

12. **OLD BUSINESS**

a. Water Quality Issues

ii. Staff Reports

4. **RESOLUTION 09-027 OF THE CITY OF SANIBEL OPPOSING SENATE BILL 2016 AND HOUSE BILL 1123 RELATING TO ENVIRONMENTAL PERMITTING, WHICH WOULD AMEND SECTION 373.4144, FLORIDA STATUTES, AND SIGNIFICANTLY WEAKEN WETLAND PERMITTING REGULATIONS AND PROGRAMS IN THE STATE OF FLORIDA; URGING FLORIDA LEGISLATIVE REPRESENTATIVES TO REFRAIN FROM ANY FORM OF SUPPORT OR CO-SPONSORSHIP OF SB2016 AND HB1123 AND TO VOTE IN OPPOSITION TO SUCH PROPOSED BILLS; REQUESTING GOVERNOR CRIST TO ADVISE THE HOUSE AND SENATE LEADERSHIP DURING THE 2009 REGULAR SESSION THAT HE DOES NOT SUPPORT SB2016 OR HB1123; DIRECTING THAT THIS RESOLUTION BE FORWARDED TO FLORIDA GOVERNOR CRIST, THE SOUTHWEST FLORIDA LEGISLATIVE DELEGATION, THE MAYOR OF EACH MUNICIPALITY IN LEE COUNTY, THE LEADERSHIP OF THE FLORIDA LEAGUE OF CITIES AND EACH MEMBER OF THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS; AND PROVIDING AN EFFECTIVE DATE**

CITY OF SANIBEL

RESOLUTION 09-027

A RESOLUTION OF THE CITY OF SANIBEL OPPOSING SENATE BILL 2016 AND HOUSE BILL 1123 RELATING TO ENVIRONMENTAL PERMITTING, WHICH WOULD AMEND SECTION 373.4144, FLORIDA STATUTES, AND SIGNIFICANTLY WEAKEN WETLAND PERMITTING REGULATIONS AND PROGRAMS IN THE STATE OF FLORIDA; URGING FLORIDA LEGISLATIVE REPRESENTATIVES TO REFRAIN FROM ANY FORM OF SUPPORT OR CO-SPONSORSHIP OF SB2016 AND HB1123 AND TO VOTE IN OPPOSITION TO SUCH PROPOSED BILLS; REQUESTING GOVERNOR CRIST TO ADVISE THE HOUSE AND SENATE LEADERSHIP DURING THE 2009 REGULAR SESSION THAT HE DOES NOT SUPPORT SB2016 OR HB1123; DIRECTING THAT THIS RESOLUTION BE FORWARDED TO FLORIDA GOVERNOR CRIST, THE SOUTHWEST FLORIDA LEGISLATIVE DELEGATION, THE MAYOR OF EACH MUNICIPALITY IN LEE COUNTY, THE LEADERSHIP OF THE FLORIDA LEAGUE OF CITIES AND EACH MEMBER OF THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Senate Bill 2016 and House Bill 1123 have been filed, both bills being identical and titled “relating to environmental permitting, amending Section 373.4144, Florida Statutes, revising provisions requiring the Department of Environmental Protection to develop and use a mechanism consolidating Federal and State wetland permitting programs, authorizing implementation of a state programmatic general permit or regional general permits by the department and water management districts for certain dredge and fill activities, specifying conditions applicable to such permits, amending Section 373.4211, Florida Statutes, delaying the effective date of a rule adding Slash Pine and Gallberry to the list of facultative plants, revising provisions concerning methodologies used to delineate the landward extent of wetlands and surface waters, revising provisions concerning vegetative index used to delineate the landward extent of wetlands and surface waters, providing for permit modification under certain circumstances, providing for certain declaratory statements from the department,

providing exemptions for certain permit petitions and applications relating to specified activities”; and

WHEREAS, taken as a whole, these statutory amendments significantly weaken the environmental permitting regulations of the State of Florida; and

WHEREAS, the potential injury caused by such a weakening of the environmental permitting regulations far outweigh any perceived regulatory streamlining or economic savings that may be argued to be the basis of such bills; and

