individual participant to apply for an Individual Permit.

FL Admin Code R 40E-63.165. Compliance and Enforcement of Master Permits in the EAA Basin.

The provisions of Rule 40E-63.145, F.A.C., (Compliance and Enforcement of Individual Permits in the EAA Basin) apply to the compliance and enforcement of Master Permits issued pursuant to Part I of this chapter.

PART II EVERGLADES WATER SUPPLY AND HYDROPERIOD IMPROVEMENT AND RESTORATION

FL Admin Code R 40E-63.201 Scope. [Repealed]

Subpart A BMP Replacement Water

FL Admin Code R 40E-63.211 Purpose. [Repealed]

FL Admin Code R 40E-63.212 Definitions. [Repealed]

FL Admin Code R 40E-63.223 Model to Quantify Annual Allocation of Replacement Water. [Repealed]

FL Admin Code R 40E-63.225. Delivery of Average Annual Allocation of Replacement Water.

(1) The average annual allocation will be delivered each year in accordance with Section 373.4592(4)(b), F.S.

(2) Under typical hydrological conditions, the average annual allocation will be delivered during the replacement period according to the following fixed percentages, which are designed to produce future flows (runoff + makeup) characteristic of the seasonal distribution of flows from the EAA under more natural conditions: October 28.7%; November 22.8%; December 26.5%; January 14.9%; February 7.1%.

(3) Replacement water deliveries will be made to the Water Conservation Areas before the Stormwater Treatment Areas (STAs) are operational. Replacement water deliveries will be made to the STAs after they are

operational, except when the delivery is likely to cause hydraulic bypass around an STA or otherwise hinder its performance.

(4) Replacement water deliveries will not be made when delivery is infeasible due to conveyance constraints south of Lake Okeechobee, when individual Water Conservation Areas (or their upstream Stormwater Treatment Areas) exceed regulation schedule, or during a Level 1 Alert.

(5) Under extreme hydrological conditions, the replacement water delivery schedule shall be submitted to the Governing Board for consideration under Section 373.4592(4)(b), F.S. Extreme conditions include those under which:

(a) The replacement water allocation is likely to be discharged as a regulatory release from the Water Conservation Areas to tidewater or to cause detrimental flows to Everglades National Park; or

(b) The water level in Lake Okeechobee is at a warning stage or lower as defined in the Lake Okeechobee Water Supply Management Plan.

(6) Differences between the allocated and delivered volumes will not be carried forward from one month to the next.

(7) Replacement water will be delivered on a monthly basis before any other flows are released to the Water Conservation Areas or Stormwater Treatment Areas for environmental purposes.

PART III BMP RESEARCH, TESTING AND IMPLEMENTATION TO ADDRESS WATER QUALITY STANDARDS

FL Admin Code R 40E-63.301. Scope.

(1) The 1994 Everglades Forever Act (Section 373.4592, F.S.) requires the District to amend Chapter 40E-63, F.A.C., to establish requirements of Everglades Agricultural Area (EAA) landowners to sponsor through the EAA Environmental Protection District (EAA-EPD) or otherwise and implement a comprehensive program of research, testing and implementation of BMPs that will address all water quality standards within the EAA and the Everglades Protection Area.

(2) The goal of the regulatory program contained in this chapter is to establish a schedule of BMP research, testing, and implementation to identify water quality parameters that are not being significantly improved by the stormwater treatment areas (STAs) and the current level of BMPs being widely implemented throughout the EAA, and to identify strategies needed to address such parameters.

(3) The research program prescribed by this chapter shall include field testing of BMPs in a sufficient number of representative sites in the EAA which reflect soil and crop types within the EAA, as well as other factors that effect BMP effectiveness and design.

(4) Continued basin monitoring and the operation of the STAs will yield additional data concerning water quality in the Everglades Protection Area (EPA). As additional data is collected, and in light of future rulemaking to recognize existing actual beneficial uses of the conveyance canals in the EAA, this rule shall be reviewed at a minimum of once every five years, and amended if necessary. These reviews and potential amendments may include, but are not limited to, an increase or reduction in parameters monitored and an increase or reductions of BMPs being tested.

(5) As per the Everglades Forever Act, by December 31, 2006, all permittees which discharge to the EPA shall implement additional water quality measures, taking into account the water quality treatment provided by the STAs and the effectiveness of BMPs.

(6) It is the intent of the District that the program of BMP research, testing, and implementation conducted pursuant to this chapter be complementary with research on BMP related issues undertaken by other entities. Every effort shall be made to avoid requiring unnecessary or duplicative studies.

FL Admin Code R 40E-63.302. Permits Required.

(1) A master permit (on behalf of EAA landowners) to sponsor and conduct a program of BMP research, testing and implementation must be obtained by the EAA-EPD or its successor interests.

(2) If a notice of intent to issue a master permit has not been issued to the EAA-EPD or its successor interests as required by subsection 40E-63.302(1), F.A.C., by August 1, 1997, all landowners who are required to obtain a Works of the District permit pursuant to subsection 40E-61.041(4), Rules 40E-63.130 and 40E-63.150, F.A.C., must modify such permits individually to comply with this Part pursuant to Rules 40E-63.320 through 40E-63.323, F.A.C.

FL Admin Code R 40E-63.305. Master Permit.

A master permit constituting compliance with the rules adopted pursuant to Section 373.4592(4)(f)2., F.S., is hereby granted by the District to landowners identified in subsection 40E-61.041(4), Rules 40E-63.130 and 40E-63.150, F.A.C., provided that a scope-of-work addressing a program of BMP research, testing and implementation

pursuant to the criteria specified in subsections 40E-63.310(1)-(6), F.A.C., sponsored by the EAA landowners through the EAA-EPD or its successor interests, is submitted to the District, and approved by the District.

FL Admin Code R 40E-63.310. Conditions for Issuance of a Master Permit.

In order to qualify for the no-notice master permit provided for in Rule 40E-63.305, F.A.C., the EAA-EPD must satisfy all the following conditions:

(1)

(a) Submit and implement a scope-of-work which addresses the following elements:

1. The current EAA-EPD sponsored farm-scale research to be conducted at ten farms (or other locations throughout the EAA representative in sufficient number to reflect soil and crop types and other factors that influence BMP design and effectiveness) for verification of BMP effectiveness to reduce total phosphorus discharged shall continue.

2. In recognition that substantial particulate matter such as sediments are being discharged from farms, given that published University of Florida Institute of Food and Agricultural Services data has demonstrated that particulate phosphorus constitutes a significant portion of total phosphorus, the farm-scale research pursuant to subparagraph 1. shall be expanded to include the development, testing, and implementation of BMPs for reducing discharge of particulate phosphorus (i.e., sedimentation basins).

3. The farm-scale research pursuant to subparagraph 1. shall be expanded to include monitoring for specific conductance at all points where total phosphorus is currently being monitored. The expanded research program shall include the development, testing and implementation of BMPs to address reduction of specific conductance.

4. The organic pesticides Atrazine and Ametryn shall continue to be monitored as per conditions of the FDEP Operating Permit for the Everglades Nutrient Removal (ENR) Project. The monitoring is conducted quarterly at the ENR inflow and outflow pump stations. The outflow station quarterly sample will be taken on a 28 day lag from the inflow sampling time to account for hydraulic detention within the ENR. A control monitoring point within the L-7 perimeter canal will be sampled on the same schedule as the

outflow station. The District and the EAA-EPD shall cost share equally the laboratory analysis for the organic pesticides Atrazine and Ametryn. Any modification to the FDEP Operating Permit for the ENR concerning sampling and analysis of these parameters shall require a modification to the program scope-of-work pursuant to subsection 40E-63.310(6), F.A.C.

5. A proactive BMP program focused on the prevention of the misapplication of pesticides throughout the EAA shall be developed and implemented. The program shall include an annual continuing education program for all pesticide applicators which will focus on the prevention of misapplication of pesticides in field ditches, laterals, farm canals, drainage district main canals, and District canals and waterways.

6. A schedule for implementing the scope-of-work shall require the program elements to be implemented no later than 6 months following District approval of the program scope-of-work.

(b) The scope-of-work shall be approved by the District if it provides reasonable assurance that the program of BMP research, testing, and implementation meets the requirements of subparagraphs 1.-6. above.

(2) The applicant is advised that standard research protocol requires an approved Florida Department of Environmental Protection (FDEP) Comprehensive Quality Assurance (Comp QA) Plan for collection of field samples. As such, an approved FDEP Comp QA Plan for all parameters specified in subparagraphs 40E-63.310(1)(a)1.-3., F.A.C., must be obtained by the entity collecting samples prior to initiation of field sample collection. Submit a copy of the approved FDEP Comp QA Plan obtained by the entity who will be conducting field sample collection.

(3) Submit verification of laboratory certification as required by Section 403.0625, F.S., of the laboratory to be used to perform the chemical analyses on the samples. The certification must cover analysis of water quality parameters specified in subparagraphs 40E-63.310(1)(a)1.-3., F.A.C.

(4) All data being collected as part of the farm-scale research pursuant to subparagraph 1. shall be maintained by the EAA-EPD in a database format for all parties to access and review upon request.

(5) Reports on the status of the EAA-EPD or its successor interests sponsored program of BMP research, testing, & implementation pursuant to subparagraphs 40E-63.310(1)(a)1.-6., F.A.C., shall be submitted according to a schedule provided in the District approved scope-of-work

summarizing program data results, conclusions, milestones, and accomplishments.

(6) The program scope-of-work shall be submitted for District review by January 1, 1997. The District shall take final agency action to approve or deny the program scope-of-work pursuant to this chapter not later than July 31, 1997. The District will conduct an annual public workshop for presentation and discussion of an update of the scope of work, including any application for modification. An annual formal scope-of-work review shall be conducted as a public workshop. Written request for modification to the scope-of-work may be presented and submitted at that time. The District will receive comments from all persons at the public workshop and provide a written determination on the scope-of-work modification within 60 days of the workshop held pursuant to this subsection. The District will approve the modification if the request provides reasonable assurance that the provisions of Section 373.4592(4)(f)2., F.S., will be met.

(7) All information required in subsections (1) through (6) shall be submitted to the South Florida Water Management District, Environmental Resource Permitting Division, 3301 Gun Club Road, West Palm Beach, Florida 33406, Attention: Everglades Regulation Division.

(a) District staff shall notify the EAA-EPD or its successor interests in writing via regular mail of its decision to approve or deny the master permit based upon the EAA-EPD's compliance with subsections (1) through (6).

(b) District staff's decision to approve or deny the master permit shall constitute final agency action. If the District's decision is to deny the master permit, the EAA-EPD may, at any time thereafter, request a hearing to address the Governing Board regarding the District staff's decision. This request shall be submitted to the South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, Florida 33406, Attention: Everglades Regulation Division.

(c) Immediately upon receipt of a request pursuant to subsection (b), District staff shall schedule consideration of this matter by the Governing Board at its next available, regularly scheduled meeting.

(d) The applicant shall be notified of the date and time of this meeting – or any subsequent meeting if final agency action is not taken – via regular mail to be received by the applicant at least 7 days in advance of the Governing Board meeting.

FL Admin Code R 40E-63.312. Transfer of Master Permit.

(1) The master permit granted by this rule may be transferred to another entity.

(2) To transfer the master permit, the proposed transferee must submit a written request to transfer the master permit. This request shall be submitted to the South Florida Water Management District, Surface Water Management Division, 3301 Gun Club Road, West Palm Beach, Florida 33406, Attention: Everglades Regulation Department.

(3) The District will approve the request to transfer provided the transferee provided reasonable assurances that the permit conditions listed in Rule 40E-63.310, F.A.C., will continue to be met.

FL Admin Code R 40E-63.313. Master Permit Duration.

The master permit issued pursuant to this Part shall expire 5 years from issuance. The duration of renewals or modifications to the master permit issued pursuant to this Part will be for five year terms.

FL Admin Code R 40E-63.314. Master Permit General Conditions.

The master permit shall be subject to the following conditions subsections (1)-(9):

(1) All field sampling required as part of this research shall be collected according to an approved FDEP Comprehensive Quality Assurance Plan as specified in subsection 40E-63.310(2), F.A.C.

(2) All laboratory analysis of parameters required as part of this research shall be analyzed by a laboratory certified in accordance with Section 403.0625, F.S., to analyze the specific parameters identified in the permitted program scope-of-work.

(3) All data collected as part of this research shall be available in a database format, clearly described and made available to all parties.

(4) The research elements shall be implemented no later than 6 months following District approval of the scope-of-work.

(5) The permittee shall submit to the District the quarterly and annual reports as specified in the approved scope-of-work. The first annual report is due one year and 180 days after issuance of the permit.

(6) The permittee shall allow District staff or designated agents access to the permitted property for the purpose of evaluating the water quality monitoring system on site, collecting water quality samples, or monitoring Best Management Practice testing and implementation. District staff shall attempt to notify the permittee by telephone prior to a site visit. Since it is not possible to predict precisely when discharges will occur or problems will

arise resulting in the need for a site visit, the District may not be able to provide a lengthy period of notice to the designated person in advance of a visit.

(7) This permit does not relieve the permittee of the responsibility to comply with all other laws or regulations applicable to the use of or discharges from the parcel.

(8) This permit does not convey to the permittee any property right nor any rights or privileges other than those specified in the permit.

(9) This permit does not relieve the permittee from liability for harm or injury to: human health or welfare; animal, plant or aquatic life; or property.

FL Admin Code R 40E-63.320. Individual Permits for BMP Research.

If a master permit for BMP research is not obtained by August 1, 1997, or if conditions of the master permit are not met, all landowners identified in subsection 40E-61.041(4), Rules 40E-63.130 and 40E-63.150, F.A.C., shall be required to modify their Works of the District (WOD) permits, issued pursuant to Part I of Chapters 40E-61 and 40E-63, F.A.C., individually in order to comply with the requirements of Section 373.4592(4)(f), F.S.

FL Admin Code R 40E-63.321. Conditions for Issuance of Individual Permits.

The applications for modification of WOD permits, referenced under Rule 40E-63.320, F.A.C., shall contain all applicable requirements listed under Rule 40E-63.310, F.A.C. Application for the modifications to WOD permits, issued pursuant to Part I of Chapters 40E-61 and 40E-63, F.A.C., must be submitted within 60 days of notification by the District that the master permit will not be issued or is no longer valid. All pertinent administration of these modified permits (e.g., duration, transfers) shall continue to be conducted per the provisions set forth in Part I of Chapters 40E-61 and 40E-63, F.A.C.

FL Admin Code R 40E-63.323. Individual Permit Conditions.

All conditions listed under Rule 40E-63.314, F.A.C., shall be included in each modified permit referenced under Rule 40E-63.320, F.A.C.

PART IV EVERGLADES PROGRAM: C-139 BASIN

FL Admin Code R 40E-63.400. Purpose and Policy.

(1) This part of Chapter 40E-63, F.A.C., implements requirements of the Everglades Forever Act (EFA), Sections 373.4592(4)(f)5. and 6., F.S., for the C-139 Basin, and also provides a regulatory process for landowners whose water management systems connect with and make use of the canals,

structures and other Works of the District within the C-139 Basin, in accordance with Section 373.085, F.S.

(2) Since water quality monitoring data from the C-139 Basin demonstrate that the landowners within the C-139 Basin have collectively exceeded historical annual phosphorus loading levels, landowners are required to implement a best management practices (BMP) program for reduction of phosphorus in discharges that is consistent with the land uses within the Basin.

(3) The objectives of this part of Chapter 40E-63, F.A.C., are as follows:

> (a) To implement and continuously improve through adaptive management a BMP program, including modifications to existing water management systems, for reducing and controlling phosphorus discharges from the C-139 Basin;
>
> (b) To provide a water quality monitoring program, performance measures and a compliance methodology to evaluate the effectiveness of the BMP program in reducing phosphorus discharges;
>
> (c) To establish a BMP compliance verification and enforcement program to ensure that phosphorus discharges from the basin do not exceed historic levels, based upon water quality monitoring data from the period October 1, 1978 to September 30, 1988, in accordance with Chapter 40E-63, F.A.C., Appendix B2, "C-139 Basin Performance Measure Methodology", dated November 2010 (incorporated by reference in subsection 40E-63.446(1), F.A.C.); and
>
> (d) To develop and conduct research and demonstration projects to improve and confirm the effectiveness of BMPs for reducing phosphorus and other constituents that are not being significantly improved by either Stormwater Treatment Areas (STAs) or BMPs.

