



Agriculture & Natural Resources Subcommittee

**Tuesday, November 17, 2015
1:00 PM
Reed Hall (102 HOB)**

Meeting Packet

**Steve Crisafulli
Speaker**

**Tom Goodson
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Agriculture & Natural Resources Subcommittee

Start Date and Time: Tuesday, November 17, 2015 01:00 pm
End Date and Time: Tuesday, November 17, 2015 03:00 pm
Location: Reed Hall (102 HOB)
Duration: 2.00 hrs

Consideration of the following bill(s):

HB 351 Contaminated Sites by Drake

Consideration of the following proposed committee bill(s):



PCB ANRS 16-02 -- Fish and Wildlife Conservation Commission

Presentation on the Florida Keys
Presentation on the Florida Bay

NOTICE FINALIZED on 11/10/2015 3:23PM by Love.John

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 351 Contaminated Sites
SPONSOR(S): Drake
TIED BILLS: IDEN./SIM. BILLS: SB 92

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Gregory 	Harrington 
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Contaminated sites are any contiguous land, sediment, surface water, or groundwater areas that contain contaminants that may be harmful to human health or the environment. Brownfield sites are generally abandoned, idled, or underused industrial and commercial properties where expansion or redevelopment is complicated by actual or perceived environmental contamination. "Global Risk-Based Corrective Action" or "Global RBCA" requires risk-based corrective action (RBCA) to be applied to all contaminated sites in Florida, except if program specific cleanup requirements apply. RBCA is a process that bases remedial action for contaminated sites on potential human health effects resulting from exposure to chemical compounds. RBCA utilizes site-specific data, modeling results, risk assessment studies, institutional controls, engineering controls, or any combination thereof to provide for a flexible site-specific cleanup process that reflects the intended use of the property following cleanup, while maintaining adequate protection of human health, safety, and the environment. Persons responsible for site rehabilitation must follow the Department of Environmental Protection's (DEP's) RBCA procedure when rehabilitating a contaminated site.

This bill amends the Global RBCA and brownfield program specific cleanup statutes to:

- Add a definition of "background concentration" to include concentrations of contaminants that are naturally occurring or the result of anthropogenic (human) impacts unrelated to the discharge of pollutants or hazardous substances at the contaminated site undergoing rehabilitation. Currently, DEP may not require site rehabilitation to achieve a contamination target level (CTL) for any contaminant more stringent than the naturally occurring background contamination;
- Require DEP rules to include protocols for long-term natural attenuation for site rehabilitation;
- Require DEP to consider the interactive effects of contaminants, including additives, synergistic, and antagonistic effects when determining what constitutes a rehabilitation program task;
- Create an exception when applying state water quality standards if it is shown that the contaminants do not cause or contribute to the exceedance of applicable surface water quality criteria;
- Allow the use of risk assessment modeling and probabilistic risk assessment to create site-specific alternative CTLs; and
- Allow the use of alternative CTLs without institutional controls if certain conditions exist.

The bill appears to have an insignificant negative fiscal impact on the state, which can be absorbed within existing resources; an indeterminate positive fiscal impact on the private sector; and no fiscal impact on local governments. See Fiscal Analysis & Economic Impact Statement for more detail.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Contaminated sites are any contiguous land, sediment, surface water, or groundwater areas that contain contaminants that may be harmful to human health or the environment.¹ Prior to 2003, Florida used risk based corrective action (RBCA) (pronounced "Rebecca") at contaminated sites under the following Department of Environmental Protection (DEP) programs: the Petroleum Restoration Program, the Brownfield Program, and the Drycleaning Facility Restoration Program (collectively "program sites").² The program sites made up approximately 90 percent of all of the contaminated sites in Florida.³

RBCA is a process that bases remedial action for contaminated sites on potential human health effects resulting from exposure to chemical compounds.⁴ RBCA utilizes site-specific data, modeling results, risk assessment studies, institutional controls (such as deed restrictions limiting future use to industrial), engineering controls (such as placing an impervious surface over contaminated soils to prevent human exposure), or any combination thereof.⁵

DEP managed non-program sites under the Contamination Assessment Plan/Remedial Action Plan process (CAP/RAP) set forth in the Model Corrective Action for Contaminated Site Cases guidance document.⁶ These sites were required to be remediated to default cleanup target levels (CTLs).⁷ A CTL is the concentration of a contaminant identified by an applicable analytical test method, in the medium of concern (e.g., soil or water), at which a site rehabilitation program is deemed complete.⁸ DEP developed the CTLs based on human health and aesthetic factors.⁹ Aesthetic considerations include altered taste, odor, or color of the water.¹⁰ This approach offered little flexibility to provide site-specific remediation strategies, was inefficient,¹¹ and created a significant expense.¹²

Global RBCA

In 2003, the Legislature created s. 376.30701, F.S., commonly referred to as "Global Risk-Based Corrective Action" or "Global RBCA," which required RBCA to be applied to all contaminated sites in Florida to meet CTLs.¹³ Chapter 62-777, F.A.C., provides the default CTLs and a methodology for RBCA.¹⁴

¹ Section 376.301(10), F.S.

² Charles F. Mills III, *Global RBCA: Its Implementation, Foundation in Risk-Based Theory, and Implications*, 22 J. Land Use & Envtl. L. 101, 116 (Fall 2006).

³ *Id.* at 117.

⁴ *Id.* at 102.

⁵ Ralph A. DeMeo, Michael P. Petrovich, Christopher M. Teal, *Risk-Based Corrective Action In Florida: How Is It Working?*, the Florida Bar Journal, January 2015, at 47.

⁶ Mills, *supra* note 2, at 118. In 2005, the Fifth District Court of Appeals found this guidance document to be an unpromulgated rule, and therefore invalid. *Kerper v. Department of Environmental Protection*, 894 So.2d 1006 (Fla. 5th DCA 2005).

⁷ DeMeo, *supra* note 5, at 47.

⁸ Section 376.301(7), F.S.

⁹ DEP, *Technical Report: Development of Cleanup Target Levels (CTLs) For Chapter 62-777, F.A.C.*, at 7, incorporated by reference in rule 62-777.100, F.A.C.

¹⁰ *Id.*

¹¹ DeMeo, *supra* note 5, at 47.

¹² Mills, *supra* note 2, at 133.

¹³ *Id.* at 102.

¹⁴ *Id.* at 118.

Global RBCA does not apply to contaminated sites subject to the risk-based corrective action cleanup criteria established for the petroleum, brownfields, and drycleaning programs.¹⁵ These programs provide financial and regulatory incentives to facilitate cleanup, and are subject to RBCA criteria established for the specific program.¹⁶

In 2005, DEP adopted rules to implement Global RBCA.¹⁷ The goal was to provide for a flexible site-specific cleanup process that reflected the intended use of the property following cleanup, while maintaining adequate protection of human health, safety, and the environment.¹⁸ In 2013, DEP consolidated the contamination site cleanup criteria for petroleum contamination,¹⁹ drycleaning solvents,²⁰ brownfield cleanup,²¹ and all other contaminated sites²² into the Global RBCA rule chapter.²³

The ultimate goal for any contaminated site is for DEP to issue it a “No Further Action” (NFA) order. Upon discovery of a contaminant, DEP must be notified.²⁴ The person responsible for site rehabilitation (responsible party) must commence site assessment within 60 days of discovery of a discharge to determine the extent of contamination and facilitate selection of an appropriate remediation strategy.²⁵ This includes establishing any background concentrations of contaminations.²⁶ Background concentrations are concentrations of contaminants that are naturally occurring in the groundwater, surface water, soil, or sediment in the vicinity of the site.²⁷ DEP cannot require site rehabilitation to achieve a CTL for any contaminant more stringent than the naturally occurring background contamination.²⁸