WHEREAS, Florida’s environment is an increasingly important and critical economic factor in the well being of the State of Florida, particularly in light of the economic downturn; and

WHEREAS, the enactment of this legislation weakening Florida’s environmental permitting regulations is not in the best interests of the citizens of the State of Florida;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sanibel, Florida, that:

SECTION 1. For the reasons stated hereinabove, the Sanibel City Council hereby declares its opposition to SB2016 and HB1123 and urges Florida Governor Crist, the Lee County Legislative Delegation, the Mayor of each municipality in Lee County, the leadership of the Florida League of Cities, and each member of the Lee County Board of County Commissioners to oppose SB2016 and HB1123.

SECTION 2. The City Council requests Governor Crist to strongly consider advising the leadership of the House and Senate during the 2009 Regular Session that he does not support SB2016 or HB1123.

SECTION 3. The City Council hereby directs that this Resolution be forwarded immediately to Florida Governor Crist, the Lee County Legislative Delegation, the Mayor of each municipality in Lee County, the leadership of the Florida League of Cities, and each member of the Lee County Board of County Commissioners.

SECTION 4. Effective date.

This Resolution shall take effect immediately upon adoption.

DULY PASSED AND ENACTED by the City Council of the City of Sanibel,
Florida, this 17th day of March, 2009.

AUTHENTICATION:

, Mayor

Pamela Smith, City Clerk

APPROVED AS TO FORM: *Kenneth B. Cuyler* 3/11/09
Kenneth B. Cuyler, City Attorney Date

Vote of Council Members:

Date filed with City Clerk: _____

By Senator Bennett

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A bill to be entitled
An act relating to environmental permitting; amending
s. 373.4144, F.S.; providing legislative intent;
revising provisions requiring the Department of
Environmental Protection to develop and use a
mechanism consolidating federal and state wetland
permitting programs; authorizing implementation of a
state programmatic general permit or regional general
permits by the department and water management
districts for certain dredge and fill activities;
specifying conditions applicable to such permits;
amending s. 373.4211, F.S.; delaying the effective
date of a rule adding slash pine and gallberry to the
list of facultative plants; revising provisions
concerning the methodologies used to delineate the
landward extent of wetlands and surface waters;
revising provisions concerning the vegetative index
used to delineate the landward extent of wetlands and
surface waters; providing for permit modification
under certain circumstances; providing for certain
declaratory statements from the department; providing
exemptions for certain permit petitions and
applications relating to specified activities;
providing an effective date.

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

Section 1. Section 373.4144, Florida Statutes, is amended
to read:

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30 373.4144 Federal environmental permitting.-

31 (1) The Legislature intends to:

32 (a) Facilitate coordination and a more efficient process of
33 implementing regulatory duties and functions between the
34 Department of Environmental Protection, the water management
35 districts, the United States Army Corps of Engineers, the United
36 States Fish and Wildlife Service, the National Marine Fisheries
37 Service, the United States Environmental Protection Agency, the
38 Fish and Wildlife Conservation Commission, and other relevant
39 federal and state agencies.

40 (b) Authorize the Department of Environmental Protection to
41 obtain issuance by the United States Army Corps of Engineers,
42 pursuant to state and federal law and as set forth in this
43 section, of an expanded state programmatic general permit, or a
44 series of regional general permits, for categories of activities
45 in waters of the United States governed by the Clean Water Act
46 and in navigable waters under the Rivers and Harbors Act of 1899
47 which are similar in nature, which will cause only minimal
48 adverse environmental effects when performed separately, and
49 which will have only minimal cumulative adverse effects on the
50 environment.

51 (c) Use the mechanism of a state general permit or regional
52 general permits to eliminate overlapping federal regulations and
53 state rules that seek to protect the same resource and to avoid
54 duplication of permitting between the United States Army Corps
55 of Engineers and the department for minor work located in waters
56 of the United States, including navigable waters, thus
57 eliminating, in appropriate cases, the need for a separate
58 individual approval from the United States Army Corps of

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59 Engineers while ensuring the most stringent protection of
60 wetland resources.