(4) This part of Chapter 40E-63, F.A.C., requires landowners to reduce phosphorus discharges from the C-139 Basin, and in conjunction with the STAs, provide a sound basis for the State of Florida's long-term improvement and restoration objectives for the Everglades. It is recognized that achieving phosphorus and other water quality standards will involve an adaptive management approach, whereby best available information and technology are used to identify and implement incremental BMP improvement activities for further phosphorus reduction and water quality improvements, if needed.

(5) The BMP implementation requirements, performance measures and compliance methodology established in this part of Chapter 40E-63, F.A.C., pertain to phosphorus only. Should regulation of other nutrients

or constituents be required to meet statutory requirements, including water quality standards, the District shall initiate rulemaking pursuant to Chapter 120, F.S.

(6) Unless otherwise provided by this part of Chapter 40E-63, F.A.C., nothing herein shall be construed to modify any existing state water quality standards, nor to otherwise restrict the authority granted to the District pursuant to Chapter 373, F.S.

(7) Section 403.067(7)(c)2., F.S., authorizes the Florida Department of Agriculture and Consumer Services (FDACS) to develop and adopt BMPs by rule.

(8) The District's sub-basin monitoring and maintenance program for data collection, performance measure assessment, and determination of when water quality improvement activities are required, as described in subsection 40E-63.446(2), paragraphs (2)(a), (2)(e) and subsection (4), F.A.C., and Appendices B3.1 and B3.2 (which are incorporated by reference in paragraph 40E-63.446(2)(a), F.A.C.), are an inseparable component of this part of Chapter 40E-63, F.A.C., for ensuring that landowners are responsible for their proportional share of phosphorus load discharged from the C-139 Basin. If these provisions are declared invalid, the District shall initiate rulemaking pursuant to Chapter 120, F.S., to revise this part of Chapter 40E-63, F.A.C., to ensure that the proportional share objectives of the EFA, Section 373.4592(4)(f), F.S., are met.

FL Admin Code R 40E-63.401. Scope of Program.

(1) For the purposes of this part of Chapter 40E-63, F.A.C., the Works of the District for the C-139 Basin include water control structures, right-of-ways, canals, and other water resources that the South Florida Water Management District owns, operates and controls, and that have been specifically named as Works of the District pursuant to Sections 373.085 and 373.086, F.S. Works of the District for the C-139 Basin include G-96, G-134, G-135, G-136, G-150, G-151, G-152, G-406, G-342A, G-342B, G-342C, G-342D, L-1 Canal, L-2 Canal, L-3 Canal (north of G-406), and their open channel connections.

(2) Unless expressly exempted, all lands within the C-139 Basin are users of the Works of the District within the C-139 Basin, and as such must be granted a No Notice General Permit pursuant to the provisions of Rule 40E-63.415, F.A.C., or must obtain a General Permit pursuant to the provisions of Rule 40E-63.430, F.A.C. The rules shall apply to existing and new discharges within the C-139 Basin.

(3) Landowners in the C-139 Basin share responsibility for achieving phosphorus load limitations in the basin. The compliance program, as

established in this part of Chapter 40E-63, F.A.C., ensures that landowners are responsible for their proportional share of phosphorus load discharged from the C-139 Basin based upon their proportional share of acreage to the total C-139 Basin acreage.

(4) Permits issued under this part of Chapter 40E-63, F.A.C., do not eliminate or alter other applicable permit requirements for discharges that impact other water bodies, basins, or Works of the District, nor do they affect the permit requirements of other District regulatory programs.

FL Admin Code R 40E-63.402. Definitions.

(1) "Best Management Practice (BMP)" means a practice or combination of practices determined by the District, in cooperation with the Department of Environmental Protection (Department) and FDACS, based on research, field testing, and expert review, to be the most effective and practicable on-location means, including economical and technological considerations, of improving water quality in agricultural and urban discharges to a level that balances water quality improvements, and agricultural productivity, as applicable.

(2) "BMP Plan" means a combination of BMPs that meets, but is not limited to, the requirements of Rules 40E-63.435 and 40E-63.437, F.A.C., as determined by the District.

(3) "BMP equivalent point" means the numerical value assigned to a BMP as provided in Appendix B1 (incorporated by reference in subsection 40E-63.435(1), F.A.C.). The points are used for regulatory permit review to ensure a comparable level of effort in BMP implementation among permittees. The points are an indication of relative BMP effectiveness. The points were based on expert review, technical publications, best professional judgment, and cooperative workshops with stakeholders.

(4) "C-139 Basin" means those lands described in the EFA, Section 373.4592(16), F.S. or lands outside those boundaries which discharge to the C-139 Basin or to the canals or structures described in subsection 40E-63.401(1), F.A.C.

(5) "Demonstration project" means an investigation based on technical information to evaluate the feasibility and effectiveness of best management practices techniques offering phosphorus reduction benefits. Criteria to be considered by the District for review are described in subsection 40E-63.437(3) and Rule 40E-63.438, F.A.C.

(6) "Discharge" means any surface water runoff generated by rainfall, irrigation, or seepage flowing off-site from a land area. Runoff may occur

through a structure (pump or gravity) or may flow as uncontrolled discharge from a land area.

(7) "Nutrient control practices" means a category of BMPs that minimizes nutrient input and the movement of nutrients off-site by efficient and controlled application of nutrients (e.g., organic and chemical fertilizers, soil amendments, and residuals).

(8) "Parcel" means a contiguous land area identified in the county tax rolls under common ownership.

(9) "Particulate matter and sediment control practices" means a category of BMPs that minimizes the movement off-site of nutrients in particulate matter and sediments by controlling the amount of eroded soil and plant matter in discharges.

(10) "Permit basin" means a parcel or group of parcels served by one or more discharge structures that collectively represent all of the discharge from that area of land. A permit may have one or more permit basins. The boundaries of a permit basin are determined by the District based on available hydrologic data to define, to the extent practicable, the land area discharging to each sub-basin.

(11) "Structure" means a structural device or hydrologic feature (e.g. pump, culvert, open connection, land surface grading, ditch) that water flows through or across and is ultimately discharged/directed from a permit basin to a receiving water body.

(12) "Sub-basin" is an area of land determined by the District to represent all discharges to District monitoring locations based upon hydrologic mapping, and permittee submitted information, as represented in Appendix B3.1 "Permittee Annual Phosphorus Load Determination Based on Sub-basin Monitoring and the Permit Basin Discharge Monitoring Program", dated November 2010, incorporated by reference in paragraph 40E-63.446(2)(a), F.A.C.

(13) "Verification plan" means a water quality monitoring program to verify the expected effectiveness of a BMP Plan or proposed water quality improvement activities in accordance with subsection 40E-63.461(4), F.A.C.

(14) "Water management practices" means a category of BMPs that minimizes the quantity and improves the quality of off-site discharges which carry nutrients downstream. BMPs for water management include discharge and irrigation management practices to reduce runoff.

(15) "Water management system" means the collection of devices, improvements or natural systems whereby surface waters are conveyed,

controlled, impounded, or obstructed. For water management systems serving multiple entities, dams, impoundments, reservoirs and their structures and canals are referred to as the common facilities.

(16) "Water quality improvement activities" means a combination of modifications to a BMP Plan proposed by a permittee to meet the required total phosphorus reduction requirements of Appendix B3.2. (incorporated by reference in paragraph 40E-63.446(2)(a), F.A.C.). Improvement activities may include revising implementation methods to increase the effectiveness of existing BMPs or implementing additional BMPs.

(17) "Water year" or "WY" means the 12-month period beginning on May 1 and ending on the following April 30.

FL Admin Code R 40E-63.404. Forms, Instructions, and References.

The documents listed in subsections (1) through (9) are incorporated by reference throughout this part of Chapter 40E-63, F.A.C., and are available on the District's website (www.sfwmd.gov/rules), or from the South Florida Water Management District Clerk, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800) 432-2045 or (561) 686-8800, upon request.

(1) South Florida Water Management District Form 1045, "Application For a C-139 Basin Pollutant Source Control Permit", dated November 2010, incorporated by reference in subsection 40E-63.430(2), F.A.C.

(2) "Guidebook for Preparing an Application for a C-139 Basin Pollutant Source Control Permit" ("Guidebook"), dated November 2010, incorporated by reference in subsection 40E-63.430(2), F.A.C.

(3) "Appendix B1 – BMP Description and Equivalent Points Reference Table", dated November 2010, incorporated by reference in subsection 40E-63.435(1), F.A.C.

(4) "Appendix B2 – C-139 Basin Performance Measure Methodology", dated November 2010, incorporated by reference in subsection 40E-63.446(1), F.A.C.

(5) "Appendix B2.1 – FORTRAN Program for Calculating C-139 Basin Flows and Phosphorus Loads", dated January 2002, incorporated by reference in subsection 40E-63.446(1), F.A.C.

(6) "Appendix B2.2 – Flow Computation Methods Used to Calculate C-139 Basin Flows", dated November 2010, incorporated by reference in subsection 40E-63.446(1), F.A.C.

(7) "Appendix B3.1 – Permittee Annual Phosphorus Load Determination Based on Sub-basin Monitoring and the Permit Basin Discharge

Monitoring Program", dated November 2010, incorporated by reference in paragraph 40E-63.446(2)(a), F.A.C.

(8) "Appendix B3.2 – Criteria for Required Phosphorus Reductions", dated November 2010, incorporated by reference in paragraph 40E-63.446(2)(a), F.A.C.

(9) "Flow Calibration Guidelines Developed in Support of Chapter 40E-63, F.A.C., Everglades BMP Permit Program", amended July 24, 1997, incorporated by reference in paragraph 40E-63.462(2)(b), F.A.C.

FL Admin Code R 40E-63.406. Delegation.

(1) The Governing Board delegates to and appoints the Executive Director and his or her designated agents to review and take final action on BMP Plan pre-approvals and applications for permits issued under Chapter 40E-63, F.A.C., including the addition of special conditions as necessary to implement the requirements of Chapter 40E-63, F.A.C., and the Everglades Forever Act, Section 373.4592, F.S., and other applicable provisions of Chapters 373 and 403, F.S., except when the staff recommendation is for denial of such applications.

(2) All recommendations for denial of applications shall be considered by the Governing Board.

FL Admin Code R 40E-63.410. Waivers.

Any landowner in the C-139 Basin, as described in EFA, Section 373.4592(16), F.S., may submit evidence to the District demonstrating that the water discharged from such property does not use the Works of the District within the C-139 Basin and request a written waiver from the requirements of this chapter pursuant to Rule 28-104.002, F.A.C. and Section 120.542, F.S.

FL Admin Code R 40E-63.415. No Notice General Permits.

(1) No Notice General Permits for Use of Works of the District within the C-139 Basin are hereby granted to the landowners of parcels of land that connect to or make use of the Works of the District within the C-139 Basin, subject to the requirements of this part of Chapter 40E-63, F.A.C., including paragraphs 40E-63.444(1)(d), (g), (h), (i), (j), (l), (m), (r), (s), (t) and (u), F.A.C., and the conditions specified below:

(a) The parcel is not part of the common facilities of a water management system as defined in subsection 40E-63.402(15), F.A.C., of water control districts or drainage districts pursuant to Chapter 298, F.S., or any other entity operating a central drainage system already permitted under Chapter 373, F.S.;

(b) The parcels are inactive, or add up to less than 40 acres under the same ownership. "Inactive" means land parcels that are not used for agriculture, urban, commercial, industrial or other development, as determined by the District. It also includes lands in their undeveloped native state (unless used as pastures). Lands may be determined by the District as temporarily inactive if they are not operated or are vacant due to changes in ownership or land use. The District's determination applies only to the requirements of this part of Chapter 40E-63, F.A.C.;

(c) The following BMPs are implemented by the landowner, lessees, and operators, if applicable, and the property must be made available for inspection by District staff or other delegated agents after notice:

1. Phosphorus is only applied to correct phosphorus deficiencies based on soil testing or tissue testing, or for turf and landscape areas, phosphorus is only applied to meet initial establishment and growth needs (fertilizer composition less than 2% for an application rate not to exceed 0.25 lbs P2O5/1000 ft2 per application, nor exceed 0.50 lbs P2O5/1000 ft2 per year.);

2. Fertilizer or other soil amendments containing phosphorus are not applied within 10 feet of any pond, stream, lake, water course, or any designated wetland;

3. Spill prevention practices for nutrients are implemented; and

4. Runoff is managed in accordance with surface water or environmental resource permits, if applicable.

(2) No Notice General Permits within the C-139 Basin granted upon adoption of part of Chapter 40E-63, F.A.C., remain effective for 5 year periods and shall be automatically renewed unless the District notifies a permittee in writing that the permit is revoked.

(3) No Notice General Permits granted upon adoption of this part of Chapter 40E-63, F.A.C., do not relieve the permittee of the responsibility to comply with all other laws or regulations applicable to the use of or discharges from the parcel.

(4) Landowners meeting the foregoing shall not be obligated to submit a permit application or application fee.

(5) Notwithstanding the foregoing, the District shall require the submission of applications for General Permits from No Notice General Permit holders if the District determines that the property exceeds its proportional share of phosphorus loading based on representative water quality data for the

property, as determined in Appendix B3.1. (incorporated by reference in paragraph 40E-63.446(2)(a), F.A.C.). Notice of the requirement shall be provided to parcel owners in writing. Applications for new General Permits shall be submitted to the District within 45 days from the date of the notice.

FL Admin Code R 40E-63.420. BMP Plan Pre-approvals.

(1) For entities required to obtain a General Permit, a BMP Plan shall be submitted to the District within 30 days after the effective date of this part of Chapter 40E-63, F.A.C. Failure to provide a complete BMP Plan within 30 days from the effective date of this part of Chapter 40E-63, F.A.C., shall not justify a corresponding delay for full implementation of the approved BMP Plan as described in subsection 40E-63.420(2), F.A.C., and will result in enforcement action pursuant to Rule 40E-63.461, F.A.C.

(2) The approved BMP Plan shall be fully implemented within 90 days of the effective date of this part of Chapter 40E-63, F.A.C., unless the District authorizes a different implementation schedule.

(3) In order to assure that the schedule mandated by subsection 40E-63.420(2), F.A.C., is met, the District will pre-approve a BMP Plan by letter, as long as the BMP Plan is complete and meets the criteria required under Rule 40E-63.435 or 40E-63.437, F.A.C., as applicable. The District will attempt to make a final determination on the BMP Plan within 10 days of receipt of a complete plan and the applicant shall begin implementation in accordance with the approved implementation schedule.

FL Admin Code R 40E-63.430. General Permit Applications.

(1) A General Permit is required for parcels of land that connect to or make use of the Works of the District within the C-139 Basin that have not been issued a waiver pursuant to Rule 40E-63.410, F.A.C., or do not qualify for a No Notice General Permit pursuant to Rule 40E-63.415, F.A.C.

(2) Within 45 days after the effective date of this part of Chapter 40E-63, F.A.C., applications for new General Permits or General Permit Renewals shall be submitted to the District. Applicants shall use Form 1045, dated November 2010, and the "Guidebook for Preparing an Application for a C-139 Basin Pollutant Source Control Permit" ("Guidebook"), dated November 2010, incorporated by reference herein, or the equivalent electronic permitting application (e-permitting) tool, with all required supporting documentation. Copies of Form 1045 and the Guidebook are available on the District's website (www.sfwmd.gov/rules), or from the South Florida Water Management District Clerk, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800) 432-2045 or (561) 686-8800, upon request.

(3) Landowners, lessees and/or operators of a parcel or parcels may submit applications for General Permits as an applicant or co-applicant. A lessee or operator may submit an application provided the lease (or equivalent contract) is for no less than five years, is in writing, and reasonable assurance is provided that the lessee/operator has the legal and financial capability of implementing and complying with the BMP Plan and other permit conditions.

(4) General Permit applications shall include the following:

(a) Date, signature, title and authority of the person, persons or entity submitting the application;

(b) For each applicant, information that demonstrates that the applicant possesses the legal and financial authority and ability to carry out all acts necessary to implement the terms and conditions of the permit, including, at a minimum:

1. For individual applicants, recorded deeds, contracts, leases, property tax record of ownership, or other evidence of ownership or authority are required.

2. For co-applicants, a description of the legally responsible entity or cooperating group of entities together with copies of documents demonstrating its legal authority, such as enabling legislation and articles of incorporation; completed and signed Certificates of Participation indicating the individual applicant's consent and intent to participate in the General Permit; and written contracts or agreements with co-applicants indicating their consent and agreement to comply with the permit and specifying the terms of participation, where applicable.