Once a responsible party completes a site assessment, it has three Risk Management Options (RMOs) available to perform site rehabilitation to achieve a NFA order. Under the RMO options, the responsible party must either rehabilitate the site to the default CTLs established in ch. 62-777, F.A.C., or to the alternative CTLs established through a risk assessment. Responsible parties may choose to create their own alternative CTLs when present and future use of the site and site exposure characteristics differ greatly from those utilized to calculate the default CTLs such that the default CTLs are overly conservative or not conservative enough.²⁹

Under RMO I, DEP will issue a NFA order without institutional controls or without institutional and engineering controls if the exposure point concentration (EPC) for all detected chemicals do not exceed the less stringent of their corresponding default residential CTLs or their background concentration.³⁰ Under RMO II, DEP will grant a NFA order, subject to institutional controls, if the EPCs for all detected chemicals do not exceed default commercial/industrial CTLs or alternative CTLs adjusted for site-specific geologic or hydrogeologic conditions.³¹ Under RMO III, DEP will grant a NFA order, subject to institutional controls, if the EPCs for all detected chemicals do not exceed alternative CTLs adjusted for site-specific exposure scenarios determined in the exposure assessment.³²

¹⁵ Section 376.30701(1)(b), F.S.

¹⁶ See ss. 376.3071, 376.7078, and 376.83, F.S.

¹⁷ DeMeo, *supra* note 5, at 47.

¹⁸ *Id.*

¹⁹ Former ch. 62-770, F.A.C.

²⁰ Former ch. 62-782, F.A.C.

²¹ Former ch. 62-785, F.A.C.

²² Chapter 62-780, F.A.C.

²³ Notice of Rule Development, 39 Fla. Admin. R. 105 (May 30, 2013).

²⁴ Rule 62-780.210, F.A.C.

²⁵ Rule 62-780.600, F.A.C.

²⁶ Rule 62-780.600(3)(d), F.A.C.

²⁷ Rule 62-780.200(3), F.A.C.

²⁸ Section 376.30701(2)(g) and (i), F.S.

²⁹ DEP, *supra* note 9, at 43-44.

³⁰ Mills, *supra* note 2, at 125; rule 62-780.680(1), F.A.C.

³¹ *Id.*; rule 62-780.680(2), F.A.C.

³² *Id.*; rule 62-780.680(3), F.A.C.

Under each RMO, responsible parties may use several methods to rehabilitate the site to achieve a NFA order. Section 376.30701(2), F.S., requires DEP's rule to include protocols for natural attenuation as a method for site rehabilitation. Natural attenuation allows natural processes to contain the spread of contamination and reduce the concentrations of contaminants in contaminated groundwater and soil.³³ Natural attenuation processes may include sorption, biodegradation, chemical reactions with subsurface materials, diffusion, dispersion, and volatilization.³⁴ This practice may be used depending on individual site characteristics, current and projected use of the land and groundwater, the exposed population, the location of the contamination plume, the degree and extent of contamination, the rate of migration of the plume, the apparent or potential rate of degradation of contaminants through natural attenuation, and the potential for further migration in relation to the site's property boundary.³⁵

Natural attenuation monitoring is allowable if:

- Free product is not present or free product removal is not feasible;
- Contaminated soil is not present in the unsaturated zone;
- Contaminations present in the groundwater above background concentrations or applicable CTLs are not migrating beyond the temporary point of compliance or vertically;
- The characteristics of the contaminant and its transformation products are conducive to natural attenuation; and
- One of the following is met:
 - The contaminated site is anticipated to meet NFA criteria in 5 years or less as a result of natural attenuation, the background concentrations or applicable CTLs are not exceeded at the temporary point of compliance, and contaminant concentrations do not meet certain criteria; or
 - The appropriateness of natural attenuation is demonstrated by:
 - A technical evaluation of the groundwater and soil;
 - A scientific evaluation of the contamination plume migration, an estimate of the annual reduction in contaminant concentrations, and the estimated time to meet NFA; and
 - A life-cycle cost analysis of remedial alternatives.³⁶

Brownfield Redevelopment Act

A brownfield is real property, generally abandoned, idled, or underused industrial and commercial property, where expansion, redevelopment, or reuse may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.³⁷ In 1995, the Environmental Protection Agency (EPA) created the Brownfields Program in order to manage contaminated property through site remediation and redevelopment.³⁸ EPA's brownfields program provides grants and technical assistance to communities, states, tribes, and other stakeholders, giving them the resources they need to prevent, assess, safely clean up, and sustainably reuse brownfields.³⁹

In 1997, the Legislature enacted the Brownfields Redevelopment Act (Act).⁴⁰ The Act provides financial and regulatory incentives to encourage voluntary remediation and redevelopment of

³³ Section 376.301(24), F.S.

³⁴ Id.

³⁵ Rule 62-780.690(1), F.A.C.

³⁶ Id.

³⁷ Section 288.107(1)(b), F.S.; EPA, *Brownfield Overview and Definition*, <http://www2.epa.gov/brownfields/brownfield-overview-and-definition> (last visited November 6, 2015).

³⁸ EPA, *Brownfield Overview and Definition*, <http://www2.epa.gov/brownfields/brownfield-overview-and-definition> (last visited November 6, 2015).

³⁹ EPA, *Brownfields*, <http://www2.epa.gov/brownfields> (last visited November 6, 2015).

⁴⁰ Chapter 97-173, Laws of Florida.

brownfield sites in order to improve public health and reduce environmental hazards.⁴¹ The Act provides liability protection for program participants who have not caused or contributed to the contamination of a brownfield site on or after July 1, 1997.⁴² Since inception of the Act, 78 contaminated sites have been cleaned up, more than 75,000 confirmed and projected direct and indirect jobs have been created, and \$2.7 billion in capital investment is projected in designated brownfield areas.⁴³

Effect of Proposed Changes

This bill makes several revisions to the Global RBCA and Brownfield Redevelopment statutes.

The bill amends ss. 376.301 and 376.79, F.S., to add a definition of "background concentration." This definition includes concentrations of contaminants that are naturally occurring or the result of anthropogenic (human) impacts unrelated to the discharge of pollutants or hazardous substances at the contaminated site undergoing rehabilitation. The bill also makes conforming changes to remove references to "naturally occurring" in front of "background concentration."

Currently, DEP may not require a responsible party performing site rehabilitation to achieve a CTL for any contaminant more stringent than the background contamination. DEP's rule only includes naturally occurring concentrations of contaminants in its definition of "background concentration." Under the proposed change, human-created contamination may be treated as background contamination as well as naturally occurring contaminants. The change is similar to the EPA's policy for addressing background concentrations. In certain situations, the EPA will not require rehabilitation below naturally occurring or anthropogenic background concentrations.⁴⁴ The EPA guidance requires that the anthropogenic background contamination be unrelated to the release of hazardous substances at the contaminated site.⁴⁵ Under the proposed change, responsible parties would only be required to rehabilitate their contaminated sites for the discharge of pollutants or hazardous substances at the contaminated site undergoing rehabilitation.

The bill defines "long-term natural attenuation" to mean natural attenuation approved by DEP as a site rehabilitation program task that lasts more than five years. The bill also amends subsections 376.30701(2) and 376.81(1), F.S., to require DEP's Global RBCA rules to include protocols for long-term natural attenuation.⁴⁶

The bill amends paragraphs 376.30701(2)(e) and 376.81(1)(e), F.S., to require DEP to consider the interactive effects of contaminants, including additive, synergistic, and antagonistic effects when determining what constitutes a rehabilitation program task.⁴⁷

The bill amends subparagraphs 376.30701(2)(g)2. and 376.81(1)(g)2., F.S., to create an exception when applying state water quality standards in determining what constitutes a rehabilitation program task. Currently, the statute requires that when surface waters are exposed to contaminated groundwater, the more protective groundwater or surface water standard CTL must be applied. The bill

⁴¹ DEP, Florida Brownfields Redevelopment Act – Annual Report p. 4, http://www.dep.state.fl.us/waste/quick_topics/publications/wc/brownfields/AnnualReport/2015/2014-15_FDEP_Annual.pdf (last visited November 6, 2015).