61 (d) Direct the department to not seek issuance of or take
62 any action pursuant to any such permits unless the conditions
63 are at least as protective of the environment and natural
64 resources as existing state law under this part and federal law
65 under the Clean Water Act and the Rivers and Harbors Act of
66 1899.

67 (e) Add slash pine and gallberry to the state list of
68 facultative species as an incentive for and contingent upon the
69 alignment of federal and state wetland jurisdictional
70 delineation, so that the alignment, which seeks to delineate the
71 same wetland communities, eliminates an impediment to obtaining
72 authorization from the United States Army Corps of Engineers for
73 a state programmatic general permit or regional general permits.
74 The department shall report annually to the Legislature on
75 efforts to eliminate impediments to achieving greater
76 efficiencies through expansion of a state programmatic general
77 permit or regional general permits. ~~The department is directed~~
78 ~~to develop, on or before October 1, 2005, a mechanism or plan to~~
79 ~~consolidate, to the maximum extent practicable, the federal and~~
80 ~~state wetland permitting programs. It is the intent of the~~
81 ~~Legislature that all dredge and fill activities impacting 10~~
82 ~~acres or less of wetlands or waters, including navigable waters,~~
83 ~~be processed by the state as part of the environmental resource~~
84 ~~permitting program implemented by the department and the water~~
85 ~~management districts. The resulting mechanism or plan shall~~
86 ~~analyze and propose the development of an expanded state~~
87 ~~programmatic general permit program in conjunction with the~~

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88 ~~United States Army Corps of Engineers pursuant to s. 404 of the~~
89 ~~Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss.~~
90 ~~1251 et seq., and s. 10 of the Rivers and Harbors Act of 1899.~~
91 ~~Alternatively, or in combination with an expanded state~~
92 ~~programmatic general permit, the mechanism or plan may propose~~
93 ~~the creation of a series of regional general permits issued by~~
94 ~~the United States Army Corps of Engineers pursuant to the~~
95 ~~referenced statutes. All of the regional general permits must be~~
96 ~~administered by the department or the water management districts~~
97 ~~or their designees.~~

98 (2) To effectuate efficient wetland permitting and avoid
99 duplication, the department and water management districts may
100 implement a voluntary state programmatic general permit for all
101 dredge and fill activities impacting 5 acres or less of wetlands
102 or other surface waters, including navigable waters, subject to
103 agreement with the United States Army Corps of Engineers, if the
104 general permit is at least as protective of the environment and
105 natural resources as existing state law under this part and
106 federal law under the Clean Water Act and the Rivers and Harbors
107 Act of 1899. The department is directed to file with the Speaker
108 of the House of Representatives and the President of the Senate
109 a report proposing any required federal and state statutory
110 changes that would be necessary to accomplish the directives
111 listed in this section and to coordinate with the Florida
112 Congressional Delegation on any necessary changes to federal law
113 to implement the directives.

114 ~~(3) Nothing in This section does not shall be construed to~~
115 ~~preclude the department from pursuing a series of regional~~
116 ~~general permits for construction activities in wetlands or~~

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117 surface waters or the complete assumption of federal permitting
118 programs regulating the discharge of dredged or fill material
119 pursuant to s. 404 of the Clean Water Act, Pub. L. No. 92-500,
120 as amended, 33 U.S.C. ss. 1251 et seq., and s. 10 of the Rivers
121 and Harbors Act of 1899, so long as the assumption encompasses
122 all dredge and fill activities in, on, or over jurisdictional
123 wetlands or waters, including navigable waters, within the
124 state.

125 (4) (a) In order to assist in facilitating the objectives of
126 this section and to promote consistency between federal and
127 state mitigation requirements, the department and water
128 management districts shall compare their rules regarding
129 mitigation for adverse impacts to the mitigation rules of the
130 United States Army Corps of Engineers and the Environmental
131 Protection Agency in 73 Federal Register, pages 19594-19705
132 (2008). The comparison shall be done in consultation with
133 appropriate representatives of the United States Army Corps of
134 Engineers and the Environmental Protection Agency. After
135 performing the comparison, the department and water management
136 districts shall:

- 137 1. Identify any inconsistent or contradictory provisions;
138 2. Recommend revisions to the rules of the department or
139 water management district to reduce redundant or duplicative
140 requirements; and
141 3. Recommend ways of increasing geographic size of the
142 drainage basins and regional watersheds to better facilitate or
143 reflect a watershed approach to mitigation.