(c) A clear delineation of the boundaries and acreage contained in the permit application, including a map which is correlated with a list of all parcel owners and corresponding county tax identification numbers, and operators or lessees associated with the acreage contained in the application. The delineation should also include drainage features depicting the permit basin, general direction of flow, inflow points, and discharge points off-site for delineation of permit basins, as defined in subsection 40E-63.402(10), F.A.C.

(d) A list of all existing and pending District permits for the application area and their status.

(e) A BMP Plan.

(f) For General Permit applications encompassing water management systems or portions thereof that serve multiple entities, an executed legally binding written agreement or contract between the owners, operators, and or users of the system, as applicable, regarding construction, use, maintenance and operational criteria, and BMP implementation requirements for the system shall be provided. Specifically, the written agreement or contract shall identify the entities and their authority and responsibility for use and operation of the system (e.g. a shared canal or off-site discharge structure).

(5) If activities proposed in the permit application submitted pursuant to this part of Chapter 40E-63, F.A.C., will affect water management systems or activities regulated pursuant to other rules (e.g. Surface Water Management, Environmental Resource Permit, Consumptive Water Use, Well Construction, Right-of-Way, or Lake Okeechobee SWIM), then the Applicant shall also submit applications for new permits or modifications to existing permits, as appropriate.

FL Admin Code R 40E-63.432. Permit Modifications, Transfers and Renewals. [Repealed.]

FL Admin Code R 40E-63.434. Permit Duration. [Repealed.]

FL Admin Code R 40E-63.435. BMP Plans.

In order to obtain a General Permit, applicants shall submit a BMP Plan that includes a multi-level approach to implementation and operation for each crop or land use within each permit basin. A BMP Plan shall take into account site-specific conditions, potential phosphorus sources, primary phosphorus species, and transport mechanisms based on available data; and ensure that a thorough approach to implementation and maintenance will be implemented. If a water management system is shared by multiple operating entities, each entity shall submit a separate BMP Plan for their land but the water management operational plan shall be consistent. The BMP Plan shall include the following:

(1) A description of a BMP Plan, including specific methods for implementation and maintenance, based on the BMPs described in Appendix B1, "BMP Description and Equivalent Points Reference Table", dated November 2010, incorporated by reference herein. To ensure that approved BMP plans have a comparable level of effort among permittees, the BMP Plan shall propose a minimum of 35 BMP equivalent points. A copy of Appendix B1 is available on the District's website (www.sfwmd.gov/rules) or from the South Florida Water Management District Clerk, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800) 432-2045 or (561) 686-8800, upon request.

(2) Of the 35 BMP equivalent points, a minimum of 20 BMP equivalent points shall meet the following criteria:

(a) A minimum of 10 BMP equivalent points in nutrient control practices.

(b) A minimum of 5 BMP equivalent points in water management practices.

(c) A minimum of 5 BMP equivalent points in particulate matter and sediment control practices. Pasture management BMPs, as described in Appendix B1 (incorporated by reference in subsection 40E-63.435(1), F.A.C.), can provide equivalent points towards this category, if applicable.

(3) If at the time a BMP Plan is proposed for approval, the District has previously determined the C-139 Basin to be out compliance, and the permit basin has an approved BMP Plan including water quality improvement activities, the proposed BMP Plan shall include continuation of the approved BMP Plan and water quality improvement activities; or propose an equivalent alternative for District consideration. The applicant shall provide reasonable assurance that the alternative contains the equivalent or greater phosphorus reduction effectiveness of the approved BMP Plan and water quality improvement activities. The proposal must provide the basis that the BMP Plan and water quality improvement activities would have met the criteria indicated in subsections 40E-63.461(3) and (4), F.A.C., as applicable, for the years when the C-139 Basin was determined by the District to be out of compliance and water quality improvement activities were required.

(4) An education and training program for the management and operation staff responsible for implementing and monitoring the approved BMP Plan. The training may be provided in-house or arranged by the permittee or other educational resources.

(5) A description of records and documentation to be maintained on-site or at a suitable location that is readily available for District review. The records and documentation shall be sufficient to verify BMP implementation, maintenance, and training, as described in the post-permit compliance section, Appendix C of the Guidebook (incorporated by reference in subsection 40E-63.430(2), F.A.C.), on the form entitled "C-139 Basin Annual Report – Certification of BMP Implementation".

(6) A proposed implementation schedule. Except for BMP Plans required immediately upon amendment of this part of Chapter 40E-63, F.A.C., as described in Rule 40E-63.420, F.A.C., implementation of new BMPs shall be completed within 90 days after the date of District approval. Alternate

implementation schedules may be considered by the District if the applicant demonstrates through reasonable assurance that an equivalent level of phosphorus source control is provided.

FL Admin Code R 40E-63.436. Permit Application Processing Fees. [Repealed.]

FL Admin Code R 40E-63.437. Alternative BMP Plans.

Applicants who propose to satisfy the water quality requirements of this part of Chapter 40E-63, F.A.C., by employing a BMP Plan other than those described in subsections 40E-63.435(1) and (2), F.A.C., may seek approval for an equivalent alternative through the District permit process. The applicant shall provide reasonable assurance, through the information required below and the requirements indicated in subsections 40E-63.435(3), (4), (5) and (6), F.A.C., that the alternative contains the equivalent or greater phosphorus reduction effectiveness of a 35-point BMP Plan. A BMP Plan shall take into account site-specific conditions, potential phosphorus sources, primary phosphorus species, and transport mechanisms; and ensure that a thorough approach to implementation and maintenance will be implemented. In order to seek approval of an alternative BMP Plan, applicants must submit the information specified for the applicable alternative as part of the permit application process.

(1) Alternative Type BMP. If an applicant proposes BMPs not listed in Appendix B1 (incorporated by reference in subsection 40E-63.435(1), F.A.C.), the application shall also include the following information for District approval:

(a) A description of the best management practice rationale for the BMP selected;

(b) A detailed explanation of the proposed BMP;

(c) A schedule for implementation of the BMP;

(d) Sample documentation of the BMP implementation, how the BMP will be verified;

(e) Technical basis for the reduction effectiveness of the proposed BMP. The applicant shall be required to demonstrate effectiveness through a proposed monitoring program or through representative technical references including modeling results approved by the District. If approved, the District will determine the appropriate BMP equivalent point credit consistent with Appendix B1 (incorporated by reference in subsection 40E-63.435(1), F.A.C.).

(2) Alternative BMP Points per Category. If the BMP Plan does not meet the minimum number of equivalent points per BMP category as required in subsection 40E-63.435(2), F.A.C., the application shall include a site assessment demonstrating that an alternative BMP Plan will provide an equivalent or greater reduction effectiveness than using the standard approach.

The site assessment shall evaluate phosphorus imports and transport in discharges; current BMPs and implementation methods; other activities for which BMPs are not being implemented and representative water quality and soil data. Water quality data that can be used for the assessment include those available from the District sub-basin or synoptic (grab) monitoring programs, or properly collected grab samples using field kits of adequate precision by the applicant.

(3) Alternative BMP Demonstration Project. If a demonstration project is proposed to meet the BMP implementation requirements of subsection 40E-63.435(1) or (2), F.A.C., a proposed project scope of work shall be submitted for District review and approval based on the following criteria:

(a) The scope of eligible projects shall include, at a minimum, the demonstration or research hypothesis, a description of implementation, the technical basis and scientific methods that will be employed, the performance indicators that will be measured such as water quality, water quantity, soil testing, or as applicable, the progress and final reports that will be produced to verify progress and results, and a schedule that details the beginning date, critical milestones and ending date of the project.

(b) The 35 BMP equivalent point requirement shall be met in the permit basin where the project is proposed. The proposed demonstration shall account for no more than 20 BMP equivalent points as approved by the District. The remaining 15 BMP equivalent points shall include 10 BMP equivalent points in the nutrient control practices category and 5 BMP equivalent points in the water management practices category.

(c) The proposed BMP equivalent points for the demonstration project will only be considered for the period of project implementation, the permit basin where the project is located, and for the crops or land uses to which the project applies.

(d) BMP equivalent points shall be initially determined by the District prior to issuance of a permit based on the BMP equivalent points established in Appendix B1 (incorporated by reference in subsection 40E-63.435(1), F.A.C.). Additional BMP equivalent

points will be approved by the District, if the applicant provides reasonable assurance through plans, test results, water quality data or other information, that the BMP project will demonstrate improvement in phosphorus removal efficiency in comparison to standard BMP implementation methods.

(e) Once the demonstration project is complete and a final report is submitted in accordance with the approved scope, the permittee shall submit a Letter Modification application requesting that the approved BMP Plan be modified to incorporate the BMP or water quality improvement activity if the District determines that they were successfully developed under the project. The application shall include the information described under Rules 40E-63.430, 40E-63.435 and 40E-63.437, F.A.C., as applicable, and shall describe how the report recommendations for BMP implementation will apply to the applicable crops or land uses for District review. The District shall review the BMP equivalent points initially assigned and will adjust them based on the reported phosphorus reduction levels and approved methods for implementation of the proposed BMP or water quality improvement activity. If the permittee decides that the BMP resulting from the demonstration project is not to be proposed for continued implementation, the permittee is required to submit a permit modification proposing a BMP Plan, as described in Rule 40E-63.435 or 40E-63.437, F.A.C., as applicable. The application for modification of the approved BMP Plan shall be submitted no later than 30 days after the project completion date pursuant to the District-approved scope.

FL Admin Code R 40E-63.438. Early Implementation of Water Quality Improvement Activities.

An applicant may request approval for early implementation by opting to submit a proposal for voluntary implementation of additional BMPs (early BMPs), or a voluntary demonstration project that includes a BMP performance verification plan. Applicants electing these approaches must submit for District review the following:

(1) Either proposal shall be submitted together with an application for a new permit, permit renewal, or as a Letter Modification.

(a) For optional early BMPs the application shall provide information for meeting the criteria below:

1. A description of the BMP or group of BMPs (early BMPs) that are proposed in addition to those required by rule at the time of application (Rule 40E-63.435 or subsection 40E-63.461(3),

F.A.C., as applicable). The proposal shall include the specific methods for implementation and maintenance of the early BMPs.

2. The proposal shall provide reasonable assurance through technical documentation, and the requirements indicated in subsections 40E-63.435(4) and (5), F.A.C., that the combined effect of the optional early BMPs and rule-required BMPs will ensure a phosphorus loading reduction for the identified permit basin or parcels sufficient for the C-139 Basin to consistently achieve the performance measurer's target, as described in Appendix B2 (incorporated by reference in subsection 40E-63.446(1), F.A.C.). The District will review whether the proposed loading reduction levels would be conducive to meeting the target Unit Area Load (UAL) based on the most recent five years of water quality data.

3. The proposal shall include an implementation schedule.

(b) For voluntary demonstration projects, the application shall propose a BMP or water quality improvement measure demonstration project that meets the following:

1. Complies with the criteria described under paragraph 40E-63.437(3)(a), F.A.C.,

2. Projects estimated phosphorus reductions based on available technical references, and

3. Proposes a verification plan through a Permit Discharge Monitoring Program to confirm and quantify the estimated phosphorus reductions. The verification plan shall meet the criteria described in subsection 40E-63.461(4), F.A.C.

(2) Upon District approval of the voluntary early BMP implementation project or demonstration project with a verification plan, the permittee will be subject to the BMP reporting and verification requirements of this chapter for those voluntary initiatives, as described in permit conditions. Permittees cannot be deemed out of compliance solely for failure to implement the early initiatives, however, the permittee cannot qualify with the conditions of paragraphs 40E-63.446(2)(b) and (c), F.A.C. unless:

(a) The early BMP's are implemented.

(b) Reporting and verification requirements for the voluntary early implementation projects are met, as determined by the District; and

(c) The permittee is in compliance with the BMP Plan required by the permit.

FL Admin Code R 40E-63.439. Permit Modifications, Transfers and Renewals.

(1) Applicants for permit modifications, transfers and renewals must use the appropriate sections of Form 1045 (incorporated by reference in subsection 40E-63.430(2), F.A.C.), or equivalent electronic permitting application (e-permitting) tool.

(2) Modifications and Letter Modifications: Letter modifications are applicable for requesting approval for demonstration or verification plan projects for phosphorus reduction under Rule 40E-63.437, F.A.C., for early implementation of water quality improvement activities under Rule 40E-63.438, F.A.C., for implementing or modifying a voluntary Permit Basin Discharge Monitoring Program under Rule 40E-63.462, F.A.C., and for water quality improvement activities in accordance with subsection 40E-63.461(3) or (4), F.A.C., if the C-139 Basin is determined to be out of compliance with the water quality requirements of this part of Chapter 40E-63, F.A.C., pursuant to Rule 40E-63.446, F.A.C. Applications for modifications are applicable to any other changes except for clerical changes as indicated in subsection 40E-63.443(3), F.A.C.

A permittee may apply for a modification or a letter modification to an existing General Permit issued under this part of Chapter 40E-63, F.A.C., unless the permit has expired or has been otherwise revoked or suspended. An application for modification or letter modification will not be processed as a complete application if the permit is not in compliance with applicable permit conditions, unless the permit modification is required to bring the permit into compliance. Modifications and letter modifications will be evaluated based on the criteria in effect at the time that the application to modify is submitted. Applications for permit modifications and letter modifications shall be subject to the following requirements and limitations:

(a) Applications to modify an existing permit shall contain the same information required in a new application, as applicable, and shall identify the portion of the existing authorization for which the modification is requested.

(b) Modifications to existing permits are acknowledged and approved by letter with an accompanying Permit Review Summary (Staff Report) from the District through correspondence to the permittee.

(3) Transfers: A permittee shall notify the District within 30 days after any transfer, sale or conveyance of land or works permitted under this

part of Chapter 40E-63, F.A.C., to allow time for processing the application. The permittee remains responsible for the requirements of the permit until the permit is transferred or closed at the request of the permit holder at the time the property is sold. A permittee or transferee may apply for a permit transfer, conveying responsibility for permit compliance. If an application for permit transfer is not received, the permit will become nontransferable and the transferee will be required to apply for a new permit. Permit transfers shall be subject to the following requirements and limitations:

(a) A permit may only be transferred if the land practice, total acreage, and approved BMP Plan remain the same and the permittee is in compliance with all conditions of the permit.

(b) All conditions of the existing permit will remain applicable to the new permittee.

(c) Any other changes or additions will require a permit modification in accordance with subsection 40E-63.439(2), F.A.C.

(4) Renewal: A permittee shall apply for a permit renewal prior to the expiration of an existing permit, subject to the following requirements and limitations:

(a) Applications for renewals must contain all information required for new applications and will be evaluated based on the criteria in effect at the time the application is filed.

(b) If the permittee allows the permit to expire prior to applying for a permit renewal, an application for a new permit shall be required.

FL Admin Code R 40E-63.440. General Permit Application Requirements in the C-139 Basin. [Repealed.]

FL Admin Code R 40E-63.441. Permit Duration.

Pursuant to the EFA, Section 373.4592(4)(f)2., F.S., permit renewals issued pursuant to this part of Chapter 40E-63, F.A.C., are valid for a 5-year term, beginning 90 days after the effective date of this rule amendment. Subsequent permit renewals are effective for 5-year renewal cycles from the previous expiration date, unless:

(1) The permit is automatically inactivated at the expiration of the permittee's lease or contract (where the permittee is the lessee or equivalent) that authorized the permittee to control operations (and permit compliance) on the permitted land; or

(2) The permit is otherwise modified by enforcement actions pursuant to subsection 40E-63.461(1), F.A.C.; or

(3) The permit is otherwise renewed pursuant to subsection 40E-63.439(2), F.A.C.; or

(4) A permit application for a new permit or a permit renewal has been filed by a permittee on a timely basis prior to the expiration date of a previously-issued permit, and the District has not completed review of the application, in which case the previously-issued permit will remain effective until final agency action is taken by the District on the application; or

(5) A new permit has been issued within one year of the permit renewal cycle begin date. In that case, the new permit duration will be greater than five years, but no more than six years to align its expiration date with the expiration date of the basin's five-year renewal cycle.

(6) Permit duration will not be affected by permit transfers or modifications of any kind.

(7) All previously issued permits shall expire 90 days after the effective date of this part of Chapter 40E-63, F.A.C., unless a permit application for renewal or for a new permit has been received by the District within that period.