⁴² Section 376.82, F.S.

⁴³ DEP, *supra* note 41, at 2.

⁴⁴ See EPA, *Transmittal of Policy Statement: "Role of Background in CERCLA Cleanup Program" OSWER 9285.6-07P* (May 2002), available at http://rais.ornl.gov/documents/bkgpol_jan01.pdf (last visited November 5, 2015); EPA, *Guidance for Comparing Background and Chemical Concentrations in Soil for CERCLA Sites OSWER 9285.7-41* (September 2002), available at https://dec.alaska.gov/spar/csp/guidance_forms/docs/background.pdf (last visited November 5, 2015).

⁴⁵ *Id.*

⁴⁶ Rule 62-780.690, F.A.C., limits natural attenuation to a five-year period. However, the rule permits natural attenuation for a longer period if the appropriateness of natural attenuation is demonstrated through technical and scientific evaluation.

⁴⁷ Rule 62-780.650(1)(c)3., F.A.C., allows this methodology when creating a risk characterization as part of a risk assessment.

waives this requirement when it has been demonstrated that contaminants do not cause or contribute to the exceedance of the applicable surface water criteria.

The bill amends subparagraphs 376.30701(2)(g)3., 376.30701(2)(i)3., 376.81(1)(g)3., and 376.81(1)(i)3., F.S., to allow the use of risk assessment modeling and probabilistic risk assessment (PRA) to create site-specific alternative CTLs. PRA is a risk assessment that yields a probability distribution for risk, generally by assigning a probability distribution to represent variability or uncertainty in one or more inputs to the risk equation.⁴⁸ This method is different from the point estimate risk assessment for single values because it uses multiple variables.⁴⁹ The EPA uses this new method of risk assessment when evaluating risk at contaminated sites it regulates.⁵⁰

The bill also amends subparagraph 376.30701(2)(g)3., F.S., to allow the use of alternative CTLs without institutional controls if:

- The only CTLs exceeded are the groundwater CTLs derived from nuisance, organoleptic,⁵¹ or aesthetic considerations;
- Concentrations of all contaminants meet the state water quality standards or the minimum criteria, based on the protection of human health, public safety, and the environment;
- All of the established groundwater CTLs for the contaminated site are met at the property boundary;
- The responsible party demonstrated that the contaminants will not migrate beyond the property boundary at concentrations that exceed the groundwater CTLs established for the contaminated site;
- The property has access to and is using an offsite water supply, and an unplugged private well is not used for domestic purposes; and
- The property owner does not object to the NFA proposal to DEP or the local pollution control program.

Brownfield contaminated site may already use alternative CTLs without institutional controls if they meet the criteria above.⁵²

Lastly, the bill amends ss. 196.1995(3), 287.0595(1)(a), and 288.1175(5)(c), F.S., to correct cross references.

B. SECTION DIRECTORY:

- Section 1.** Amending s. 376.301, F.S., relating to definitions used in ss. 376.30-376.317, 376.70, and 376.75, F.S.
- Section 2.** Amending s. 376.30701, F.S., relating to application of RBCA principles to contaminated sites.
- Section 3.** Amending s. 376.79, F.S., relating to brownfields redevelopment definitions.
- Section 4.** Amending s. 376.81, F.S., relating to brownfield site and brownfield areas contamination cleanup criteria.
- Section 5.** Amending s. 196.1195, F.S., correcting a cross reference.

⁴⁸ EPA, *Risk Assessment Guidance for Superfund: Volume III – Part A, Process for Conducting Probabilistic Risk Assessment at 1-3* (December 2001) available at <http://www2.epa.gov/risk/risk-assessment-guidance-superfund-rags-volume-iii-part> (last visited November 5, 2015).

⁴⁹ *Id.* at 1-7.

⁵⁰ *See Id.* Rule 62-780.650(3), F.A.C., allows the use of PRA to perform risk assessment when establishing alternative CTLs.

⁵¹ “Organoleptic” means pertaining to, or perceived by, a sensory organ (i.e., color, taste, or odor). Rule 62-780.200(28), F.A.C.

⁵² Section 376.81(1)(g)3., F.S.

- Section 6.** Amending s. 287.0595, F.S., correcting a cross reference.
- Section 7.** Amending s. 288.1175, F.S., correcting a cross reference.
- Section 8.** Providing an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill appears to have an insignificant negative fiscal impact on DEP because the department will likely need to revise their rules as a result of the changes in the bill. The impact can be absorbed by existing agency resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will likely have an indeterminate positive economic impact on persons or entities that must rehabilitate a contaminated site. The amounts and types of contaminants, as well as the underlying geology, vary at each site resulting in a wide range of costs associated with site rehabilitation. However, property owners will no longer be required to rehabilitate a site for background concentrations caused by human activities unrelated to the discharge of pollutants or hazardous substances at the contaminated site undergoing rehabilitation. Further, these property owners will not be required to use institutional controls when an alternative CTL is used for site remediation in certain situations. Therefore, there will likely be a reduced cost associated with site cleanup.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DEP has sufficient rulemaking authority to amend ch. 62-780, F.A.C., to conform to changes made in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments: Applicability

The changes in the bill primarily apply to waste cleanup sites and brownfield cleanup sites. The contaminated site cleanup criteria for petroleum contamination sites and drycleaning contamination sites are found in subsections 376.3071(5) and 376.3078(4), F.S., respectively. Thus, subsections 376.3071(5) and 376.3078(4), F.S., may need to be amended to apply the new criteria to all contaminated sites in Florida.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

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A bill to be entitled
 An act relating to contaminated sites; amending s.
 376.301, F.S.; defining the terms "background
 concentration" and "long-term natural attenuation";
 amending s. 376.30701, F.S.; requiring the Department
 of Environmental Protection to include protocols for
 the use of long-term natural attenuation where site
 conditions warrant; requiring specified interactive
 effects of contaminants to be considered as cleanup
 criteria; revising how cleanup target levels are
 applied where surface waters are exposed to
 contaminated groundwater; authorizing the use of
 relevant data and information when assessing cleanup
 target levels; providing that institutional controls
 are not required under certain circumstances if
 alternative cleanup target levels are used; amending
 s. 376.79, F.S.; defining the terms "background
 concentration" and "long-term natural attenuation";
 amending s. 376.81, F.S.; providing additional
 contamination cleanup criteria for brownfield sites
 and brownfield areas; amending ss. 196.1995, 287.0595,
 and 288.1175, F.S.; conforming cross-references;
 providing an effective date.

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

27 Section 1. Present subsections (4) through (22) of section
 28 376.301, Florida Statutes, are redesignated as subsections (5)
 29 through (23), respectively, present subsections (23) through
 30 (48) of that section are redesignated as subsections (25)
 31 through (50), respectively, and new subsections (4) and (24) are
 32 added to that section, to read:

33 376.301 Definitions of terms used in ss. 376.30-376.317,
 34 376.70, and 376.75.—When used in ss. 376.30-376.317, 376.70, and
 35 376.75, unless the context clearly requires otherwise, the term:

36 (4) "Background concentration" means the concentration of
 37 contaminants naturally occurring or resulting from anthropogenic
 38 impacts unrelated to the discharge of pollutants or hazardous
 39 substances at a contaminated site undergoing site
 40 rehabilitation.