144 (b) Unless directed otherwise by state law, the department
145 and each water management district shall amend their respective

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146 rules to eliminate inconsistent or contradictory provisions,
 147 reduce redundant or duplicative requirements, and increase the
 148 geographic size of drainage basins and regional watersheds to
 149 facilitate or reflect a watershed approach to mitigation.

150 (c) The department and water management districts shall
 151 submit a consolidated report regarding the requirements of this
 152 subsection to the Governor, the Chair of the Senate
 153 Environmental Preservation and Conservation Committee, and the
 154 Chair of the House Agriculture and Natural Resources Policy
 155 Committee by January 1, 2010. If the department and water
 156 management districts believe any conflicting state law prevents
 157 them from amending their rules to achieve the objectives of this
 158 subsection, the report shall identify such law and explain why
 159 it prevents a rule amendment to achieve the objectives of this
 160 subsection.

161 Section 2. Subsection (19) of section 373.4211, Florida
 162 Statutes, is amended to read:

163 373.4211 Ratification of chapter 17-340, Florida
 164 Administrative Code, on the delineation of the landward extent
 165 of wetlands and surface waters.—Pursuant to s. 373.421, the
 166 Legislature ratifies chapter 17-340, Florida Administrative
 167 Code, approved on January 13, 1994, by the Environmental
 168 Regulation Commission, with the following changes:

169 (19) (a) Rule 17-340.450(3) is amended by adding, after the
 170 species list, the following language:

171 "Within Monroe County and the Key Largo portion of Miami-
 172 Dade County only, the following species shall be listed as
 173 facultative: *Alternanthera paronychioides*, *Byrsonima lucida*,
 174 *Ernodea littoralis*, *Guapira discolor*, *Marnilkara bahamensis*,

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175 *Pisonis rotundata, Pithecellobium keyensis, Pithecellobium*
 176 *unquis-cati, Randia aculeata, Reynosia septentrionalis, and*
 177 *Thrinax radiata."*

178 (b) Pursuant to s. 373.421 and subject to the conditions
 179 described in this paragraph, the Legislature ratifies the
 180 changes to rule 62-340.450(3), Florida Administrative Code,
 181 approved on February 23, 2006, by the Environmental Regulation
 182 Commission which added slash pine (*pinus elliottii*) and
 183 gallberry (*ilex glabra*) to the list of facultative plants.
 184 However, this ratification and the rule revision shall not take
 185 effect until state and federal wetland jurisdictional
 186 delineation methodologies are aligned.

187 (c) Surface water and wetland delineations identified and
 188 approved by a permit issued under rules adopted under this part
 189 before July 1, 2009, shall remain valid until expiration of the
 190 permit, notwithstanding the changes to rule 62-340.450(3),
 191 Florida Administrative Code, as described in this subsection.
 192 For purposes of this paragraph, the term "identified and
 193 approved" means:

- 194 1. The delineation was field-verified by the permitting
 195 agency and such verification was surveyed as part of the
 196 application review process for the permit; or
- 197 2. The delineation was field-verified by the permitting
 198 agency and approved pursuant to the permit.

199
 200 Where surface water and wetland delineations were not identified
 201 and approved pursuant to the permit issued under rules adopted
 202 under this part, delineations within the geographical area to
 203 which the permit applies shall be determined pursuant to the

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204 rules applicable at the time the permit was issued,
 205 notwithstanding the changes to rule 62-340.450(3), Florida
 206 Administrative Code, as described in this subsection. This
 207 paragraph also applies to any modification of the permit issued
 208 under rules adopted pursuant to this part which does not
 209 constitute a substantial modification within the geographical
 210 area to which the permit applies.