FL Admin Code R 40E-63.442. Basis for Issuance of General Permits in the C-139 Basin. [Repealed.]

FL Admin Code R 40E-63.443. Permit Application Processing Fees.

(1) The following permit application processing fees shall be paid to the District at the time the permit applications are filed.

Permit Type	New	Renewal	Modification	Letter Modification	Transfer
General Permit	$250	$250	$100	$0	$100

(2) Without the proper fee, the application shall be considered incomplete and will result in denial of the application if the fee is not paid upon notice.

(3) Notwithstanding the table above, no fees shall be charged for clerical modifications that do not alter the approved BMP Plan or monitoring requirements of the underlying permit.

(4) In cases where more than one permit application type applies, the application shall be submitted as the permit type with the higher application fee.

FL Admin Code R 40E-63.444. Limiting Conditions for General Permits in the C-139 Basin.

(1) All of the following standard limiting conditions paragraphs (a) through (u) shall be attached to all General Permits:

(a) The permittee shall implement all elements and requirements of the approved BMP Plan according to schedule, including documentation of implementation, operation, and rationale where applicable. At no time shall BMP implementation be less than the required 35 BMP equivalent points using the criteria in Rule 40E-63.435 or 40E-63.437, F.A.C., as applicable.

(b) Each applicant to which a General Permit is issued is a co-permittee and is jointly and severally liable for implementing the requirements of the General Permit. This includes non-compliance with permit conditions caused by lessees or operators that are not co-permittees.

(c) The permittee shall submit to the District an annual report certifying BMP implementation in accordance with the permit. The report is due February 1 of each year. Failure to submit the report by February 1 will result in onsite verification of BMP implementation by District staff and the requirement for the permittee to submit a detailed report documenting implementation of each BMP in the approved BMP Plan for the previous calendar year. Failure to submit the required annual report by April 30 of each year may result in revocation of the General Permit. The notification will be sent by certified mail and indicate that the permit will be revoked within 30 days after the date of the certified mailing unless the annual report is received within those 30 days. If the permit is revoked, the permittee shall be required to apply for a new General Permit and shall be subject to enforcement under subsection 40E-63.461(1), F.A.C. The new permit will include special conditions requiring that documentation certifying BMP implementation is submitted quarterly, at a minimum.

(d) The permittee shall allow District staff and designated agents, reasonable access to the permitted property at any time to verify compliance with the rule and the permit. Since it is not possible to predict precisely when discharges will occur or problems will arise resulting in the need for a site visit, the District may not be able to

provide a lengthy period of notice to the designated person in advance of a visit. However, at a minimum, the District will provide notice at least 24 hours prior to a site visit for verifying best management practice installation or operation.

(e) The permittee shall notify the District in writing within 30 days after any changes in permit basin acreage.

(f) The permittee shall notify the District in writing within 30 days of any transfer, sale or conveyance of land or works described in the permit.

(g) This permit does not relieve the permittee of the responsibility to comply with all other laws or regulations applicable to the use of or discharges from the parcel.

(h) This permit does not convey to the permittee any property right or any rights or privileges other than those specified in the permit.

(i) This permit does not relieve the permittee from liability from harm or injury to human health or welfare; animal, plant or aquatic life; or property.

(j) The surface water management and monitoring system must be effectively operated and maintained in accordance with the Environmental Resource/Surface Water Management Permit. Any change in drainage or operations not identified previously that could affect the surface water management system, must be reported in writing in advance to the District to determine if an Environmental Resource/Surface Water Management Permit is required.

(k) If not previously authorized by a District permit under this part of Chapter 40E-63, F.A.C., the permittee shall submit a permit modification application 30 days in advance of conducting any:

1. Changes in BMPs; or

2. Changes in land practice affecting the approved BMP Plan; or

3. Changes in water management that may affect the Sub-basin Monitoring Program (e.g., resulting from completing Environmental Resource/Surface Water Management Permit authorized water management system changes).

(l) The permitted discharge shall not otherwise be harmful, or adversely affect proper use and operation of the Works of the District.

(m) The C-139 Basin is required to achieve compliance with the phosphorus load limitation requirement and performance measures as specified in Appendix B2 (incorporated by reference in subsection 40E-63.446(1), F.A.C.).

(n) Legal entities or groups of cooperating owners or operators (co-permittees) responsible for implementing a General Permit shall remain legally and financially capable of performing their responsibilities required by the permits issued pursuant to this section.

(o) Within 30 days of issuance of the permit, as of the effective date of the amendments to this part of Chapter 40E-63, F.A.C., for lessees that are not co-applicants, the permittee shall provide written certification that the lessees have received a copy of the permit and agree to implement the BMP Plan and be bound by the terms and conditions of the permit, including any amendments thereto.

(p) For leases executed after the effective date of the amendments to this part of Chapter 40E-63, F.A.C. (in which the lessee is not a co-applicant), within 30 days of its date of execution, the permittee shall provide written certification by the lessee or a copy of the lease indicating the lessee's agreement to implement the BMP Plan and be bound by the terms and conditions of the permit, including any amendments thereto.

(q) If the District determines that any permittee in a General Permit is not complying with the specific terms and conditions of the General Permit, or the water quality performance measures (including proportional share, in accordance with Chapter 40E-63, F.A.C.), the District will institute enforcement or corrective proceedings against the permittee, any co-permittees, or both, as applicable pursuant to Rules 40E-63.446 and 40E-63.461, F.A.C.

(r) Authorizations from other agencies for disposal or application of wastewater residuals (biosolids), animal manure, solid waste, fill material, or other materials containing phosphorus within the C-139 Basin, shall not relieve permittees from complying with the provisions of this rule. Permittees will be required by the District to demonstrate no potential impacts on phosphorus loading.

(s) The permitted discharge shall not cause adverse water quality impacts to receiving water and adjacent lands regulated by Chapter 373, F.S.

(t) The permitted discharge shall not cause adverse environmental impacts.

(u) The permitted discharge shall be consistent with State Water Policy, Chapter 62-40, F.A.C.

(2) General permits shall be subject to other reasonable conditions as necessary to assure that proposed BMP and Permit Discharge Monitoring Plans meet the conditions for issuance in Rules 40E-63.435, 40E-63.437 and 40E-63.462, F.A.C.

FL Admin Code R 40E-63.446. Basin Compliance.

(1) If the C-139 Basin is determined to not meet the performance measures developed in accordance with Appendix B2 "C-139 Basin Performance Measure Methodology", dated November 2010, Appendix B2.1 "FORTRAN Program for Calculating C-139 Basin Flows and Phosphorus Loads" dated January 2002, and Appendix B2.2, "Flow Computation Methods Used to Calculate C-139 Basin Flows" dated November 2010, incorporated by reference herein, the basin as a whole will be deemed out of compliance with the water quality requirements of this part of Chapter 40E-63, F.A.C. Copies of Appendices B2, B2.1 and B2.2 are available on the District's website (www.sfwmd.gov/rules) or from the South Florida Water Management District Clerk, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800) 432-2045 or (561) 686-8800, upon request.

(2) If the C-139 Basin is out of compliance, water quality improvement activities will be required for permit basins except in the following situations:

(a) The permit basin is located in a sub-basin that is determined to not exceed its proportional share of the basin-wide loading based on District-collected data for the sub-basin or, if applicable, its Permit Basin Discharge Monitoring Program results are determined not to exceed the proportional share in accordance with Appendix B3.1 "Permittee Annual Phosphorus Load Determination Based on Sub-basin Monitoring and the Permit Basin Discharge Monitoring Program", dated November 2010, and Appendix B3.2 "Criteria for Required Phosphorus Reductions", dated November 2010, both of which are incorporated by reference herein. Copies of Appendices B3.1 and B3.2 are available on the District's website (www.sfwmd.gov/rules) or from the South Florida Water Management District Clerk, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800) 432-2045 or (561) 686-8800, upon request.

(b) District approved early BMPs, as described in paragraph 40E-63.438(1)(a), F.A.C., were fully implemented in the permit basin during a water year that was used to deem the C-139 Basin out of compliance (this provision applies only to the parcels where the early BMPs apply).

(c) A District approved demonstration project including a verification plan, as described in paragraph 40E-63.438(1)(b), F.A.C., was conducted within the permit basin during a water year that was used to deem the basin out of compliance (this provision applies only to the land uses or crops to which the project applies).

(d) The permit basin, or portion thereof, has been issued and meets the conditions of a determination of impracticability as described in subsection 40E-63.461(6), F.A.C. (this provision applies only to the lands where the determination applies), or

(e) The performance measure determination includes the permit basin UAL from either of the two water years immediately following a water year for which the permit basin was required to implement water quality improvement activities.

(3) Upon the effective date of the amendments to this part of Chapter 40E-63, F.A.C., the first water year of compliance determination for which water quality improvement activities can be required is WY2013.

(4) If the C-139 Basin is deemed out of compliance, the District will evaluate BMP program performance at the sub-basin level in accordance with Appendix B3.1 (incorporated by reference in paragraph 40E-63.446(2)(a), F.A.C.).

(5) The District will determine annual phosphorus discharge performance for permit basins that have an individual discharge monitoring plan in accordance with Appendix B3.1 (incorporated by reference in paragraph 40E-63.446(2)(a), F.A.C.).

(6) The District will provide written notice to the C-139 Basin permittees on the C-139 Basin compliance based upon performance measure results (Appendix B2, incorporated by reference in subsection 40E-63.446(1), F.A.C.), and the sub-basin and permit basin performance results (Appendix B3.1, incorporated by reference in paragraph 40E-63.446(2)(a), F.A.C.) and whether water quality improvement activities are required. The District shall attempt to transmit the written notices by August of each year. The notices shall describe permittees' required actions for proposing water quality improvement activities based on these assessments including required total phosphorus reduction levels in accordance with Appendix B3.2 (incorporated by reference in paragraph 40E-63.446(2)(a), F.A.C.). These actions are described in subsection 40E-63.461(2), F.A.C.

(7) In accordance with Appendix B2 (incorporated by reference in subsection 40E-63.446(1), F.A.C.), the District shall continue collecting monitoring data from the C-139 Basin for the purpose of determining compliance.

FL Admin Code R 40E-63.450. Individual Permit Application Requirements in the C-139 Basin. [Repealed]

FL Admin Code R 40E-63.452. Basis for Issuance of Individual Permits in the C-139 Basin. [Repealed]

FL Admin Code R 40E-63.454. Limiting Conditions for Individual Permits in the C-139 Basin. [Repealed]

FL Admin Code R 40E-63.456. Optional Discharge Monitoring Program. [Repealed]

FL Admin Code R 40E-63.458. Limiting Conditions for the Optional Discharge Monitoring Program. [Repealed]

FL Admin Code R 40E-63.460. C-139 Basin Compliance. [Repealed]

FL Admin Code R 40E-63.461. C-139 Basin Permit Compliance.

The District is authorized to seek any enforcement or corrective action available under Florida law for permittees out of compliance with the provisions of this chapter, pursuant to Chapter 373, F.S., and rules adopted thereunder.

(1) If an individual permittee is determined to be out of compliance with permit conditions the following applies:

(a) The District shall begin reviewing "permit compliance" with BMP implementation, documentation, and operation by permittees in the C-139 Basin immediately upon the effective date of this part of Chapter 40E-63, F.A.C.

(b) All permittees who are not in compliance with their permit are subject to notification and enforcement actions by the District.

(c) All permittees who receive notice of non-compliance with their permit from the District must submit to the District, within 10 business days of receipt of the notice, a plan and schedule for achieving permit compliance within 60 days after transmittal of the District notice.

(d) Compliance with the permit includes timely submittal and implementation of any additional water quality improvement activities if required by rule. Delay by permittees in fulfilling the BMP implementation requirements will not extend the timeline for determining the need for additional water quality improvement activities at the sub-basin or permit basin level.

(2) If the C-139 Basin is determined to be out of compliance with the water quality requirements of this part of Chapter 40E-63, F.A.C., pursuant to Rule 40E-63.446, F.A.C., the permittee shall propose water quality improvement activities in accordance with the following:

(a) The permittee shall submit a letter modification application for the District's consideration, within 120 days of the District's transmittal of the notice that the C-139 Basin is not in compliance. The submittal shall include the section entitled "Water Quality Improvement Activities" of Form 1045, dated November 2010, incorporated by reference in subsection 40E-63.430(2), F.A.C.

(b) The submittal shall include a proposal for water quality improvement activities along with the estimated phosphorus reductions to be achieved in accordance with subsection 40E-63.461(3), F.A.C., or a verification plan in accordance with subsection 40E-63.461(4), F.A.C. The phosphorus reductions shall be the minimum levels necessary to meet the permit basin's proportional share of required total phosphorus reductions as determined by the District (Appendices B3.1 and B3.2, incorporated by reference in paragraph 40E-63.446(2)(a), F.A.C.). The proposal shall include a schedule to ensure that full implementation of an approved BMP Plan incorporating any proposed water quality improvement activities is in effect as soon as feasible and no later than April 30 following the District's transmittal of the notice that the C-139 Basin is not in compliance, unless otherwise approved by the District. An alternate implementation schedule will be approved by the District with justification based on the scope of the proposed activities. A permittee shall be required to implement intermediate water quality improvement activities or BMPs, as applicable, if an alternate implementation schedule is approved.

(3) All proposals for water quality improvement activities shall meet the following criteria for District review and approval:

(a) Include a detailed description of the proposed improvements to the approved BMP Plan in comparison to the current implementation practices. The basis for the proposed BMP improvements shall consider pre-improvement conditions (e.g., current levels of BMP implementation, pre-BMP improvement water quality data) and the parameters affecting BMP performance and total phosphorus load (site-specific conditions, phosphorus speciation, flow). If the proposal includes implementation of additional BMPs not listed in Appendix B1 (incorporated by reference in subsection 40E-

63.435(1), F.A.C.), the proposal shall also include the information indicated in subsection 40E-63.437(1), F.A.C. Note that in contrast with BMP Plans, additional improvements to an approved BMP Plan do not need to be proposed for each land use or crop within a permit basin if it is demonstrated that focus on selected land uses, crops, or acreage will be sufficient to achieve the required total phosphorus reduction of the basin wide load.

(b) Indicate the expected range of percent total phosphorus removal resulting from the proposal as follows:

1. The expected or assumed range of percent total phosphorus removal shall equal or exceed the percent required total phosphorus reduction applicable to the permit basin.

2. The expected or assumed total phosphorus removal efficiency shall be based on data from the most current representative technical references including peer reviewed or published BMP research and demonstration projects, with consideration of permit basin specific conditions such as identified when a site-assessment is completed pursuant to subsection 40E-63.437(2), F.A.C.

3. Each proposal shall include a detailed description of the technical basis and copies of documents as applicable. All proposed total phosphorus reductions shall be based on scientific studies, calibrated models, or data collection representative of the C-139 Basin for District approval.

(c) If the permittee is unable to demonstrate that the required total phosphorus reductions can be achieved in accordance with paragraph (b) above, a verification plan shall be required.

(d) If the proposal includes a verification plan, it shall meet the criteria for approval described below. The proposal and monitoring plan shall aim to demonstrate the ability to achieve the total phosphorus reduction levels that would be necessary to meet the overall required total phosphorus reduction levels.

(4) If a permittee elects to or is required to conduct a monitoring program to confirm that required total phosphorus reductions will be achieved, a permittee shall propose a verification plan in addition to the proposal for improvements to an approved BMP Plan or water quality improvement activities. All verification plan proposals shall meet the following criteria for District review and approval:

(a) The description of who will be responsible for project implementation.

(b) The proposed reporting procedures during and at completion of the project.

(c) A Final report at completion that describes how the recommendations for BMP implementation will be applicable to the crops or land uses to meet the required total phosphorus reduction.

(d) The tools that will be used to verify total phosphorus reduction levels such as water quality and quantity monitoring to determine total phosphorus loading pre- and post-BMP improvement and to estimate total phosphorus reduction. Total phosphorus and phosphorus speciation data collected at the District sub-basin monitoring locations may serve as representative monitoring.

(e) The parameters under which total phosphorus reduction levels will be measured and verified so that findings are repeatable and applicable within the C-139 Basin conditions (climatic conditions, soils, geology, etc.).