41 (24) "Long-term natural attenuation" means natural
 42 attenuation approved by the department as a site rehabilitation
 43 program task for a period of more than 5 years.

44 Section 2. Subsection (2) of section 376.30701, Florida
 45 Statutes, is amended to read:

46 376.30701 Application of risk-based corrective action
 47 principles to contaminated sites; applicability; legislative
 48 intent; rulemaking authority; contamination cleanup criteria;
 49 limitations; reopeners.—

50 (2) INTENT; RULEMAKING AUTHORITY; CLEANUP CRITERIA.—It is
 51 the intent of the Legislature to protect the health of all
 52 people under actual circumstances of exposure. By July 1, 2004,

53 the secretary of the department shall establish criteria by rule
54 for the purpose of determining, on a site-specific basis, the
55 rehabilitation program tasks that comprise a site rehabilitation
56 program, including a voluntary site rehabilitation program, and
57 the level at which a rehabilitation program task and a site
58 rehabilitation program may be deemed completed. In establishing
59 these rules, the department shall apply, to the maximum extent
60 feasible, a risk-based corrective action process to achieve
61 protection of human health and safety and the environment in a
62 cost-effective manner based on the principles set forth in this
63 subsection. These rules shall prescribe a phased risk-based
64 corrective action process that is iterative and that tailors
65 site rehabilitation tasks to site-specific conditions and risks.
66 The department and the person responsible for site
67 rehabilitation are encouraged to establish decision points at
68 which risk management decisions will be made. The department
69 shall provide an early decision, when requested, regarding
70 applicable exposure factors and a risk management approach based
71 on the current and future land use at the site. These rules must
72 ~~shall also~~ include protocols for the use of natural attenuation,
73 including long-term natural attenuation where site conditions
74 warrant, the use of institutional and engineering controls, and
75 the issuance of "No Further Action" orders. The criteria for
76 determining what constitutes a rehabilitation program task or
77 completion of a site rehabilitation program task or site
78 rehabilitation program, including a voluntary site

79 rehabilitation program, must:

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

86 (b) Establish the point of compliance at the source of the
 87 contamination. However, the department may ~~is authorized to~~
 88 temporarily move the point of compliance to the boundary of the
 89 property, or to the edge of the plume when the plume is within
 90 the property boundary, while cleanup, including cleanup through
 91 natural attenuation processes in conjunction with appropriate
 92 monitoring, is proceeding. The department may ~~also is~~
 93 ~~authorized,~~ pursuant to criteria provided in this section, ~~to~~
 94 temporarily extend the point of compliance beyond the property
 95 boundary with appropriate monitoring, if such extension is
 96 needed to facilitate natural attenuation or to address the
 97 current conditions of the plume, provided human health, public
 98 safety, and the environment are protected. When temporarily
 99 extending the point of compliance beyond the property boundary,
 100 it cannot be extended further than the lateral extent of the
 101 plume, if known, at the time of execution of a cleanup
 102 agreement, if required, or the lateral extent of the plume as
 103 defined at the time of site assessment. Temporary extension of
 104 the point of compliance beyond the property boundary, as

105 provided in this paragraph, must include actual notice by the
106 person responsible for site rehabilitation to local governments
107 and the owners of any property into which the point of
108 compliance is allowed to extend and constructive notice to
109 residents and business tenants of the property into which the
110 point of compliance is allowed to extend. Persons receiving
111 notice pursuant to this paragraph shall have the opportunity to
112 comment within 30 days after receipt of the notice. Additional
113 notice concerning the status of natural attenuation processes
114 shall be similarly provided to persons receiving notice pursuant
115 to this paragraph every 5 years.

116 (c) Ensure that the site-specific cleanup goal is that all
117 contaminated sites being cleaned up pursuant to this section
118 ultimately achieve the applicable cleanup target levels provided
119 in this subsection. In the circumstances provided in this
120 subsection, and after constructive notice and opportunity to
121 comment within 30 days after receipt of the notice to local
122 government, owners of any property into which the point of
123 compliance is allowed to extend, and residents of any property
124 into which the point of compliance is allowed to extend, the
125 department may allow concentrations of contaminants to
126 temporarily exceed the applicable cleanup target levels while
127 cleanup, including cleanup through natural attenuation processes
128 in conjunction with appropriate monitoring, is proceeding, if
129 human health, public safety, and the environment are protected.

130 (d) Allow the use of institutional or engineering controls

131 at contaminated sites being cleaned up pursuant to this section,
132 where appropriate, to eliminate or control the potential
133 exposure to contaminants of humans or the environment. The use
134 of controls must be preapproved by the department and only after
135 constructive notice and opportunity to comment within 30 days
136 after receipt of notice is provided to local governments, owners
137 of any property into which the point of compliance is allowed to
138 extend, and residents on any property into which the point of
139 compliance is allowed to extend. When institutional or
140 engineering controls are implemented to control exposure, the
141 removal of the controls must have prior department approval and
142 must be accompanied by the resumption of active cleanup, or
143 other approved controls, unless cleanup target levels under this
144 section have been achieved.

145 (e) Consider the interactive ~~additive~~ effects of
146 contaminants, including additive, synergistic, and antagonistic
147 effects. ~~The synergistic and antagonistic effects shall also be~~
148 ~~considered when the scientific data become available.~~

149 (f) Take into consideration individual site
150 characteristics, which shall include, but not be limited to, the
151 current and projected use of the affected groundwater and
152 surface water in the vicinity of the site, current and projected
153 land uses of the area affected by the contamination, the exposed
154 population, the degree and extent of contamination, the rate of
155 contaminant migration, the apparent or potential rate of
156 contaminant degradation through natural attenuation processes,

157 | the location of the plume, and the potential for further
158 | migration in relation to site property boundaries.

159 | (g) Apply state water quality standards as follows:

160 | 1. Cleanup target levels for each contaminant found in
161 | groundwater shall be the applicable state water quality
162 | standards. Where such standards do not exist, the cleanup target
163 | levels for groundwater shall be based on the minimum criteria
164 | specified in department rule. The department shall apply the
165 | following, as appropriate, in establishing the applicable
166 | cleanup target levels: calculations using a lifetime cancer risk
167 | level of 1.0E-6; a hazard index of 1 or less; the best
168 | achievable detection limit; and nuisance, organoleptic, and
169 | aesthetic considerations. However, the department may ~~shall~~ not
170 | require site rehabilitation to achieve a cleanup target level
171 | for any individual contaminant that is more stringent than the
172 | site-specific, ~~naturally occurring~~ background concentration for
173 | that contaminant.

174 | 2. Where surface waters are exposed to contaminated
175 | groundwater, the cleanup target levels for the contaminants must
176 | ~~shall~~ be based on the more protective of the groundwater or
177 | surface water standards as established by department rule,
178 | unless it has been demonstrated that the contaminants do not
179 | cause or contribute to the exceedance of applicable surface
180 | water quality criteria. In such circumstance, the point of
181 | measuring compliance with the surface water standards shall be
182 | in the groundwater immediately adjacent to the surface water

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body.