211 (d) Any declaratory statement issued by the department
 212 under s. 403.9144, pursuant to rules adopted thereunder, or by
 213 the department or a water management district under s. 373.421,
 214 in response to a petition filed on or before July 1, 2009, shall
 215 continue to be valid for the duration of such declaratory
 216 statement. Any petition pending on or before July 1, 2009, is
 217 exempt from the changes to rule 62-340.450(3), Florida
 218 Administrative Code, as described in this subsection, and is
 219 subject to the provisions of chapter 62-340, Florida
 220 Administrative Code, in effect prior to such change. Activities
 221 proposed within the boundaries of a valid declaratory statement
 222 issued pursuant to a petition submitted to the department or the
 223 relevant water management district on or before July 1, 2009, or
 224 a revalidated jurisdictional determination prior to its
 225 expiration, shall continue thereafter to be exempt from the
 226 changes to rule 62-340.450(3), Florida Administrative Code, as
 227 described in this subsection.

228 Section 3. This act shall take effect July 1, 2009.

A bill to be entitled

An act relating to environmental permitting; amending s. 373.4144, F.S.; providing legislative intent; revising provisions requiring the Department of Environmental Protection to develop and use a mechanism consolidating federal and state wetland permitting programs; authorizing implementation of a state programmatic general permit or regional general permits by the department and water management districts for certain dredge and fill activities; specifying conditions applicable to such permits; amending s. 373.4211, F.S.; delaying the effective date of a rule adding slash pine and gallberry to the list of facultative plants; revising provisions concerning the methodologies used to delineate the landward extent of wetlands and surface waters; revising provisions concerning the vegetative index used to delineate the landward extent of wetlands and surface waters; providing for permit modification under certain circumstances; providing for certain declaratory statements from the department; providing exemptions for certain permit petitions and applications relating to specified activities; providing an effective date.

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

Section 1. Section 373.4144, Florida Statutes, is amended to read:

373.4144 Federal environmental permitting.--

29 (1) The Legislature intends to:

30 (a) Facilitate coordination and a more efficient process
31 of implementing regulatory duties and functions between the
32 Department of Environmental Protection, the water management
33 districts, the United States Army Corps of Engineers, the United
34 States Fish and Wildlife Service, the National Marine Fisheries
35 Service, the United States Environmental Protection Agency, the
36 Fish and Wildlife Conservation Commission, and other relevant
37 federal and state agencies.

38 (b) Authorize the Department of Environmental Protection
39 to obtain issuance by the United States Army Corps of Engineers,
40 pursuant to state and federal law and as set forth in this
41 section, of an expanded state programmatic general permit, or a
42 series of regional general permits, for categories of activities
43 in waters of the United States governed by the Clean Water Act
44 and in navigable waters under the Rivers and Harbors Act of 1899
45 which are similar in nature, which will cause only minimal
46 adverse environmental effects when performed separately, and
47 which will have only minimal cumulative adverse effects on the
48 environment.

49 (c) Use the mechanism of a state general permit or
50 regional general permits to eliminate overlapping federal
51 regulations and state rules that seek to protect the same
52 resource and to avoid duplication of permitting between the
53 United States Army Corps of Engineers and the department for
54 minor work located in waters of the United States, including
55 navigable waters, thus eliminating, in appropriate cases, the
56 need for a separate individual approval from the United States

57 Army Corps of Engineers while ensuring the most stringent
 58 protection of wetland resources.

59 (d) Direct the department to not seek issuance of or take
 60 any action pursuant to any such permits unless the conditions
 61 are at least as protective of the environment and natural
 62 resources as existing state law under this part and federal law
 63 under the Clean Water Act and the Rivers and Harbors Act of
 64 1899.

65 (e) Add slash pine and gallberry to the state list of
 66 facultative species as an incentive for and contingent upon the
 67 alignment of federal and state wetland jurisdictional
 68 delineation, so that the alignment, which seeks to delineate the
 69 same wetland communities, eliminates an impediment to obtaining
 70 authorization from the United States Army Corps of Engineers for
 71 a state programmatic general permit or regional general permits.
 72 The department shall report annually to the Legislature on
 73 efforts to eliminate impediments to achieving greater
 74 efficiencies through expansion of a state programmatic general
 75 permit or regional general permits. The department is directed
 76 to develop, on or before October 1, 2005, a mechanism or plan to
 77 consolidate, to the maximum extent practicable, the federal and
 78 state wetland permitting programs. It is the intent of the
 79 Legislature that all dredge and fill activities impacting 10
 80 acres or less of wetlands or waters, including navigable waters,
 81 be processed by the state as part of the environmental resource
 82 permitting program implemented by the department and the water
 83 management districts. The resulting mechanism or plan shall
 84 analyze and propose the development of an expanded state