(f) A schedule not to exceed three calendar years from the date of District approval of the proposal. Once the confirmatory verification is completed and a final report is submitted in accordance with the approved scope, the permittee shall either submit a Letter Modification application in accordance with Rule 40E-63.439 and subsections 40E-63.461(2) and (3), F.A.C., to either:

1. Modify the approved BMP Plan to incorporate changes based on the final report recommendations for the District's consideration, or

2. Propose other water quality improvement activities consistent with the requirements of this rule.

(5) The District shall repeat the procedures specified in Rule 40E-63.446, F.A.C., above as many times as required to achieve C-139 Basin compliance, and seek corrective action as appropriate against entities within the C-139 Basin, as applicable.

(6) Permittees may elect to demonstrate that water quality improvement activities are impracticable. Any such request for determination of impracticability must be submitted to the District under a permit modification application. For the District to consider the application for approval, the submittal shall:

(a) Specify all of the BMPs and activities that were implemented previously and provide evidence to show that no additional BMPs and activities or refinements for the reduction of phosphorus can be reasonably accomplished at the site or sites of operation.

(b) Propose the expected amount of phosphorus discharge in comparison to the C-139 Basin's phosphorus load targets and limits, calculated in accordance with Appendices B3.1 and B3.2 (incorporated by reference in paragraph 40E-63.446(2)(a), F.A.C.), for the range of historic rainfall conditions in accordance with Appendix B2 (incorporated by reference in subsection 40E-63.446(1), F.A.C.). No increasing trend in phosphorus from the property, as determined by the District, will be allowed under any scenario. The District will review the proposed performance level in reference to available representative historic data.

(c) Propose a discharge monitoring plan in accordance with Rule 40E-63.462, F.A.C., to verify that the proposed performance level is met. In the event that the farm configuration is not conducive to flow collection under a discharge monitoring program, the District may consider requests for the use of alternate representative locations or monitoring for concentration only. Upon District approval of the monitoring plan, special limiting conditions (such as applicable conditions from Rule 40E-63.464, F.A.C.) will be incorporated in the permit.

(d) Such requests shall apply only to the permit basin or portion thereof (e.g., land use, crop or acreage) which demonstrated further activities are impracticable.

(e) The District shall send a copy of each such request to the Department of Environmental Protection.

(f) Determinations of impracticability will be valid until the next permit renewal cycle. Permittees shall re-apply for a permit in accordance with Rule 40E-63.439, F.A.C. A previously permitted impracticability status shall not be automatically renewed. The District will review each request as a new request. All requests shall be reviewed to verify that there have been no increasing trends in phosphorus discharges in the previous 5 years and that the proposed levels of BMP implementation are in accordance with improved BMP implementation techniques based on the latest technical information, as described in Appendix B3.2 (incorporated by reference in paragraph 40E-63.446(2)(a), F.A.C.).

FL Admin Code R 40E-63.4626. Permit Basin Discharge Monitoring Program.

(1) In addition to implementing an approved BMP Plan, permittees may elect or be required to participate in a discharge monitoring program pursuant to Rules 40E-63.437, 40E-63.438, paragraph 40E-63.444(1)(r), subsection 40E-63.461(4) or 40E-63.461(6), F.A.C., and be subject to:

(a) For permittees electing a discharge monitoring program or permittees required to implement a monitoring program pursuant to subsection 40E-63.461(6), F.A.C.: alternative, site-specific evaluations of compliance with phosphorus load targets and limits for the areas represented by the monitoring plan when the C-139 Basin is collectively determined to be out of compliance in accordance with Chapter 40E-63, F.A.C., Appendix B2 (incorporated by reference in subsection 40E-63.446(1), F.A.C.); and

(b) Compliance with permit conditions in accordance with Rule 40E-63.464, F.A.C.

(2) To implement a discharge monitoring program, permittees must submit a permit application with the following information:

(a) An acceptable discharge (quantity and quality) monitoring plan that provides reasonable assurance that annual water discharge and total phosphorus load are accurately documented.

(b) All flow quantity discharge from the property shall be calculated using a method proposed by a Florida-Registered Professional Engineer in a flow calibration report approved by the District. A calibration report shall be required for each pump, culvert or other discharge structure. Uncontrolled off-site discharges, such as overland sheet flow, shall also be quantified in the report. Each calibration report shall contain, at a minimum: data collection methodology, instrumentation and procedures; the actual field data collected; the basis for the full operating range represented by the data; the methodology for development of the calibration equation; operational information needed to calculate flow with a temporary backup methodology to be used if the primary equipment becomes inoperable; and the final calibration equation and primary method for calculating the flow. A plan that includes the items specified in the "Flow Calibration Guidelines Developed in Support of Chapter 40E-63, F.A.C. Everglades BMP Permit Program", amended July 1997, incorporated by reference herein, generally provides reasonable assurance that methods to measure water quantity will be reasonably accurate, however, other alternatives may be proposed

by the applicant and authorized by the District. A copy of the "Flow Calibration Guidelines Developed in Support of Chapter 40E-63, F.A.C., Everglades BMP Permit Program, is available on the District's website (www.sfwmd.gov/rules), or from the South Florida Water Management District Clerk, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800) 432-2045, ext. 6436 or (561) 682-6436, upon request;

(c) A schedule to install equipment and implement the monitoring plan no later than 30 days after issuance of the permit; and

(d) Other site specific information required by Appendix B3.1 (incorporated by reference in paragraph 40E-63.446(2)(a), F.A.C.).

FL Admin Code R 40E-63.464. Limiting Conditions for the Permit Basin Discharge Monitoring Program.

For those applicants proposing to implement the Permit Basin Discharge Monitoring Program, the District-approved monitoring plan will be incorporated into a modified General Permit and the following limiting conditions shall be met in addition to the conditions indicated in Rule 40E-63.444, F.A.C. These limiting conditions will be attached to the General Permit.

(1) The discharge (quantity and quality) monitoring plan shall provide reasonable assurance that the annual water discharge and total phosphorus load are accurately documented.

(2) The approved discharge monitoring plan shall be incorporated by reference and made part of this permit;

(3) The equipment shall be installed and the monitoring shall start no later than 30 days after the permit issuance date. Within 60 days after the permit issuance date, the permittee shall contact the District to verify that installation of the monitoring equipment is complete and to schedule an inspection;

(4) The permittee shall implement the discharge monitoring plan in accordance with the permit and shall submit to the District any proposed modification of the plan by submitting an application to modify the permit for review and approval prior to implementation.

(5) The location of sample collection shall be such that water sampled is representative of all water from the monitored area that discharges off-site.

(6) All water quality sample collection, preservation, handling, transport, and chain-of-custody documentation shall be conducted in accordance with an approved Comprehensive Quality Assurance Plan as specified in the approved discharge monitoring plan. All laboratory analyses shall be

conducted by a laboratory with proper certification for the specified parameter (e.g. phosphorus);

(7) In the event that water quality automatic sampling equipment becomes inoperable for any reason, grab samples shall be temporarily taken on a daily basis during flow events and composited for a maximum of 14 days for total phosphorus analysis. Reasonable effort must be made to render the automatic sampling equipment operable within 14 days;

(8) Monitoring conditions may be reduced or adjusted upon submission of data and/or studies that provide the basis for such, reasonably demonstrating that equivalent data will be obtained with the reduction or adjustment in monitoring;

(9) The District will provide at least one week notice to the permittee of the intent to conduct a quality assurance field audit of the sampling collection procedures;

(10) The water quantity and quality data shall be submitted to the District no later than 60 days from the last day of the sampling period being reported. Water quantity and quality data shall be submitted to the District in an approved electronic format on a monthly basis.

(11) All flow quantity discharged from the property shall be calculated using a method proposed by a Florida-registered Professional Engineer in a Calibration Report approved by the District. A Calibration Report shall be required for each pump, culvert or other discharge structure. The report shall also quantify uncontrolled off-site discharges, such as overland sheet flow. Each Calibration Report shall contain, at a minimum: data collection methodology, instrumentation and procedures; the actual field data collected; the basis for the full operating range represented by the data; the methodology for development of the calibration equation; operational information needed to calculate flow with a temporary backup methodology to be used if the primary equipment becomes inoperable; and the final calibration equation and primary method for calculating the flow. Any modification to the approved calibration shall require an application to modify the existing permit.

(12) During periods of off-site discharge, water quality composite samples shall be collected by automatic sampler, preserved, and the composite sample shall be: a) removed from the sample collection site and delivered to the laboratory no later than 21 days from the time the first individual sample was taken and, b) analyzed for total phosphorus no later than 28 days from the time the first individual sample was taken.

FL Admin Code R 40E-63.470. C-139 Basin Works of the District Permit Compliance. [Repealed]

FL Stat § 373.4595. Northern Everglades and Estuaries Protection Program.

(1) **FINDINGS AND INTENT.—**

(a) The Legislature finds that the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed are critical water resources of the state, providing many economic, natural habitat, and biodiversity functions benefiting the public interest, including agricultural, public, and environmental water supply; flood control; fishing; navigation and recreation; and habitat to endangered and threatened species and other flora and fauna.

(b) The Legislature finds that changes in land uses, the construction of the Central and Southern Florida Project, and the loss of surface water storage have resulted in adverse changes to the hydrology and water quality of Lake Okeechobee and the Caloosahatchee and St. Lucie Rivers and their estuaries.

(c) The Legislature finds that improvement to the hydrology, water quality, and associated aquatic habitats within the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed, is essential to the protection of the greater Everglades ecosystem.

(d) The Legislature also finds that it is imperative for the state, local governments, and agricultural and environmental communities to commit to restoring and protecting the surface water resources of the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed, and that a watershed-based approach to address these issues must be developed and implemented immediately.

(e) The Legislature finds that phosphorus loads from the Lake Okeechobee watershed have contributed to excessive phosphorus levels throughout the Lake Okeechobee watershed and downstream receiving waters and that a reduction in levels of phosphorus will benefit the ecology of these systems. The excessive levels of phosphorus have also resulted in an accumulation of phosphorus in the sediments of Lake Okeechobee. If not removed, internal phosphorus loads from the sediments are expected to delay responses of the lake to external phosphorus reductions.

(f) The Legislature finds that the Lake Okeechobee phosphorus loads set forth in the total maximum daily loads established in accordance with s. 403.067 represent an appropriate basis for restoration of the Lake Okeechobee watershed.

(g) The Legislature finds that, in addition to phosphorus, other pollutants are contributing to water quality problems in the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed, and that the total maximum daily load requirements of s. 403.067 provide a means of identifying and addressing these problems.

(h) The Legislature finds that the expeditious implementation of the Lake Okeechobee Watershed Protection Program, the Caloosahatchee River Watershed Protection Program, and the St. Lucie River Watershed Protection Program is needed to improve the quality, quantity, timing, and distribution of water in the northern Everglades ecosystem and that this section, in conjunction with s. 403.067, including the implementation of the plans developed and approved pursuant to subsections (3) and (4), and any related basin management action plan developed and implemented pursuant to s. 403.067(7)(a), provide a reasonable means of achieving the total maximum daily load requirements and achieving and maintaining compliance with state water quality standards.

(i) The Legislature finds that the implementation of the programs contained in this section is for the benefit of the public health, safety, and welfare and is in the public interest.

(j) The Legislature finds that sufficient research has been conducted and sufficient plans developed to immediately expand and accelerate programs to address the hydrology and water quality in the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed.

(k) The Legislature finds that a continuing source of funding is needed to effectively implement the programs developed and approved under this section which are needed to address the hydrology and water quality problems within the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed.

(l) It is the intent of the Legislature to protect and restore surface water resources and achieve and maintain compliance with water quality standards in the Lake Okeechobee watershed, the Caloosahatchee

River watershed, and the St. Lucie River watershed, and downstream receiving waters, through the phased, comprehensive, and innovative protection program set forth in this section which includes long-term solutions based upon the total maximum daily loads established in accordance with s. 403.067. This program shall be watershed-based, shall provide for consideration of all water quality issues needed to meet the total maximum daily load, and shall include research and monitoring, development and implementation of best management practices, refinement of existing regulations, and structural and nonstructural projects, including public works.

(m) It is the intent of the Legislature that this section be implemented in coordination with the Comprehensive Everglades Restoration Plan project components and other federal programs in order to maximize opportunities for the most efficient and timely expenditures of public funds.

(n) It is the intent of the Legislature that the coordinating agencies encourage and support the development of creative public-private partnerships and programs, including opportunities for water storage and quality improvement on private lands and water quality credit trading, to facilitate or further the restoration of the surface water resources of the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed, consistent with s. 403.067.

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

(a) "Best management practice" means a practice or combination of practices determined by the coordinating agencies, based on research, field-testing, and expert review, to be the most effective and practicable on-location means, including economic and technological considerations, for improving water quality in agricultural and urban discharges. Best management practices for agricultural discharges shall reflect a balance between water quality improvements and agricultural productivity.

(b) "Biosolids" means the solid, semisolid, or liquid residue generated during the treatment of domestic wastewater in a domestic wastewater treatment facility, formerly known as "domestic wastewater residuals" or "residuals," and includes products and treated material from biosolids treatment facilities and septage management facilities regulated by the department. The term does not include the treated effluent or reclaimed water from a domestic wastewater treatment facility, solids removed from pump stations and lift stations,

screenings and grit removed from the preliminary treatment components of domestic wastewater treatment facilities, or ash generated during the incineration of biosolids.

(c) "Caloosahatchee River watershed" means the Caloosahatchee River, its tributaries, its estuary, and the area within Charlotte, Glades, Hendry, and Lee Counties from which surface water flow is directed or drains, naturally or by constructed works, to the river, its tributaries, or its estuary.

(d) "Coordinating agencies" means the Department of Agriculture and Consumer Services, the Department of Environmental Protection, and the South Florida Water Management District.

(e) "Corps of Engineers" means the United States Army Corps of Engineers.

(f) "Department" means the Department of Environmental Protection.

(g) "District" means the South Florida Water Management District.

(h) "Lake Okeechobee Watershed Construction Project" means the construction project developed pursuant to this section.

(i) "Lake Okeechobee Watershed Protection Plan" means the Lake Okeechobee Watershed Construction Project and the Lake Okeechobee Watershed Research and Water Quality Monitoring Program.

(j) "Lake Okeechobee watershed" means Lake Okeechobee, its tributaries, and the area within which surface water flow is directed or drains, naturally or by constructed works, to the lake or its tributaries.

(k) "Northern Everglades" means the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed.

(l) "Project component" means any structural or operational change, resulting from the Restudy, to the Central and Southern Florida Project as it existed and was operated as of January 1, 1999.

(m) "Restudy" means the Comprehensive Review Study of the Central and Southern Florida Project, for which federal participation was authorized by the Federal Water Resources Development Acts of 1992 and 1996 together with related Congressional resolutions and for which participation by the South Florida Water Management District is authorized by s. 373.1501. The term includes all actions undertaken pursuant to the aforementioned authorizations which will result

in recommendations for modifications or additions to the Central and Southern Florida Project.

(n) "River Watershed Protection Plans" means the Caloosahatchee River Watershed Protection Plan and the St. Lucie River Watershed Protection Plan developed pursuant to this section.

(o) "Soil amendment" means any substance or mixture of substances sold or offered for sale for soil enriching or corrective purposes, intended or claimed to be effective in promoting or stimulating plant growth, increasing soil or plant productivity, improving the quality of crops, or producing any chemical or physical change in the soil, except amendments, conditioners, additives, and related products that are derived solely from inorganic sources and that contain no recognized plant nutrients.

(p) "St. Lucie River watershed" means the St. Lucie River, its tributaries, its estuary, and the area within Martin, Okeechobee, and St. Lucie Counties from which surface water flow is directed or drains, naturally or by constructed works, to the river, its tributaries, or its estuary.

(q) "Total maximum daily load" means the sum of the individual wasteload allocations for point sources and the load allocations for nonpoint sources and natural background adopted pursuant to s. 403.067. Before determining individual wasteload allocations and load allocations, the maximum amount of a pollutant that a water body or water segment can assimilate from all sources without exceeding water quality standards must first be calculated.

(3) **LAKE OKEECHOBEE WATERSHED PROTECTION PROGRAM.**—The Lake Okeechobee Watershed Protection Program shall consist of the Lake Okeechobee Watershed Protection Plan, the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067, the Lake Okeechobee Exotic Species Control Program, and the Lake Okeechobee Internal Phosphorus Management Program. The Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067 shall be the component of the Lake Okeechobee Watershed Protection Program that achieves phosphorus load reductions for Lake Okeechobee. The Lake Okeechobee Watershed Protection Program shall address the reduction of phosphorus loading to the lake from both internal and external sources. Phosphorus load reductions shall be achieved through a phased program of implementation. In the development and administration of the Lake Okeechobee Watershed Protection Program, the coordinating agencies shall maximize opportunities provided by federal cost-sharing programs and opportunities for partnerships with the private sector.