3. Using risk-based corrective action principles, the department shall approve alternative cleanup target levels in conjunction with institutional and engineering controls, if needed, based upon an applicant's demonstration, using site-specific or other relevant data and information, risk assessment modeling results, including results from probabilistic risk assessment modeling, risk assessment studies, risk reduction techniques, or a combination thereof, that human health, public safety, and the environment are protected to the same degree as provided in subparagraphs 1. and 2. Where a state water quality standard is applicable, a deviation may not result in the application of cleanup target levels more stringent than the standard. In determining whether it is appropriate to establish alternative cleanup target levels at a site, the department must consider the effectiveness of source removal, if any, that has been completed at the site and the practical likelihood of the use of low yield or poor quality groundwater, the use of groundwater near marine surface water bodies, the current and projected use of the affected groundwater in the vicinity of the site, or the use of groundwater in the immediate vicinity of the contaminated area, where it has been demonstrated that the groundwater contamination is not migrating away from such localized source, provided human health, public safety, and the environment are protected. Groundwater resource protection remains the ultimate goal of cleanup, particularly in light of

209 the state's continued growth and consequent demands for drinking
210 water resources. The Legislature recognizes the need for a
211 protective yet flexible cleanup approach that risk-based
212 corrective action provides. Only where it is appropriate on a
213 site-specific basis, using the criteria in this paragraph and
214 careful evaluation by the department, shall proposed alternative
215 cleanup target levels be approved. If alternative cleanup target
216 levels are used, institutional controls are not required if:

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

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

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

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

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

234 f. The real property owner does not object to the "No

235 Further Action" proposal to the department or the local
 236 pollution control program.

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

247 (i) Establish appropriate cleanup target levels for soils.
 248 Although there are existing state water quality standards, there
 249 are no existing state soil quality standards. The Legislature
 250 does not intend, through the adoption of this section, to create
 251 such soil quality standards. The specific rulemaking authority
 252 granted pursuant to this section merely authorizes the
 253 department to establish appropriate soil cleanup target levels.
 254 These soil cleanup target levels shall be applicable at sites
 255 only after a determination as to legal responsibility for site
 256 rehabilitation has been made pursuant to other provisions of
 257 this chapter or chapter 403.

258 1. In establishing soil cleanup target levels for human
 259 exposure to each contaminant found in soils from the land
 260 surface to 2 feet below land surface, the department shall apply

261 | the following, as appropriate: calculations using a lifetime
 262 | cancer risk level of 1.0E-6; a hazard index of 1 or less; and
 263 | the best achievable detection limit. However, the department may
 264 | ~~shall~~ not require site rehabilitation to achieve a cleanup
 265 | target level for an individual contaminant that is more
 266 | stringent than the site-specific, ~~naturally occurring~~ background
 267 | concentration for that contaminant. Institutional controls or
 268 | other methods shall be used to prevent human exposure to
 269 | contaminated soils more than 2 feet below the land surface. Any
 270 | removal of such institutional controls shall require such
 271 | contaminated soils to be remediated.

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

285 | 3. Using risk-based corrective action principles, the
 286 | department shall approve alternative cleanup target levels in

287 conjunction with institutional and engineering controls, if
288 needed, based upon an applicant's demonstration, using site-
289 specific or other relevant data and information, risk assessment
290 modeling results, including results from probabilistic risk
291 assessment modeling, risk assessment studies, risk reduction
292 techniques, or a combination thereof, that human health, public
293 safety, and the environment are protected to the same degree as
294 provided in subparagraphs 1. and 2.

295
296 The department shall require source removal as a risk reduction
297 measure if warranted and cost-effective. Once source removal at
298 a site is complete, the department shall reevaluate the site to
299 determine the degree of active cleanup needed to continue.
300 Further, the department shall determine if the reevaluated site
301 qualifies for monitoring only or if no further action is
302 required to rehabilitate the site. If additional site
303 rehabilitation is necessary to reach "No Further Action" status,
304 the department is encouraged to utilize natural attenuation
305 monitoring, including long-term natural attenuation ~~and~~
306 monitoring, where site conditions warrant.

307 Section 3. Present subsections (3) through (11) of section
308 376.79, Florida Statutes, are redesignated as subsections (4)
309 through (12), respectively, present subsections (12) through
310 (19) are redesignated as subsections (14) through (21),
311 respectively, and new subsections (3) and (13) are added to that
312 section, to read:

313 376.79 Definitions relating to Brownfields Redevelopment
 314 Act.—As used in ss. 376.77-376.85, the term:

315 (3) "Background concentration" means the concentration of
 316 contaminants naturally occurring or resulting from anthropogenic
 317 impacts unrelated to the discharge of pollutants or hazardous
 318 substances at a contaminated site undergoing site
 319 rehabilitation.

320 (13) "Long-term natural attenuation" means natural
 321 attenuation approved by the department as a site rehabilitation
 322 program task for a period of more than 5 years.

323 Section 4. Section 376.81, Florida Statutes, is amended to
 324 read:

325 376.81 Brownfield site and brownfield areas contamination
 326 cleanup criteria.—

327 (1) It is the intent of the Legislature to protect the
 328 health of all people under actual circumstances of exposure. By
 329 July 1, 2001, the secretary of the department shall establish
 330 criteria by rule for the purpose of determining, on a site-
 331 specific basis, the rehabilitation program tasks that comprise a
 332 site rehabilitation program and the level at which a
 333 rehabilitation program task and a site rehabilitation program
 334 may be deemed completed. In establishing the rule, the
 335 department shall apply, to the maximum extent feasible, a risk-
 336 based corrective action process to achieve protection of human
 337 health and safety and the environment in a cost-effective manner
 338 based on the principles set forth in this subsection. The rule

339 | must prescribe a phased risk-based corrective action process
 340 | that is iterative and that tailors site rehabilitation tasks to
 341 | site-specific conditions and risks. The department and the
 342 | person responsible for brownfield site rehabilitation are
 343 | encouraged to establish decision points at which risk management
 344 | decisions will be made. The department shall provide an early
 345 | decision, when requested, regarding applicable exposure factors
 346 | and a risk management approach based on the current and future
 347 | land use at the site. The rule must ~~shall also~~ include protocols
 348 | for the use of natural attenuation, including long-term natural
 349 | attenuation where site conditions warrant, the use of
 350 | institutional and engineering controls, and the issuance of "no
 351 | further action" letters. The criteria for determining what
 352 | constitutes a rehabilitation program task or completion of a
 353 | site rehabilitation program task or site rehabilitation program
 354 | must:

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

361 | (b) Establish the point of compliance at the source of the
 362 | contamination. However, the department may ~~is authorized to~~
 363 | temporarily move the point of compliance to the boundary of the
 364 | property, or to the edge of the plume when the plume is within

365 the property boundary, while cleanup, including cleanup through
366 natural attenuation processes in conjunction with appropriate
367 monitoring, is proceeding. The department may ~~also is~~
368 ~~authorized~~, pursuant to criteria provided for in this section,
369 ~~to~~ temporarily extend the point of compliance beyond the
370 property boundary with appropriate monitoring, if such extension
371 is needed to facilitate natural attenuation or to address the
372 current conditions of the plume, provided human health, public
373 safety, and the environment are protected. When temporarily
374 extending the point of compliance beyond the property boundary,
375 it cannot be extended further than the lateral extent of the
376 plume at the time of execution of the brownfield site
377 rehabilitation agreement, if known, or the lateral extent of the
378 plume as defined at the time of site assessment. Temporary
379 extension of the point of compliance beyond the property
380 boundary, as provided in this paragraph, must include actual
381 notice by the person responsible for brownfield site
382 rehabilitation to local governments and the owners of any
383 property into which the point of compliance is allowed to extend
384 and constructive notice to residents and business tenants of the
385 property into which the point of compliance is allowed to
386 extend. Persons receiving notice pursuant to this paragraph
387 shall have the opportunity to comment within 30 days of receipt
388 of the notice.