85 ~~programmatic general permit program in conjunction with the~~
 86 ~~United States Army Corps of Engineers pursuant to s. 404 of the~~
 87 ~~Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss.~~
 88 ~~1251 et seq., and s. 10 of the Rivers and Harbors Act of 1899.~~
 89 ~~Alternatively, or in combination with an expanded state~~
 90 ~~programmatic general permit, the mechanism or plan may propose~~
 91 ~~the creation of a series of regional general permits issued by~~
 92 ~~the United States Army Corps of Engineers pursuant to the~~
 93 ~~referenced statutes. All of the regional general permits must be~~
 94 ~~administered by the department or the water management districts~~
 95 ~~or their designees.~~

96 (2) To effectuate efficient wetland permitting and avoid
 97 duplication, the department and water management districts may
 98 implement a voluntary state programmatic general permit for all
 99 dredge and fill activities impacting 5 acres or less of wetlands
 100 or other surface waters, including navigable waters, subject to
 101 agreement with the United States Army Corps of Engineers, if the
 102 general permit is at least as protective of the environment and
 103 natural resources as existing state law under this part and
 104 federal law under the Clean Water Act and the Rivers and Harbors
 105 Act of 1899. ~~The department is directed to file with the Speaker~~
 106 ~~of the House of Representatives and the President of the Senate~~
 107 ~~a report proposing any required federal and state statutory~~
 108 ~~changes that would be necessary to accomplish the directives~~
 109 ~~listed in this section and to coordinate with the Florida~~
 110 ~~Congressional Delegation on any necessary changes to federal law~~
 111 ~~to implement the directives.~~

112 (3) ~~Nothing in This section does not shall be construed to~~

113 preclude the department from pursuing a series of regional
 114 general permits for construction activities in wetlands or
 115 surface waters or the complete assumption of federal permitting
 116 programs regulating the discharge of dredged or fill material
 117 pursuant to s. 404 of the Clean Water Act, Pub. L. No. 92-500,
 118 as amended, 33 U.S.C. ss. 1251 et seq., and s. 10 of the Rivers
 119 and Harbors Act of 1899, so long as the assumption encompasses
 120 all dredge and fill activities in, on, or over jurisdictional
 121 wetlands or waters, including navigable waters, within the
 122 state.

123 (4) (a) In order to assist in facilitating the objectives
 124 of this section and to promote consistency between federal and
 125 state mitigation requirements, the department and water
 126 management districts shall compare their rules regarding
 127 mitigation for adverse impacts to the mitigation rules of the
 128 United States Army Corps of Engineers and the Environmental
 129 Protection Agency in 73 Federal Register, pages 19594-19705
 130 (2008). The comparison shall be done in consultation with
 131 appropriate representatives of the United States Army Corps of
 132 Engineers and the Environmental Protection Agency. After
 133 performing the comparison, the department and water management
 134 districts shall:

- 135 1. Identify any inconsistent or contradictory provisions;
- 136 2. Recommend revisions to the rules of the department or
 137 water management district to reduce redundant or duplicative
 138 requirements; and
- 139 3. Recommend ways of increasing geographic size of the
 140 drainage basins and regional watersheds to better facilitate or

141 reflect a watershed approach to mitigation.

142 (b) Unless directed otherwise by state law, the department
 143 and each water management district shall amend their respective
 144 rules to eliminate inconsistent or contradictory provisions,
 145 reduce redundant or duplicative requirements, and increase the
 146 geographic size of drainage basins and regional watersheds to
 147 facilitate or reflect a watershed approach to mitigation.