(a) Lake Okeechobee Watershed Protection Plan.—To protect and restore surface water resources, the district, in cooperation with the other coordinating agencies, shall complete a Lake Okeechobee Watershed Protection Plan in accordance with this section and ss. 373.451-373.459. Beginning March 1, 2020, and every 5 years thereafter, the district shall update the Lake Okeechobee Watershed Protection Plan to ensure that it is consistent with the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067. The Lake Okeechobee Watershed Protection Plan shall identify the geographic extent of the watershed, be coordinated with the plans developed pursuant to paragraphs (4)(a) and (c), and include the Lake Okeechobee Watershed Construction Project and the Lake Okeechobee Watershed Research and Water Quality Monitoring Program. The plan shall consider and build upon a review and analysis of the performance of projects constructed during Phase I and Phase II of the Lake Okeechobee Watershed Construction Project, pursuant to subparagraph 1.; relevant information resulting from the Lake Okeechobee Basin Management Action Plan, pursuant to paragraph (b); relevant information resulting from the Lake Okeechobee Watershed Research and Water Quality Monitoring Program, pursuant to subparagraph 2.; relevant information resulting from the Lake Okeechobee Exotic Species Control Program, pursuant to paragraph (c); and relevant information resulting from the Lake Okeechobee Internal Phosphorus Management Program, pursuant to paragraph (d).

1. Lake Okeechobee Watershed Construction Project.—To improve the hydrology and water quality of Lake Okeechobee and downstream receiving waters, including the Caloosahatchee and St. Lucie Rivers and their estuaries, the district, in cooperation with the other coordinating agencies, shall design and construct the Lake Okeechobee Watershed Construction Project. The project shall include:

a. Phase I.—Phase I of the Lake Okeechobee Watershed Construction Project shall consist of a series of project features consistent with the recommendations of the South Florida Ecosystem Restoration Working Group's Lake Okeechobee Action Plan. Priority basins for such projects include S-191, S-154, and Pools D and E in the Lower Kissimmee River. To obtain phosphorus load reductions to Lake Okeechobee as soon as possible, the following actions shall be implemented:

(I) The district shall serve as a full partner with the Corps of Engineers in the design and construction of the Grassy Island Ranch and New Palm Dairy stormwater treatment facilities as components of the Lake Okeechobee Water Retention/Phosphorus Removal Critical Project. The Corps of Engineers shall have the lead in design and construction of these facilities. Should delays be encountered in the implementation of either of these facilities, the district shall notify the department and recommend corrective actions.

(II) The district shall obtain permits and complete construction of two of the isolated wetland restoration projects that are part of the Lake Okeechobee Water Retention/Phosphorus Removal Critical Project. The additional isolated wetland projects included in this critical project shall further reduce phosphorus loading to Lake Okeechobee.

(III) The district shall work with the Corps of Engineers to expedite initiation of the design process for the Taylor Creek/Nubbins Slough Reservoir Assisted Stormwater Treatment Area, a project component of the Comprehensive Everglades Restoration Plan. The district shall propose to the Corps of Engineers that the district take the lead in the design and construction of the Reservoir Assisted Stormwater Treatment Area and receive credit towards the local share of the total cost of the Comprehensive Everglades Restoration Plan.

b. Phase II technical plan and construction.—The district, in cooperation with the other coordinating agencies, shall develop a detailed technical plan for Phase II of the Lake Okeechobee Watershed Construction Project which provides the basis for the Lake Okeechobee Basin Management Action Plan adopted by the department pursuant to s. 403.067. The detailed technical plan shall include measures for the improvement of the quality, quantity, timing, and distribution of water in the northern Everglades ecosystem, including the Lake Okeechobee watershed and the estuaries, and for

facilitating the achievement of water quality standards. Use of cost-effective biologically based, hybrid wetland/chemical and other innovative nutrient control technologies shall be incorporated in the plan where appropriate. The detailed technical plan shall also include a Process Development and Engineering component to finalize the detail and design of Phase II projects and identify additional measures needed to increase the certainty that the overall objectives for improving water quality and quantity can be met. Based on information and recommendations from the Process Development and Engineering component, the Phase II detailed technical plan shall be periodically updated. Phase II shall include construction of additional facilities in the priority basins identified in sub-subparagraph a., as well as facilities for other basins in the Lake Okeechobee watershed. The technical plan shall:

(I) Identify Lake Okeechobee Watershed Construction Project facilities designed to contribute to achieving all applicable total maximum daily loads established pursuant to s. 403.067 within the Lake Okeechobee watershed.

(II) Identify the size and location of all such Lake Okeechobee Watershed Construction Project facilities.

(III) Provide a construction schedule for all such Lake Okeechobee Watershed Construction Project facilities, including the sequencing and specific timeframe for construction of each Lake Okeechobee Watershed Construction Project facility.

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

(V) Provide a detailed schedule of costs associated with the construction schedule.

(VI) Identify, to the maximum extent practicable, impacts on wetlands and state-listed species expected to be associated with construction of

such facilities, including potential alternatives to minimize and mitigate such impacts, as appropriate.

(VII) Provide for additional measures, including voluntary water storage and quality improvements on private land, to increase water storage and reduce excess water levels in Lake Okeechobee and to reduce excess discharges to the estuaries.

(VIII) Develop the appropriate water quantity storage goal to achieve the desired Lake Okeechobee range of lake levels and inflow volumes to the Caloosahatchee and St. Lucie estuaries while meeting the other water-related needs of the region, including water supply and flood protection.

(IX) Provide for additional source controls needed to enhance performance of the Lake Okeechobee Watershed Construction Project facilities. Such additional source controls shall be incorporated into the Lake Okeechobee Basin Management Action Plan pursuant to paragraph (b).

c. Evaluation.—Within 5 years after the adoption of the Lake Okeechobee Basin Management Action Plan pursuant to s. 403.067 and every 5 years thereafter, the department, in cooperation with the other coordinating agencies, shall conduct an evaluation of the Lake Okeechobee Watershed Construction Project and identify any further load reductions necessary to achieve compliance with the Lake Okeechobee total maximum daily loads established pursuant to s. 403.067. The district shall identify modifications to facilities of the Lake Okeechobee Watershed Construction Project as appropriate to meet the total maximum daily loads. Modifications to the Lake Okeechobee Watershed Construction Project resulting from this evaluation shall be incorporated into the Lake Okeechobee Basin Management Action Plan and included in the applicable annual progress report submitted pursuant to subsection (6).

d. Coordination and review.—To ensure the timely implementation of the Lake Okeechobee Watershed Construction Project, the design of project facilities

shall be coordinated with the department and other interested parties, including affected local governments, to the maximum extent practicable. Lake Okeechobee Watershed Construction Project facilities shall be reviewed and commented upon by the department before the execution of a construction contract by the district for that facility.

2. Lake Okeechobee Watershed Research and Water Quality Monitoring Program.—The coordinating agencies shall implement a Lake Okeechobee Watershed Research and Water Quality Monitoring Program. Results from the program shall be used by the department, in cooperation with the other coordinating agencies, to make modifications to the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067, as appropriate. The program shall:

a. Evaluate all available existing water quality data concerning total phosphorus in the Lake Okeechobee watershed, develop a water quality baseline to represent existing conditions for total phosphorus, monitor long-term ecological changes, including water quality for total phosphorus, and measure compliance with water quality standards for total phosphorus, including any applicable total maximum daily load for the Lake Okeechobee watershed as established pursuant to s. 403.067. Beginning March 1, 2020, and every 5 years thereafter, the department shall reevaluate water quality and quantity data to ensure that the appropriate projects are being designated and incorporated into the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067. The district shall implement a total phosphorus monitoring program at appropriate structures owned or operated by the district and within the Lake Okeechobee watershed.

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

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

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

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

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

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

(b) Lake Okeechobee Basin Management Action Plan.—The Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067 shall be the watershed phosphorus control component for Lake Okeechobee. The Lake Okeechobee Basin Management Action Plan shall be a multifaceted approach designed to achieve the total maximum daily load by improving the management of phosphorus sources within the Lake Okeechobee watershed through implementation of regulations and best management practices, continued development and continued implementation of improved best management practices, improvement and restoration of the hydrologic function of natural and managed systems, and use of alternative technologies for nutrient reduction. As provided in s. 403.067(7)(a)6., the Lake Okeechobee

Basin Management Action Plan must include milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones shall be conducted every 5 years and shall be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Revisions to the plan shall be made, as appropriate, as a result of each 5-year review. Revisions to the basin management action plan shall be made by the department in cooperation with the basin stakeholders. Revisions to best management practices or other measures must follow the procedures set forth in s. 403.067(7)(c)4. Revised basin management action plans must be adopted pursuant to s. 403.067(7)(a)5. The department shall develop an implementation schedule establishing 5-year, 10-year, and 15-year measurable milestones and targets to achieve the total maximum daily load no more than 20 years after adoption of the plan. The initial implementation schedule shall be used to provide guidance for planning and funding purposes and is exempt from chapter 120. Upon the first 5-year review, the implementation schedule shall be adopted as part of the plan. If achieving the total maximum daily load within 20 years is not practicable, the implementation schedule must contain an explanation of the constraints that prevent achievement of the total maximum daily load within 20 years, an estimate of the time needed to achieve the total maximum daily load, and additional 5-year measurable milestones, as necessary. The coordinating agencies shall develop an interagency agreement pursuant to ss. 373.046 and 373.406(5) which is consistent with the department taking the lead on water quality protection measures through the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067; the district taking the lead on hydrologic improvements pursuant to paragraph (a); and the Department of Agriculture and Consumer Services taking the lead on agricultural interim measures, best management practices, and other measures adopted pursuant to s. 403.067. The interagency agreement must specify how best management practices for nonagricultural nonpoint sources are developed and how all best management practices are implemented and verified consistent with s. 403.067 and this section and must address measures to be taken by the coordinating agencies during any best management practice reevaluation performed pursuant to subparagraphs 5. and 10. The department shall use best professional judgment in making the initial determination of best management practice effectiveness. The coordinating agencies may develop an intergovernmental

agreement with local governments to implement nonagricultural nonpoint source best management practices within their respective geographic boundaries. The coordinating agencies shall facilitate the application of federal programs that offer opportunities for water quality treatment, including preservation, restoration, or creation of wetlands on agricultural lands.

1. Agricultural nonpoint source best management practices, developed in accordance with s. 403.067 and designed to achieve the objectives of the Lake Okeechobee Watershed Protection Program as part of a phased approach of management strategies within the Lake Okeechobee Basin Management Action Plan, shall be implemented on an expedited basis.

2. As provided in s. 403.067, the Department of Agriculture and Consumer Services, in consultation with the department, the district, and affected parties, shall initiate rule development for interim measures, best management practices, conservation plans, nutrient management plans, or other measures necessary for Lake Okeechobee watershed total maximum daily load reduction. The rule shall include thresholds for requiring conservation and nutrient management plans and criteria for the contents of such plans. Development of agricultural nonpoint source best management practices shall initially focus on those priority basins listed in sub-subparagraph (a)1.a. The Department of Agriculture and Consumer Services, in consultation with the department, the district, and affected parties, shall conduct an ongoing program for improvement of existing and development of new agricultural nonpoint source interim measures and best management practices. The Department of Agriculture and Consumer Services shall adopt such practices by rule. The Department of Agriculture and Consumer Services shall work with the University of Florida Institute of Food and Agriculture Sciences to review and, where appropriate, develop revised nutrient application rates for all agricultural soil amendments in the watershed.

3. As provided in s. 403.067, where agricultural nonpoint source best management practices or interim measures have been adopted by rule of the Department of Agriculture and Consumer Services, the owner or operator of an agricultural nonpoint source addressed by such rule shall either implement interim measures or best management practices or demonstrate

compliance with state water quality standards addressed by the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067 by conducting monitoring prescribed by the department or the district. Owners or operators of agricultural nonpoint sources who implement interim measures or best management practices adopted by rule of the Department of Agriculture and Consumer Services shall be subject to s. 403.067.

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

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

6. As provided in s. 403.067, nonagricultural nonpoint source best management practices, developed in accordance with s. 403.067 and designed to achieve the objectives of the Lake Okeechobee Watershed Protection Program as part of a phased approach of management strategies within the Lake Okeechobee Basin Management Action Plan, shall be implemented on an expedited basis.

7. The department and the district are directed to work with the University of Florida Institute of Food and Agricultural Sciences to develop appropriate nutrient application rates for all nonagricultural soil amendments in the watershed. As provided in s. 403.067, the department, in consultation with the district and affected parties, shall develop nonagricultural nonpoint source interim measures, best management practices, or other measures necessary for Lake Okeechobee watershed total maximum daily load reduction. Development of nonagricultural nonpoint source best management practices shall initially focus on those priority basins listed in sub-subparagraph (a)1.a. The department, the district, and affected parties shall conduct an ongoing program for improvement of existing and development of

new interim measures and best management practices. The department or the district shall adopt such practices by rule.

8. Where nonagricultural nonpoint source best management practices or interim measures have been developed by the department and adopted by the district, the owner or operator of a nonagricultural nonpoint source shall implement interim measures or best management practices and be subject to s. 403.067.

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

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

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

12. The program of agricultural best management practices set forth in the Everglades Program of the district meets the requirements of this paragraph and s. 403.067(7) for the Lake Okeechobee watershed. An entity in compliance with the best management practices set forth in the Everglades Program of the district may elect to use that permit in lieu of the requirements of this paragraph. The provisions of subparagraph 5. apply to this subparagraph. This subparagraph does not alter any requirement of s. 373.4592.

13. The Department of Agriculture and Consumer Services, in cooperation with the department and the district, shall provide technical and financial assistance for implementation of agricultural best management practices, subject to the availability of funds. The department and district shall provide technical and financial assistance for implementation of nonagricultural nonpoint source best management practices, subject to the availability of funds.

14. Projects that reduce the phosphorus load originating from domestic wastewater systems within the Lake Okeechobee watershed shall be given funding priority in the department's revolving loan program under s. 403.1835. The department shall coordinate and provide assistance to those local governments seeking financial assistance for such priority projects.

15. Projects that make use of private lands, or lands held in trust for Indian tribes, to reduce nutrient loadings or concentrations within a basin by one or more of the following methods: restoring the natural hydrology of the basin, restoring wildlife habitat or impacted wetlands, reducing peak flows after storm events, increasing aquifer recharge, or protecting range and timberland from conversion to development, are eligible for grants available under this section from the coordinating agencies. For projects of otherwise equal priority, special funding priority will be given to those projects that make best use of the methods outlined above that involve public-private partnerships or that obtain federal match money. Preference ranking above the special funding priority will be given to projects located in a rural area of opportunity designated by the Governor. Grant applications may be submitted by any person or tribal entity, and eligible projects may include, but are not limited to, the purchase of conservation and flowage easements, hydrologic restoration of wetlands, creating treatment wetlands, development of a management plan for natural resources, and financial support to implement a management plan.

16. The department shall require all entities disposing of domestic wastewater biosolids within the Lake Okeechobee watershed and the remaining areas of Okeechobee, Glades, and Hendry Counties to develop and submit to the department an agricultural use plan that limits applications based upon phosphorus loading consistent with the Lake Okeechobee Basin Management

Action Plan adopted pursuant to s. 403.067. The department may not authorize the disposal of domestic wastewater biosolids within the Lake Okeechobee watershed unless the applicant can affirmatively demonstrate that the phosphorus in the biosolids will not add to phosphorus loadings in Lake Okeechobee or its tributaries. This demonstration shall be based on achieving a net balance between phosphorus imports relative to exports on the permitted application site. Exports shall include only phosphorus removed from the Lake Okeechobee watershed through products generated on the permitted application site. This prohibition does not apply to Class AA biosolids that are marketed and distributed as fertilizer products in accordance with department rule.

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

biosolids that require final disposal, but such proceeds may not be used for transportation or shipment costs for disposal or any costs relating to the land application of biosolids in the Lake Okeechobee watershed.

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

19. The Department of Health shall require all entities disposing of septage within the Lake Okeechobee watershed to develop and submit to that agency an agricultural use plan that limits applications based upon phosphorus loading consistent with the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067.

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

21. The district shall revise chapter 40E-61, Florida Administrative Code, to be consistent with this section and s. 403.067; provide for a monitoring program for nonpoint

source dischargers required to monitor water quality by s. 403.067; and provide for the results of such monitoring to be reported to the coordinating agencies.