389 (c) Ensure that the site-specific cleanup goal is that all
390 contaminated brownfield sites and brownfield areas ultimately

391 | achieve the applicable cleanup target levels provided in this
392 | section. In the circumstances provided below, and after
393 | constructive notice and opportunity to comment within 30 days
394 | from receipt of the notice to local government, to owners of any
395 | property into which the point of compliance is allowed to
396 | extend, and to residents on any property into which the point of
397 | compliance is allowed to extend, the department may allow
398 | concentrations of contaminants to temporarily exceed the
399 | applicable cleanup target levels while cleanup, including
400 | cleanup through natural attenuation processes in conjunction
401 | with appropriate monitoring, is proceeding, if human health,
402 | public safety, and the environment are protected.

403 | (d) Allow brownfield site and brownfield area
404 | rehabilitation programs to include the use of institutional or
405 | engineering controls, where appropriate, to eliminate or control
406 | the potential exposure to contaminants of humans or the
407 | environment. The use of controls must be preapproved by the
408 | department and only after constructive notice and opportunity to
409 | comment within 30 days from receipt of notice is provided to
410 | local governments, to owners of any property into which the
411 | point of compliance is allowed to extend, and to residents on
412 | any property into which the point of compliance is allowed to
413 | extend. When institutional or engineering controls are
414 | implemented to control exposure, the removal of the controls
415 | must have prior department approval and must be accompanied by
416 | the resumption of active cleanup, or other approved controls,

417 unless cleanup target levels under this section have been
418 achieved.

419 (e) Consider the interactive ~~additive~~ effects of
420 contaminants, including additive, synergistic, and antagonistic
421 effects. ~~The synergistic and antagonistic effects shall also be~~
422 ~~considered when the scientific data become available.~~

423 (f) Take into consideration individual site
424 characteristics, which shall include, but not be limited to, the
425 current and projected use of the affected groundwater and
426 surface water in the vicinity of the site, current and projected
427 land uses of the area affected by the contamination, the exposed
428 population, the degree and extent of contamination, the rate of
429 contaminant migration, the apparent or potential rate of
430 contaminant degradation through natural attenuation processes,
431 the location of the plume, and the potential for further
432 migration in relation to site property boundaries.

433 (g) Apply state water quality standards as follows:

434 1. Cleanup target levels for each contaminant found in
435 groundwater shall be the applicable state water quality
436 standards. Where such standards do not exist, the cleanup target
437 levels for groundwater shall be based on the minimum criteria
438 specified in department rule. The department shall apply the
439 following, as appropriate, in establishing the applicable
440 cleanup target levels: calculations using a lifetime cancer risk
441 level of 1.0E-6; a hazard index of 1 or less; the best
442 achievable detection limit; and nuisance, organoleptic, and

443 aesthetic considerations. However, the department may ~~shall~~ not
 444 require site rehabilitation to achieve a cleanup target level
 445 for any individual contaminant which is more stringent than the
 446 site-specific, ~~naturally occurring~~ background concentration for
 447 that contaminant.

448 2. Where surface waters are exposed to contaminated
 449 groundwater, the cleanup target levels for the contaminants must
 450 ~~shall~~ be based on the more protective of the groundwater or
 451 surface water standards as established by department rule,
 452 unless it has been demonstrated that the contaminants do not
 453 cause or contribute to the exceedance of applicable surface
 454 water quality criteria. In such circumstances, the point of
 455 measuring compliance with the surface water standards shall be
 456 in the groundwater immediately adjacent to the surface water
 457 body.

458 3. Using risk-based corrective action principles, the
 459 department shall approve alternative cleanup target levels in
 460 conjunction with institutional and engineering controls, if
 461 needed, based upon an applicant's demonstration, using site-
 462 specific or other relevant data and information, risk assessment
 463 modeling results, including results from probabilistic risk
 464 assessment modeling, risk assessment studies, risk reduction
 465 techniques, or a combination thereof, that human health, public
 466 safety, and the environment are protected to the same degree as
 467 provided in subparagraphs 1. and 2. Where a state water quality
 468 standard is applicable, a deviation may not result in the

469 application of cleanup target levels more stringent than the
 470 standard. In determining whether it is appropriate to establish
 471 alternative cleanup target levels at a site, the department must
 472 consider the effectiveness of source removal, if any, which has
 473 been completed at the site and the practical likelihood of the
 474 use of low yield or poor quality groundwater, the use of
 475 groundwater near marine surface water bodies, the current and
 476 projected use of the affected groundwater in the vicinity of the
 477 site, or the use of groundwater in the immediate vicinity of the
 478 contaminated area, where it has been demonstrated that the
 479 groundwater contamination is not migrating away from such
 480 localized source, provided human health, public safety, and the
 481 environment are protected. When using alternative cleanup target
 482 levels at a brownfield site, institutional controls are ~~shall~~
 483 not ~~be~~ required if:

- 484 a. The only cleanup target levels exceeded are the
 485 groundwater cleanup target levels derived from nuisance,
 486 organoleptic, or aesthetic considerations;
- 487 b. Concentrations of all contaminants meet the state water
 488 quality standards or the minimum criteria, based on the
 489 protection of human health, provided in subparagraph 1.;
- 490 c. All of the groundwater cleanup target levels
 491 established pursuant to subparagraph 1. are met at the property
 492 boundary;
- 493 d. The person responsible for brownfield site
 494 rehabilitation has demonstrated that the contaminants will not

495 migrate beyond the property boundary at concentrations exceeding
 496 the groundwater cleanup target levels established pursuant to
 497 subparagraph 1.;

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

501 f. The real property owner provides written acceptance of
 502 the "no further action" proposal to the department or the local
 503 pollution control program.

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

514 (i) Establish appropriate cleanup target levels for soils.

515 1. In establishing soil cleanup target levels for human
 516 exposure to each contaminant found in soils from the land
 517 surface to 2 feet below land surface, the department shall apply
 518 the following, as appropriate: calculations using a lifetime
 519 cancer risk level of 1.0E-6; a hazard index of 1 or less; and
 520 the best achievable detection limit. However, the department may

521 ~~shall~~ not require site rehabilitation to achieve a cleanup
522 target level for an individual contaminant which is more
523 stringent than the site-specific, ~~naturally occurring~~ background
524 concentration for that contaminant. Institutional controls or
525 other methods shall be used to prevent human exposure to
526 contaminated soils more than 2 feet below the land surface. Any
527 removal of such institutional controls shall require such
528 contaminated soils to be remediated.

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

542 3. Using risk-based corrective action principles, the
543 department shall approve alternative cleanup target levels in
544 conjunction with institutional and engineering controls, if
545 needed, based upon an applicant's demonstration, using site-
546 specific or other relevant data and information, risk assessment

547 modeling results, including results from probabilistic risk
548 assessment modeling, risk assessment studies, risk reduction
549 techniques, or a combination thereof, that human health, public
550 safety, and the environment are protected to the same degree as
551 provided in subparagraphs 1. and 2.

552 (2) The department shall require source removal, as a risk
553 reduction measure, if warranted and cost-effective. Once source
554 removal at a site is complete, the department shall reevaluate
555 the site to determine the degree of active cleanup needed to
556 continue. Further, the department shall determine if the
557 reevaluated site qualifies for monitoring only or if no further
558 action is required to rehabilitate the site. If additional site
559 rehabilitation is necessary to reach "no further action" status,
560 the department is encouraged to utilize natural attenuation
561 monitoring, including long-term natural attenuation ~~and~~
562 monitoring, where site conditions warrant.

563 (3) The cleanup criteria described in this section govern
564 only site rehabilitation activities occurring at the
565 contaminated site. Removal of contaminated media from a site for
566 offsite relocation or treatment must be in accordance with all
567 applicable federal, state, and local laws and regulations.