148 (c) The department and water management districts shall
 149 submit a consolidated report regarding the requirements of this
 150 subsection to the Governor, the Chair of the Senate
 151 Environmental Preservation and Conservation Committee, and the
 152 Chair of the House Agriculture and Natural Resources Policy
 153 Committee by January 1, 2010. If the department and water
 154 management districts believe any conflicting state law prevents
 155 them from amending their rules to achieve the objectives of this
 156 subsection, the report shall identify such law and explain why
 157 it prevents a rule amendment to achieve the objectives of this
 158 subsection.

159 Section 2. Subsection (19) of section 373.4211, Florida
 160 Statutes, is amended to read:

161 373.4211 Ratification of chapter 17-340, Florida
 162 Administrative Code, on the delineation of the landward extent
 163 of wetlands and surface waters.--Pursuant to s. 373.421, the
 164 Legislature ratifies chapter 17-340, Florida Administrative
 165 Code, approved on January 13, 1994, by the Environmental
 166 Regulation Commission, with the following changes:

167 (19) (a) Rule 17-340.450(3) is amended by adding, after the
 168 species list, the following language:

169 "Within Monroe County and the Key Largo portion of Miami-
 170 Dade County only, the following species shall be listed as
 171 facultative: *Alternanthera paronychioides*, *Byrsonima lucida*,
 172 *Ernodea littoralis*, *Guapira discolor*, *Marnilkara bahamensis*,
 173 *Pisonis rotundata*, *Pithecellobium keyensis*, *Pithecellobium*
 174 *unquis-cati*, *Randia aculeata*, *Reynosia septentrionalis*, and
 175 *Thrinax radiata*."

176 (b) Pursuant to s. 373.421 and subject to the conditions
 177 described in this paragraph, the Legislature ratifies the
 178 changes to rule 62-340.450(3), Florida Administrative Code,
 179 approved on February 23, 2006, by the Environmental Regulation
 180 Commission which added slash pine (*pinus elliottii*) and
 181 gallberry (*ilex glabra*) to the list of facultative plants.
 182 However, this ratification and the rule revision shall not take
 183 effect until state and federal wetland jurisdictional
 184 delineation methodologies are aligned.

185 (c) Surface water and wetland delineations identified and
 186 approved by a permit issued under rules adopted under this part
 187 before July 1, 2009, shall remain valid until expiration of the
 188 permit, notwithstanding the changes to rule 62-340.450(3),
 189 Florida Administrative Code, as described in this subsection.
 190 For purposes of this paragraph, the term "identified and
 191 approved" means:

192 1. The delineation was field-verified by the permitting
 193 agency and such verification was surveyed as part of the
 194 application review process for the permit; or

195 2. The delineation was field-verified by the permitting
 196 agency and approved pursuant to the permit.

197
 198 Where surface water and wetland delineations were not identified
 199 and approved pursuant to the permit issued under rules adopted
 200 under this part, delineations within the geographical area to
 201 which the permit applies shall be determined pursuant to the
 202 rules applicable at the time the permit was issued,
 203 notwithstanding the changes to rule 62-340.450(3), Florida
 204 Administrative Code, as described in this subsection. This
 205 paragraph also applies to any modification of the permit issued
 206 under rules adopted pursuant to this part which does not
 207 constitute a substantial modification within the geographical
 208 area to which the permit applies..

209 (d) Any declaratory statement issued by the department
 210 under s. 403.9144, pursuant to rules adopted thereunder, or by
 211 the department or a water management district under s. 373.421,
 212 in response to a petition filed on or before July 1, 2009, shall
 213 continue to be valid for the duration of such declaratory
 214 statement. Any petition pending on or before July 1, 2009, is
 215 exempt from the changes to rule 62-340.450(3), Florida
 216 Administrative Code, as described in this subsection, and is
 217 subject to the provisions of chapter 62-340, Florida
 218 Administrative Code, in effect prior to such change. Activities
 219 proposed within the boundaries of a valid declaratory statement
 220 issued pursuant to a petition submitted to the department or the
 221 relevant water management district on or before July 1, 2009, or
 222 a revalidated jurisdictional determination prior to its
 223 expiration, shall continue thereafter to be exempt from the
 224 changes to rule 62-340.450(3), Florida Administrative Code, as

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225 | described in this subsection.

226 | Section 3. This act shall take effect July 1, 2009.