(c) Lake Okeechobee Exotic Species Control Program.—The coordinating agencies shall identify the exotic species that threaten the native flora and fauna within the Lake Okeechobee watershed and develop and implement measures to protect the native flora and fauna.

(d) Lake Okeechobee Internal Phosphorus Management Program.—The district, in cooperation with the other coordinating agencies and interested parties, shall evaluate the feasibility of Lake Okeechobee internal phosphorus load removal projects. The evaluation shall be based on technical feasibility, as well as economic considerations, and shall consider all reasonable methods of phosphorus removal. If projects are found to be feasible, the district shall immediately pursue the design, funding, and permitting for implementing such projects.

(e) Lake Okeechobee Watershed Protection Program implementation.—The coordinating agencies shall be jointly responsible for implementing the Lake Okeechobee Watershed Protection Program, consistent with the statutory authority and responsibility of each agency. Annual funding priorities shall be jointly established, and the highest priority shall be assigned to programs and projects that address sources that have the highest relative contribution to loading and the greatest potential for reductions needed to meet the total maximum daily loads. In determining funding priorities, the coordinating agencies shall also consider the need for regulatory compliance, the extent to which the program or project is ready to proceed, and the availability of federal matching funds or other nonstate funding, including public-private partnerships. Federal and other nonstate funding shall be maximized to the greatest extent practicable.

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

(4) **CALOOSAHATCHEE RIVER WATERSHED PROTECTION PROGRAM AND ST. LUCIE RIVER WATERSHED PROTECTION PROGRAM.**—A protection program shall be developed and implemented as specified in this subsection. To protect and restore surface water resources, the program shall address

the reduction of pollutant loadings, restoration of natural hydrology, and compliance with applicable state water quality standards. The program shall be achieved through a phased program of implementation. In addition, pollutant load reductions based upon adopted total maximum daily loads established in accordance with s. 403.067 shall serve as a program objective. In the development and administration of the program, the coordinating agencies shall maximize opportunities provided by federal and local government cost-sharing programs and opportunities for partnerships with the private sector and local government. The program shall include a goal for salinity envelopes and freshwater inflow targets for the estuaries based upon existing research and documentation. The goal may be revised as new information is available. This goal shall seek to reduce the frequency and duration of undesirable salinity ranges while meeting the other water-related needs of the region, including water supply and flood protection, while recognizing the extent to which water inflows are within the control and jurisdiction of the district.

(a) Caloosahatchee River Watershed Protection Plan.—The district, in cooperation with the other coordinating agencies, Lee County, and affected counties and municipalities, shall complete a River Watershed Protection Plan in accordance with this subsection. The Caloosahatchee River Watershed Protection Plan shall identify the geographic extent of the watershed, be coordinated as needed with the plans developed pursuant to paragraph (3)(a) and paragraph (c) of this subsection, and include the Caloosahatchee River Watershed Construction Project and the Caloosahatchee River Watershed Research and Water Quality Monitoring Program.

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

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

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

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

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

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

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

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

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

(b) Caloosahatchee River Watershed Basin Management Action Plans.—The basin management action plans adopted pursuant to s. 403.067 for the Caloosahatchee River watershed shall be the Caloosahatchee River Watershed Pollutant Control Program. The plans shall be designed to be a multifaceted approach to reducing pollutant loads by improving the management of pollutant sources within the Caloosahatchee River watershed through implementation of regulations and best management practices, development and implementation of improved best management practices, improvement and restoration of the hydrologic function of natural and managed systems, and utilization of alternative technologies for pollutant reduction, such as cost-effective biologically based, hybrid wetland/chemical and other innovative nutrient control technologies. As provided in s. 403.067(7)(a)6., the Caloosahatchee River Watershed Basin Management Action Plans must include milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to

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

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

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

which are necessary to maintain a federally delegated or approved program.

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

4. The Caloosahatchee River Watershed Basin Management Action Plans shall require assessment of current water management practices within the watershed and shall require development of recommendations for structural, nonstructural, and operational improvements. Such recommendations shall consider and balance water supply, flood control, estuarine salinity, aquatic habitat, and water quality considerations.

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

6. The Department of Health shall require all entities disposing of septage within the Caloosahatchee River watershed to develop and submit to that agency an agricultural use plan that limits applications based upon nutrient loading consistent with any basin management action plan adopted pursuant to s. 403.067.

7. The Department of Agriculture and Consumer Services shall require entities within the Caloosahatchee River watershed which land-apply animal manure to develop a resource management system level conservation plan, according to United States Department of Agriculture criteria, which limit such application. Such rules shall include criteria and thresholds

for the requirement to develop a conservation or nutrient management plan, requirements for plan approval, site inspection requirements, and recordkeeping requirements.

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

(c) St. Lucie River Watershed Protection Plan.—The district, in cooperation with the other coordinating agencies, Martin County, and affected counties and municipalities shall complete a plan in accordance with this subsection. The St. Lucie River Watershed Protection Plan shall identify the geographic extent of the watershed, be coordinated as needed with the plans developed pursuant to paragraph (3)(a) and paragraph (a) of this subsection, and include the St. Lucie River Watershed Construction Project and St. Lucie River Watershed Research and Water Quality Monitoring Program.

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

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

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

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

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

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

f. To ensure timely implementation, coordinate the design, scheduling, and sequencing of project facilities with the coordinating agencies, Martin County, St. Lucie

County, other interested parties, and other affected local governments.

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

(d) St. Lucie River Watershed Basin Management Action Plan.—The basin management action plan for the St. Lucie River watershed adopted pursuant to s. 403.067 shall be the St. Lucie River Watershed Pollutant Control Program and shall be designed to be a multifaceted approach to reducing pollutant loads by improving the management of pollutant sources within the St. Lucie River watershed through implementation of regulations and best management practices, development and implementation of improved best management practices, improvement and restoration of the hydrologic function of natural and managed systems, and use of alternative technologies for pollutant reduction, such as cost-effective biologically based, hybrid wetland/chemical and other innovative nutrient control technologies. As provided in s. 403.067(7)(a)6., the St. Lucie River Watershed Basin Management Action Plan must include milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones shall be conducted every 5 years and shall be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Revisions to the plan shall be made, as appropriate, as a result of each 5-year review. Revisions to the basin management action plan shall be made by the department in cooperation with the basin stakeholders. Revisions to best management practices or other measures must follow the procedures set forth in s. 403.067(7)(c)4. Revised basin management action plans must be adopted pursuant to s. 403.067(7)(a)5. The department shall develop an implementation schedule establishing 5-year, 10-year, and 15-year measurable milestones and targets to achieve the

total maximum daily load no more than 20 years after adoption of the plan. The initial implementation schedule shall be used to provide guidance for planning and funding purposes and is exempt from chapter 120. Upon the first 5-year review, the implementation schedule shall be adopted as part of the plan. If achieving the total maximum daily load within 20 years is not practicable, the implementation schedule must contain an explanation of the constraints that prevent achievement of the total maximum daily load within 20 years, an estimate of the time needed to achieve the total maximum daily load, and additional 5-year measurable milestones, as necessary. The coordinating agencies shall facilitate the use of federal programs that offer opportunities for water quality treatment, including preservation, restoration, or creation of wetlands on agricultural lands.

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

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

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

4. The St. Lucie River Watershed Basin Management Action Plan shall require assessment of current water management practices within the watershed and shall require

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

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

6. The Department of Health shall require all entities disposing of septage within the St. Lucie River watershed to develop and submit to that agency an agricultural use plan that limits applications based upon nutrient loading consistent with any basin management action plan adopted pursuant to s. 403.067.

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

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

(e) River Watershed Protection Plan implementation.—The coordinating agencies shall be jointly responsible for implementing the River Watershed Protection Plans, consistent with the statutory authority and responsibility of each agency. Annual funding priorities shall be jointly established, and the highest priority shall be assigned to

programs and projects that have the greatest potential for achieving the goals and objectives of the plans. In determining funding priorities, the coordinating agencies shall also consider the need for regulatory compliance, the extent to which the program or project is ready to proceed, and the availability of federal or local government matching funds. Federal and other nonstate funding shall be maximized to the greatest extent practicable.

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

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

(5) **ADOPTION AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS AND DEVELOPMENT OF BASIN MANAGEMENT ACTION PLANS.**—The department is directed to expedite development and adoption of total maximum daily loads for the Caloosahatchee River and estuary. The department is further directed to propose for final agency action total maximum daily loads for nutrients in the tidal portions of the Caloosahatchee River and estuary. The department shall initiate development of basin management action plans for Lake Okeechobee, the Caloosahatchee River watershed and estuary, and the St. Lucie River watershed and estuary as provided in s. 403.067 as follows:

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

(b) The Phase II technical plan development pursuant to paragraph (3)(a), and the River Watershed Protection Plans

developed pursuant to paragraphs (4)(a) and (c), shall provide the basis for basin management action plans developed by the department.

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

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

(e) As provided in s. 403.067, management strategies and pollution reduction requirements set forth in a basin management action plan for a specific pollutant of concern are not subject to challenge under chapter 120 at the time they are incorporated, in an identical form, into a department or district issued permit or a permit modification issued in accordance with subsection (7).

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

the agricultural nonpoint source best management practices, including an implementation assurance report summarizing survey responses and response rates, site inspections, and other methods used to verify implementation of and compliance with best management practices in the Lake Okeechobee, Caloosahatchee River, and St. Lucie River watersheds.

(7) **LAKE OKEECHOBEE PROTECTION PERMITS.—**

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

(b) Permits obtained pursuant to this section are in lieu of all other permits under this chapter or chapter 403, except those issued under s. 403.0885, if applicable. Additional permits are not required for the Lake Okeechobee Watershed Construction Project, or structures discharging into or from Lake Okeechobee, if such project or structures are permitted under this section. Construction activities related to implementation of the Lake Okeechobee Watershed Construction Project may be initiated before final agency action, or notice of intended agency action, on any permit from the department under this section.

(c)

1. Owners or operators of existing structures which discharge into or from Lake Okeechobee that were subject to Department Consent Orders 91-0694, 91-0705, 91-0706, 91-0707, and RT50-205564 and that are subject to s. 373.4592(4)(a) do not require a permit under this section and shall be governed by permits issued under ss. 373.413 and 373.416 and the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067.

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

3. By January 1, 2017, the district shall submit to the department a complete application for a permit modification to the Lake Okeechobee structure permits to incorporate proposed

changes necessary to ensure that discharges through the structures covered by this permit are consistent with the basin management action plan adopted pursuant to s. 403.067.

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

1. District regional projects that are part of the Lake Okeechobee Watershed Construction Project shall achieve the design objectives for phosphorus required in subparagraph (3)(a)1.;

2. For water quality standards other than phosphorus, the quality of water discharged from the facility is of equal or better quality than the inflows;

3. Discharges from the facility do not pose a serious danger to public health, safety, or welfare; and

4. Any impacts on wetlands or state-listed species resulting from implementation of that facility of the Lake Okeechobee Construction Project are minimized and mitigated, as appropriate.

(e) At least 60 days before the expiration of any permit issued under this section, the permittee may apply for a renewal thereof for a period of 5 years.

(f) Permits issued under this section may include any standard conditions provided by department rule which are appropriate and consistent with this section.

(g) Permits issued under this section may be modified, as appropriate, upon review and approval by the department.

(8) **RESTRICTIONS ON WATER DIVERSIONS**.—The South Florida Water Management District shall not divert waters to the St. Lucie River, the Indian River estuary, the Caloosahatchee River or its estuary, or the Everglades National Park, in such a way that the state water quality standards are violated, that the nutrients in such diverted waters adversely affect indigenous vegetation communities or wildlife, or that fresh waters diverted to the St. Lucie River or the Caloosahatchee or Indian River estuaries adversely affect the estuarine vegetation or wildlife, unless the receiving waters will biologically benefit by the diversion. However, diversion is permitted when an

emergency is declared by the water management district, if the Secretary of Environmental Protection concurs.

(9) **PRESERVATION OF PROVISIONS RELATING TO THE EVERGLADES.**—Nothing in this section shall be construed to modify any provision of s. 373.4592.

(10) **RIGHTS OF SEMINOLE TRIBE OF FLORIDA.**—Nothing in this section is intended to diminish or alter the governmental authority and powers of the Seminole Tribe of Florida, or diminish or alter the rights of that tribe, including, but not limited to, rights under the water rights compact among the Seminole Tribe of Florida, the state, and the South Florida Water Management District as enacted by Pub. L. No. 100-228, 101 Stat. 1556, and chapter 87-292, Laws of Florida, and codified in s. 285.165, and rights under any other agreement between the Seminole Tribe of Florida and the state or its agencies. No land of the Seminole Tribe of Florida shall be used for water storage or stormwater treatment without the consent of the tribe.

(11) **RELATIONSHIP TO STATE WATER QUALITY STANDARDS.**—Nothing in this section shall be construed to modify any existing state water quality standard or to modify the provisions of s. 403.067(6) and (7)(a).

(12) **RULES.**—The governing board of the district is authorized to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section.

(13) **PRESERVATION OF AUTHORITY.**—Nothing in this section shall be construed to restrict the authority otherwise granted to agencies pursuant to this chapter and chapter 403, and provisions of this section shall be deemed supplemental to the authority granted to agencies pursuant to this chapter and chapter 403.

FL Admin Code R 5M-3.001. Purpose.

The purpose of this rule is to effect pollutant reduction through the implementation of agricultural Best Management Practices (BMPs) that may be determined to have minimal individual or cumulative adverse impacts to the water resources of the state, including requirements for agricultural operations that land-apply animal manure.

FL Admin Code R 5M-3.002. Definitions.

(1) "Animal manure" is animal excrement or animal waste and any mixed materials, including bedding, compost, yard waste, or other raw materials.

(2) "Northern Everglades" means the Lake Okeechobee Watershed, the Caloosahatchee River Watershed, and the St. Lucie River Watershed, as defined in Section 373.4595(2), F.S.

(3) "Notice of Intent (NOI)" means a form provided by the Florida Department of Agriculture and Consumer Services (FDACS) to be submitted by the producer to enroll in BMPs.

(4) "Nutrient Management Plan" is the documentation that specifies the amount, placement, form, and timing of the application of nutrients, including manure, animal by-products, biosolids, and soil amendments. The nutrient management plan must be approved by the Natural Resources Conservation Service (NRCS) or a technical service provider.

(5) "Technical Service Provider" is an individual or entity certified by the NRCS to provide technical services for conservation planning.

FL Admin Code R 5M-3.003. Required Best Management Practices.

(1) Agricultural operations located within the Northern Everglades shall:

(a) Implement BMPs in the manual(s) adopted by FDACS under Title 5M, F.A.C., relevant to their operations, in accordance with the applicable rule(s); or

(b) As eligible under Rule 5M-12.003, F.A.C., develop and implement a conservation plan in accordance with the provisions of Rule Chapter 5M-12, F.A.C.; or

(c) Conduct water quality monitoring prescribed by the Florida Department of Environmental Protection (FDEP) or the relevant water management district in accordance with Section 403.067(7)(b)2.g., F.S., to demonstrate compliance with state water quality standards.

(2) Agricultural operations within the Northern Everglades that land-apply animal manure shall also comply with the provisions of Rule 5M-3.004, F.A.C.

(3) Plans and NOIs submitted to FDACS under Rule Chapter 5M-3, F.A.C., prior to the effective date of this rule revision are grandfathered and deemed to meet the requirements of this section. However, previously submitted conservation plans must be reviewed and updated pursuant to subsection 5M-12.004(3), F.A.C., except for those operations that have conservation plans but choose instead to implement BMPs pursuant to paragraph (1)(a).

FL Admin Code R 5M-3.005. BMP Record Keeping.

Producers must comply with the record-keeping requirements contained in the specific rules under which they submit their NOIs. All record-keeping documentation must be maintained for a minimum of five years and be made available for inspection upon request.

FL Admin Code R 5M-3.006. Access to Properties.

Producers who implement BMPs under this rule shall allow FDACS, or FDACS in conjunction with FDEP, the applicable water management district and/or NRCS representatives, access to their property to confirm implementation, operation, and maintenance of BMPs. Advance notice of inspections shall be provided to the landowner.

FL Admin Code R 5M-3.007. Record Keeping. [Repealed]

FL Admin Code R 40E-61.041. Permits Required.