568 Section 5. Subsection (3) of section 196.1995, Florida
569 Statutes, is amended to read:

570 196.1995 Economic development ad valorem tax exemption.—

571 (3) The board of county commissioners or the governing
572 authority of the municipality that calls a referendum within its

573 total jurisdiction to determine whether its respective
 574 jurisdiction may grant economic development ad valorem tax
 575 exemptions may vote to limit the effect of the referendum to
 576 authority to grant economic development tax exemptions for new
 577 businesses and expansions of existing businesses located in an
 578 enterprise zone or a brownfield area, as defined in s. 376.79(5)
 579 ~~s. 376.79(4)~~. If an area nominated to be an enterprise zone
 580 pursuant to s. 290.0055 has not yet been designated pursuant to
 581 s. 290.0065, the board of county commissioners or the governing
 582 authority of the municipality may call such referendum prior to
 583 such designation; however, the authority to grant economic
 584 development ad valorem tax exemptions does not apply until such
 585 area is designated pursuant to s. 290.0065. The ballot question
 586 in such referendum shall be in substantially the following form
 587 and shall be used in lieu of the ballot question prescribed in
 588 subsection (2):

589
 590 Shall the board of county commissioners of this county (or the
 591 governing authority of this municipality, or both) be authorized
 592 to grant, pursuant to s. 3, Art. VII of the State Constitution,
 593 property tax exemptions for new businesses and expansions of
 594 existing businesses that are located in an enterprise zone or a
 595 brownfield area and that are expected to create new, full-time
 596 jobs in the county (or municipality, or both)?

597
 598Yes-For authority to grant exemptions.

599 | No-Against authority to grant exemptions.

600 | Section 6. Paragraph (a) of subsection (1) of section
601 | 287.0595, Florida Statutes, is amended to read:

602 | 287.0595 Pollution response action contracts; department
603 | rules.-

604 | (1) The Department of Environmental Protection shall
605 | establish, by adopting administrative rules as provided in
606 | chapter 120:

607 | (a) Procedures for determining the qualifications of
608 | responsible potential vendors prior to advertisement for and
609 | receipt of bids, proposals, or replies for pollution response
610 | action contracts, including procedures for the rejection of
611 | unqualified vendors. Response actions are those activities
612 | described in s. 376.301(39) ~~s. 376.301(37)~~.

613 | Section 7. Paragraph (c) of subsection (5) of section
614 | 288.1175, Florida Statutes, is amended to read:

615 | 288.1175 Agriculture education and promotion facility.-

616 | (5) The Department of Agriculture and Consumer Services
617 | shall competitively evaluate applications for funding of an
618 | agriculture education and promotion facility. If the number of
619 | applicants exceeds three, the Department of Agriculture and
620 | Consumer Services shall rank the applications based upon
621 | criteria developed by the Department of Agriculture and Consumer
622 | Services, with priority given in descending order to the
623 | following items:



624 | (c) The location of the facility in a brownfield site as

625 defined in s. 376.79(4) ~~s. 376.79(3)~~, a rural enterprise zone as
 626 defined in s. 290.004, an agriculturally depressed area as
 627 defined in s. 570.74, or a county that has lost its agricultural
 628 land to environmental restoration projects.

629 Section 8. This act shall take effect July 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB ANRS 16-02 Fish and Wildlife Conservation Commission
SPONSOR(S):
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Agriculture & Natural Resources Subcommittee		Gregory 	Harrington 

SUMMARY ANALYSIS

The bill relocates and amends provisions for recreational fish and wildlife violations for the Florida Fish and Wildlife Conservation Commission (FWC) to achieve consistency between the penalties and statutes, make the penalties meaningful, encourage compliance, and deter offenses. Specifically, the bill:

- Increases the fine for illegally taking game while trespassing from \$250 to \$500 per violation and adds all fish and wildlife to the list of species affected.
- Offers violators of recreational fishing and hunting licensing provisions the new option of purchasing the respective license, rather than paying the cost of the license in addition to the penalty but not receiving the license.
- Increases the fine for repeat offenders for any non-criminal infraction within 3 years from \$100 to \$250.
- Reduces from a second degree misdemeanor violation to a non-criminal infraction the penalty for violations of rules or orders of the commission requiring reporting by people who hold alligator licenses or requiring the return of unused CITES tags issued under the Statewide Alligator Harvest Program or the Statewide Nuisance Alligator Program.
- Decreases the penalty for failure to file required alligator reports from a second degree misdemeanor offense to a non-criminal infraction.
- Makes penalties for wildlife management areas on U.S. forests consistent with those of all other wildlife management areas.
- Increases the penalty for the sale, barter, or trade of tarpon from a second degree misdemeanor to a first degree misdemeanor to make it consistent with the penalty for rules that prohibit the sale of saltwater species.
- Deletes language prohibiting the altering or changing of a license or permit from the statutory section that prohibits the transfer of a license or permit or possession of a transferred license or permit. Instead, such actions will be treated as forging or counterfeiting a license or permit, punishable as a third degree felony.
- Authorizes spearfishing when allowed by FWC rule.
- Makes violations of rules or orders of the commission related to the unlawful use of *any* traps (unless otherwise provided) second degree misdemeanors.

In addition, the bill defines the term "fish and wildlife" to mean any member of the animal kingdom, including, but not limited to, any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate. It also authorizes, rather than requires, FWC to retain an administrative fee when collecting donations for Southeastern Guide Dogs, Inc.

The bill may have an insignificant positive fiscal impact on the FWC and an insignificant negative fiscal impact on the Clerks of Court.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Florida Constitution provides that the Florida Fish and Wildlife Conservation Commission (FWC) must exercise the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life.¹ However, the Florida Constitution specifically provides that all licensing fees for taking wild animal life, fresh water aquatic life, and marine life and penalties for violating regulations of the commission must be prescribed by general law.²

Section 379.401, F.S., provides a four tiered penalty structure for violations of FWC's recreational hunting, fishing, and trapping regulations.

Level 1 Violations

Individuals who violate the following commit a Level 1 violation:

- FWC rules or orders relating to the filing of reports or other documents required to be filed by persons who hold recreational licenses and permits issued by FWC.
- FWC rules or orders relating to quota hunt permits, daily use permits, hunting zone assignments, camping, alcoholic beverages, vehicles, and check stations within wildlife management areas or other areas managed by FWC.
- FWC rules or orders relating to daily use permits, alcoholic beverages, swimming, possession of firearms, operation of vehicles, and watercraft speed within fish management areas managed by FWC.
- FWC rules or orders relating to vessel size or specifying motor restrictions on specified water bodies.
- Section 379.354(1)-(15), F.S., relating to recreational license requirements to hunt, fish, and trap.
- Section 379.3581, F.S., relating to hunter safety course requirements.
- Section 379.3003, F.S., relating to deer hunting clothing requirements.³

Section 379.401, F.S., provides the following penalties for Level 1 violations:

Level 1 Violation	Type of Infraction	Civil Penalty
1 st offense for failure to possess the required license or permit under s. 379.354, F.S. ⁴	Noncriminal	\$50 plus the cost of the license or permit
2 nd offense for failure to possess the required license or permit under s. 379.354, F.S., within 36 months of 1 st offense ⁵	Noncriminal	\$100 plus the cost of the license or permit
1 st offense not involving s. 379.354, F.S., license or permit requirements ⁶	Noncriminal	\$50
2 nd offense not involving s. 379.354, F.S., license or permit ⁷ requirements within 36 months of 1 st offense	Noncriminal	\$100

¹ Section 9, Art. IV, Fla. Const.

² Id.

³ Section 379.401(1)(a), F.S.

⁴ Section 379.401(1)(c)1., F.S.

⁵ Section 379.401(1)(c)2., F.S.

⁶ Section 379.401(1)(d)1., F.S.

⁷ Section 379.401(1)(d)2., F.S.