(1) Each parcel of land within the Lake Okeechobee Drainage Basin is presumed to connect to or make use of the Works Of The District Within The Lake Okeechobee Drainage Basin. Unless expressly exempted, a permit shall be required to connect to, make use of, alter, remove works from, or place works within, on, or across the Works Of The District Within The Lake Okeechobee Drainage Basin.

(2)

(a) Individual Permits are required for the parcels of land in the Lake Okeechobee Drainage Basin which are:

1. Used for improved pasture (including heifer farms and areas of dairies not covered by Rule 17-6.330-17-6.337, F.A.C. (DER Dairy Rule)), vegetable farms (including row crops); and

2. Located in S-191, S-154, S-127, C-38 Pool E, S-4 Basin, S-71, S-72, Industrial Canal Basin, S-133, Culvert 10 (East Beach Drainage District), C-38 Pool D, Culvert 12A (715 Farms), Fisheating Creek, or S-154C.

(b) All other parcels in the Lake Okeechobee Drainage Basin qualify for a General Permit pursuant to Rule 40E-61.042, F.A.C. Parcels qualifying under Rule 40E-61.042(1)(c), F.A.C., are not required to submit a Notice Of Intent. Parcels qualifying under Rule 40E-61.041(2), F.A.C., are required to submit a Notice Of Intent.

(3) Landowners of parcels within a basin or grouping of basins may submit a collective application for a permit based upon a management

plan for a defined geographic area. Land owners of parcels within the geographic area defined by the collective application who do not participate in the collective application must comply individually with the applicable individual or general permit requirements.

(4) Landowners of parcels within the Everglades Agricultural Area (EAA) served by water management systems tributary to S-4, Industrial Canal, S-236, S-2, S-3, Culvert 4A, Culvert 12, S-351, Culvert 12A and Culvert 10 may submit a collective application for a permit. The collective application shall be called a Management Plan Master Permit application, based upon a management plan, and shall be submitted by the Everglades Agricultural Area Environmental Protection District or other quasi-public or nonprofit corporation or legal entity which has been determined by the District to have adequate authority and financial resources to fulfill all permit conditions. Compliance with the Management Plan Master Permit approved by the Governing Board shall establish compliance with Rule Chapter 40E-61 for landowners who are participants in the Management Plan Master Permit and utilize works of the District directly or indirectly within the area of the Management Plan Master Permit. Landowners who are included within the Management Plan Master Permit area which do not participate in the Management Plan Master Permit must apply for the applicable individual or general permits.

(5) Landowners of parcels within the Everglades Agricultural Area (EAA) served by water management systems tributary to S-4, Industrial Canal, S-236, S-2, S-3, Culvert 4A, Culvert 12, S-351, Culvert 12A and Culvert 10 shall obtain a BMP research permit pursuant to Rules 40E-63.301-40E-63.323, F.A.C.

(6) Applications for surface water management permits, works or land of the District permits, or water use permits will be processed concurrently with works of the District within the Lake Okeechobee Basin, if requested by the applicant. Applicants are encouraged to submit concurrent surface water management permit applications if the applicant expects to make site improvements to improve water quality discharges that constitute surface water management works and require a permit pursuant to Chapter 373, Part IV, Florida Statutes.

(7) The procedures specified in Rule 40E-1, Part VI, shall apply to applications for Individual Permits and Notices of Intent required by this rule chapter.

FL Admin Code R 40E-61.042. General Permits for Use of Works of the District Within the Lake Okeechobee Basin.

Parcels of land within the Lake Okeechobee Drainage Basin that connect to or make use of the Works Of The District Within The Lake Okeechobee Drainage

Basin, that are not exempt under Rule 40E-61.051, F.A.C., and that meet the conditions specified below are granted a General Permit to connect to and make use of the Works Of The District Within The Lake Okeechobee Drainage Basin, subject to the requirements of this rule chapter.

(1)

(a) The parcels of land described below qualify for a General Permit, subject to the conditions specified below in paragraphs 40E-61.042(1)(b) and (c), F.S.:

1. All land uses in these sub-basins:

S-236 (So Fla Conservancy)

Culvert 4A (So Bay/So Shore)

Culvert 12 (East Shore DD)

L59 E & W & Culvert A

S-2 & S-3

C-38 Pool A (S-65-A)

C-38 Pool B (S-65-B)

C-38 Pool C (S-65-C)

S-84 S-131 & S-135

L-60 E & W

L-61 E & W

Culvert 5 (Nicodemus Slough)

S 308 C (C-44 & S-153)

S-129

S-351

S-77 Culvert 10A

2. All land uses not specified below in subparagraph 40E-61.042(2)(a)1., F.A.C., below or subparagraph 40E-61.041(2)(a)1., F.A.C., in these sub-basins:

S-191, S-154, S-127

C-38 Pool E

S-4 S-71 & S-72

Industrial Canal

S-133 Culvert 10 (East Beach Drainage District)

C-38 Pool D

Culvert 12A (715 Farms)

Fisheating Creek

S-154C

(b) Limiting Condition: The phosphorus concentration discharges from a parcel or sub-basin shall meet the applicable Off-site Total Phosphorus Discharge Concentration listed on Table 40E-61-1, F.A.C.

(c) No Notice of Intent is required unless the District's monitoring program or other data indicates that discharge from a parcel or sub-basin is not in compliance with the applicable discharge concentration limitation. The total phosphorus concentration exceedance values specified in Table 40E-61-2 and procedures described in paragraph 40E-61.381(2)(b), F.A.C., shall be used in evaluating whether the discharge from a parcel or sub-basin exceeds the allowable concentration. A Notice of Intent pursuant to paragraph 40E-61.042(2)(b), F.A.C., below or an application for an Individual Permit pursuant to paragraph 40E-61.041(2)(a), F.A.C., shall be required for parcels or sub-basins not in compliance. Notice of the requirements shall be provided to sub-basins by Notice of Rulemaking or to individual parcel owners by electronic mail or in writing by certified mail.

(2)

(a) The parcels of land described below qualify for a General Permit subject to the conditions specified below in paragraphs 40E-61.042(2)(b), (c) and (d), F.A.C.:

1. Parcels of land used for urban stormwater, nurseries, golf courses, land spreading of sludge, sugar cane, sod farms, or horse farms; and

2. Located in these sub-basins:

S-191

S-154

S-127

C-38 Pool E

S-4

S-71

S-72 Industrial Canal Basin

S-133 Culvert 10 (East Beach Drainage District)

C-38 Pool D

Culvert 12A (715 Farms)

Fisheating Creek

S-154C

(b) A Notice Of Intent To Use The Works Of The District Within The Lake Okeechobee Drainage Basin, shall be submitted according to the schedule specified in paragraph 40E-61.031(2)(a), F.A.C., and shall include the following information:

1. The parcel owner's name and address;

2. Date and signature of parcel owner or duly authorized agent;

3. General description of the subject property and land uses conducted on it;

4. A statement indicating how phosphorus discharge will be controlled.

(c) If the information provided in the Notice Of Intent is not sufficient to determine whether the parcel qualifies for a general permit, the District shall request the parcel owner to submit additional information. If additional information is required, it shall be requested within 30 days of receipt of the Notice of Intent.

(d) Limiting Conditions:

1. If requested by the District by electronic mail or in writing by certified mail, the permittee shall provide the monitoring data described in paragraph 40E-61.381(2)(a), F.A.C.

2. The phosphorus concentration discharged from a parcel must meet the applicable Off-Site Total Phosphorus Discharge Concentration listed on Table 40E-61-1, F.A.C. If the District's monitoring program or other data indicates that the discharge from the permitted parcel exceeds the

criteria, the general permit may be revoked or other corrective action (including application for an individual permit) may be required. The monitoring criteria specified in Table 40E-61-1 and paragraph 40E-61.381(2)(b), F.A.C., will be used in evaluating whether the discharge from a parcel or sub-basin exceeds the allowable concentration.

3. The limiting conditions in paragraphs 40E-61.381(2)(b)-(m), F.A.C., shall apply.

FL Admin Code R 40E-61.051. Exemptions.

Unless included voluntarily in a management plan for a defined geographic area (Rule 40E-61.041(3) or (4), Permits Required), a permit under this rule chapter shall not be required for:

(1) Activities of dairy farms which are subject to and operated and maintained in compliance with the requirements of a valid permit issued pursuant to the Department of Environmental Regulation dairy rule codified in Rules 17-6.330-17-6.337, F.A.C. Any dairy farm construction, operation, or maintenance which goes beyond the activity described in the management plan approved in a valid permit pursuant to the dairy rule may require review for compliance with Rule 40E-4, F.A.C., Surface Water Management, or other applicable District permit requirements. The District will review closely the monitoring data generated for each dairy to determine whether the dairy rule is resulting in compliance with the goals and objectives for phosphorus loading reductions established in Rule 40E-61.020(1), F.A.C. If the review reveals that notwithstanding implementation of DER dairy rule best management practices, those goals and objectives are not being achieved, the District, in conjunction with DER, shall analyze the information and data in time to take effective corrective action if that becomes necessary. Such action may include, but not be limited to enforcement action against a particular dairy, permit issuance or modification to ensure compliance with loading reduction requirements, or further rulemaking.

(2) Stationary installations which are regulated by the Department of Environmental Regulation.

(3) Land units less than one-half acre in size which cannot reasonably be expected to discharge water in violation of the criteria in this rule chapter.

(4) Septic tanks as defined in Rule 64E-6.002(35), F.A.C., except for septic tanks that collectively create a local source of phosphorus that significantly impacts Lake Okeechobee as demonstrated by competent substantial evidence.

(5) Activities exempt from permitting pursuant to Section 403.813(2), F.S., except when the District has a proprietary interest in the work.

FL Admin Code R 40E-61.101. Content of Application for Individual and Collective Permits.

(1) All applications for individual permits required by this chapter shall be filed with the District. The application shall contain:

(a) Form RC-1, Application to the South Florida Water Management District, incorporated by reference into Rule 40E-1.901(1), F.A.C.;

(b) Date and signature of applicant or duly authorized agent;

(c) General description of the subject property, including drainage features showing general direction of flow, inflow points, discharge points off-site, proposed monitoring locations, and available data on existing water quality;

(d) General description of activities conducted on the property and any proposed construction or change in activity;

(e) A statement indicating how phosphorus discharge will be controlled.

(2) Applications for permits submitted on behalf of more than one owner shall contain the following additional information:

(a) Description of a legally responsible entity;

(b) Description of financial and other resources available to implement projects.

(3) The application for the Management Plan Master Permit submitted pursuant to 40E-61.041(4) shall contain the following information in addition to the information required by rule sections (1) and (2):

(a) The area within which landowners will be authorized to utilize works of the District shall be clearly defined;

(b) Interlocal agreements with municipalities, other entities of local government to the extent necessary to identify the landowners and local government entities which are participants in and who have accepted responsibility under the Master Permit;

(c) Written contracts with landowners who have accepted responsibility for specific phosphorus control projects or activities;

(d) Describe the reasonable assurances that the required load reductions will be realized.

(4) Applications for renewals of permits must provide the information and meet the criteria required for initial permits.

FL Admin Code R 40E-61.201. Permit Application Processing Fee.

A permit processing fee shall be paid to the District at the time a permit application is filed pursuant to Rule 40E-61.031, F.A.C. The fee for an application for an Individual Permit under this rule chapter is $ 150. The fee for a Notice of Intent for a General Permit is $ 100. There is no fee for a General Permit without Notices of Intent or automatic renewals.

FL Admin Code R 40E-61.301. Conditions for Issuance for Individuals and Collective Permits.

(1) Phosphorus discharge concentrations which leave property owned or controlled by an applicant for an individual permit must not exceed the interim allowable annual average discharge phosphorus concentration as specified in Table 40E-61-1 for the applicant's sub-basin.

(2) Management Plans proposed for collective applications of landowners of parcels within a defined geographic area shall:

(a) Be consistent with the scope of this rule chapter as described in 40E-61.020, F.A.C. (Scope of Part I);

(b) Provide for a reduction in the average annual phosphorus discharge concentration at least equivalent to the sum of the reductions required by the applicable limitations on Table 40E-61-1 for each sub-basin within the defined geographic area;

(c) Demonstrate that a legally responsible entity (including but not limited to special taxing district, not for profit corporations, and associations) is available to ensure performance of the management plan, and is subject to enforcement actions relating to projects or works contained in the plan.

(3) Approval or denial of the Management Plan Master Permit application submitted pursuant to Rule 40E-61.041(4) shall be based upon the District's review of the information and analyses provided and the Governing Board's determination as to whether the Management Plan Master Permit application provides reasonable assurances that the requirements of paragraphs (3)(a)-(e) below will be met. If approved by the Governing Board, the Management Plan Master Permit rather than individual or general permits shall

provide authorization to utilize the works of the District for a period of 5 years from the date of approval provided the conditions of this section and the Management Plan Master Permit are met. The Management Plan Master Permit shall:

(a) Result in a net reduction of the average annual phosphorus loading to Lake Okeechobee from the area of the Permit of at least 8 tons per year by July 1, 1992, and 2 additional tons per year by July 1, 1994, for a total net reduction of 10 tons per year. The Management Plan Master Permit holder must provide reasonable assurances that the load reductions will be realized in Lake Okeechobee and not in other tributary systems. The Management Plan Master Permit may include specific phosphorus control projects, treatment and disposal systems, modified water management and agricultural practices and other appropriate management strategies for the reduction of average annual phosphorus loading to Lake Okeechobee. Projects, systems, practices and strategies implemented after February 9, 1989, shall be eligible for inclusion in the Management Plan Master Permit;

(b) Include any activity which may result in discharges of phosphorus into Lake Okeechobee including point and non-point sources and control those activities necessary to achieve the net reduction required in paragraph (a). The Management Plan Master Permit shall be conditioned on a requirement that there shall be no net increase in activities which result in a net increase in phosphorus loading to Lake Okeechobee from water management systems and activities within the area of the Permit not specifically modified or controlled by the projects enumerated in the Management Plan Master Permit. The Management Plan Master Permit shall include conditions demonstrating that there has been no net increase in phosphorus from water management systems and activities within the area of the Management Plan Master Permit not specifically modified or controlled by the projects enumerated in the Management Plan Master Permit. The Management Plan Master Permit shall include conditions requiring adequate monitoring and engineering procedures and reports establishing that compliance with the phosphorus reduction requirements of the Management Plan Master Permit has been achieved;

(c) Not be based upon any proposed revisions to the interim action plan governing the District's structures discharging into Lake Okeechobee. To the extent the proposed Management Plan Master Permit includes additional diversions from Lake Okeechobee to the Conservation Areas, these diversions shall meet all requirements established by rules implementing the District's Everglades SWIM Plan;

(d) Establish compliance only with the provisions of this rule chapter. Participation in the Management Plan Master Permit does not relieve parcel owners or the Management Plan Master Permittee from compliance with requirements of other rules or statutory requirements applicable to Lake Okeechobee or other water bodies. The Management Plan Master Permit may be modified to include an overall Management Plan Master Permit for the EAA which complies with the requirements of this rule chapter and the Everglades SWIM Plan currently being prepared, provided that the 10 ton per year phosphorus reduction required by the Management Plan Master Permit proposed under this rule chapter is met, in addition to the requirements of the Everglades SWIM Plan, including any phosphorus reduction requirements;

(e) Require contracts between the Management Plan Master Permit holder and those entities and landowners involved in activities or specific projects resulting in load reductions required under the Management Plan Master Permit.

FL Admin Code R 40E-61.321. Duration of Permits.

(1) Unless revoked or otherwise modified, the duration of an individual permit or general permit issued pursuant to this chapter is three years from the date of issuance. These permits are extended automatically for another three year period, unless the District advises the permittee by electronic mail or in writing at least 90 days prior to the expiration date that the permit will not be automatically extended. Permits not automatically extended expire three years from the date of issuance unless an application for a renewal is filed (Rule 40E-61.101, F.A.C.).

(2) General permits remain effective until this rule section is amended or the District notifies a permittee by electronic mail or in writing by certified mail pursuant to paragraph 40E-61.042(1)(c) or subparagraph 40E-61.042(2)(d)2., F.A.C., that the permit is revoked.

(3) When timely application is made, the existing Management Plan Master Permit shall not expire until final agency action. If the permit is denied or the pending approved permit conditions are modified from the previous issuance, the existing permit shall not expire until the last day for seeking review of the District order. The duration of renewals of or modifications to the Management Plan Master Permit issued pursuant to the Chapter will be specified by the District as a permit condition in the renewal or modification.