Level 2 Violations

Individuals who violate the following commit a Level 2 violation:

- FWC rules or orders relating to seasons or time periods for the taking of wildlife, freshwater fish, or saltwater fish.
- FWC rules or orders establishing bag, possession, or size limits or restricting methods of taking wildlife, freshwater fish, or saltwater fish.
- FWC rules or orders prohibiting access or otherwise relating to access to wildlife management areas or other areas managed by the commission.
- FWC rules or orders relating to the feeding of wildlife, freshwater fish, or saltwater fish.
- FWC rules or orders relating to landing requirements for freshwater fish or saltwater fish.
- FWC rules or orders relating to restricted hunting areas, critical wildlife areas, or bird sanctuaries.
- FWC rules or orders relating to tagging requirements for wildlife and fur-bearing animals.
- FWC rules or orders relating to the use of dogs for the taking of wildlife.
- FWC rules or orders prohibiting the unlawful use of finfish traps.
- Section 379.33, F.S., prohibiting the violation of or noncompliance with commission rules.
- Section 379.407(7), F.S., relating to the sale, purchase, harvest, or attempted harvest of any saltwater product with intent to sell.
- Section 379.2421, F.S., relating to the obstruction of waterways with net gear.
- Section 379.413, F.S., relating to the unlawful taking of bonefish.
- Section 379.365(2)(a) and (b), F.S., relating to the possession or use of stone crab traps without trap tags and theft of trap contents or gear.
- Section 379.366(4)(b), F.S., relating to the theft of blue crab trap contents or trap gear.
- Section 379.3671(2)(c), F.S., relating to the possession or use of spiny lobster traps without trap tags or certificates and theft of trap contents or trap gear.
- Section 379.357, F.S., relating to the possession of tarpon without purchasing a tarpon tag.
- Section 379.105, F.S., relating to the intentional harassment of hunters, fishers, or trappers.
- Chapter 379, F.S., violations which are not otherwise classified.
- FWC rules or orders which are not otherwise classified.⁸

Section 379.401, F.S., provides the following penalties for Level 2 violations:

Level 2 Violation	Type of Infraction	Civil Penalty or Jail Time	License Restrictions
1 st offense ⁹	2 nd Degree Misdemeanor	Max. \$500 or Max. 60 days	None
2 nd offense within 3 years of previous Level 2 violation (or higher) ¹⁰	1 st Degree Misdemeanor	Min. \$250; Max. \$1000 or Max. 1 year	None
3 rd offense within 5 years of two previous Level 2 violations (or higher) ¹¹	1 st Degree Misdemeanor	Min. \$500; Max. \$1000 or Max. 1 year	Max. suspension of license for 1 year
4 th offense within 10 years of three previous Level 2 violations (or higher) ¹²	1 st Degree Misdemeanor	Min. \$750; Max. \$1000 or Max. 1 year	Max. suspension of license for 3 years

⁸ Section 379.401(2)(a), F.S.

⁹ Section 379.401(2)(b)1., F.S.

¹⁰ Section 379.401(2)(b)2., F.S.

¹¹ Section 379.401(2)(b)3., F.S.

¹² Section 379.401(2)(b)4., F.S.

Level 3 Violations

Individuals who violate the following commit a Level 3 violation:

- FWC rules or orders prohibiting the sale of saltwater fish.
- FWC rules or orders prohibiting the illegal importation or possession of exotic marine plants or animals.
- Section 379.407(4), F.S., relating to the possession of certain finfish in excess of recreational daily bag limits.
- Section 379.28, F.S., relating to the importation of freshwater fish.
- Section 379.354(17), F.S., relating to the taking of game, freshwater fish, or saltwater fish while a required license is suspended or revoked.
- Section 379.3014, F.S., relating to the illegal sale or possession of alligators.
- Section 379.404(1), (3), and (6), F.S., relating to the illegal taking and possession of deer and wild turkey.
- Section 379.406, F.S., relating to the possession and transportation of commercial quantities of freshwater game fish.¹³

Section 379.401, F.S., provides the following penalties for Level 3 violations:

Level 3 Violation	Type of Infraction	Civil Penalty or Jail Time	License Restrictions
1 st offense ¹⁴	1 st Degree Misdemeanor	Max. \$1000 or Max. 1 year	None
2 nd offense within 10 years of previous Level 3 violation (or higher) ¹⁵	1 st Degree Misdemeanor	Min. \$750; Max. \$1000 or Max. 1 year	Maximum suspension of license for 3 years
Fishing, hunting, or trapping with a suspended license ¹⁶	1 st Degree Misdemeanor	Mandatory \$1000 or Max. 1 year	May not acquire license for 5 years

Level 4 Violations

Individuals who violate the following commit a Level 4 violation:

- Section 379.365(2)(c), F.S., relating to criminal activities relating to the taking of stone crabs.
- Section 379.366(4)(c), F.S., relating to criminal activities relating to the taking and harvesting of blue crabs.
- Section 379.367(4), F.S., relating to the willful molestation of spiny lobster gear.
- Section 379.3671(2)(c)5., F.S., relating to the unlawful reproduction, possession, sale, trade, or barter of spiny lobster trap tags or certificates.
- Section 379.354(16), F.S., relating to the making, forging, counterfeiting, or reproduction of a recreational license or possession of same without authorization from the commission.
- Section 379.404(5), F.S., relating to the sale of illegally-taken deer or wild turkey.
- Section 379.405, F.S., relating to the molestation or theft of freshwater fishing gear.
- Section 379.409, F.S., relating to the unlawful killing, injuring, possessing, or capturing of alligators or other crocodilia or their eggs.¹⁷

¹³ Section 379.401(3)(a), F.S.

¹⁴ Section 379.401(3)(b)1., F.S.

¹⁵ Section 379.401(3)(b)2., F.S.

¹⁶ Section 379.401(3)(b)3., F.S.

¹⁷ Section 379.401(4)(a), F.S.

Section 379.401, F.S., provides the following penalties for Level 4 violations:

Level 4 Violation	Type of Infraction	Civil Penalty or Jail Time	License Restrictions
1 st offense ¹⁸	3 rd Degree Felony	Max. \$5000 or Max. 5 years	None

Miscellaneous Penalties

In addition to the current four tier penalty structure, there are a number of statutes in ch. 379, F.S., that have their own penalties that apply to recreational activities and that do not fit into the four tiered structure. For example:

- Section 379.2223, F.S., provides that any person violating any rule or regulation relating to the control and management of state game lands commits a second degree misdemeanor;
- Section 379.2257, F.S., provides that any person violating any rule or regulation relating to control of wildlife within U.S. Forest Service lands commits a second degree misdemeanor;
- Section 379.29, F.S., provides that any person, firm, or corporation violating any provisions relating to contaminating fresh waters in quantities sufficient to injure, stupefy, or kill fish commits a second degree misdemeanor for the first offense, and for the second and subsequent offense, commits a first degree misdemeanor;
- Section 379.3511, F.S., provides that any person who willfully violates any provisions related to the regulation of subagents for the sale of hunting, fishing, and trapping licenses and permits commits a second degree misdemeanor;
- Section 379.411, F.S., provides that any person who is found guilty of killing or wounding any species designated as endangered, threatened, or of special concern, commits a third degree felony; and
- Section 379.4115, F.S., provides that any person convicted of unlawfully killing a Florida or wild panther commits a third degree felony.

Subsection 379.401(5), F.S., provides a “catch all” provision making violations of ch. 379, F.S., except as provided elsewhere in the chapter, second degree misdemeanors for first offenses, and first degree misdemeanors for second or subsequent offenses. Thus, the first offense carries a maximum civil penalty of \$500¹⁹ or maximum 60 days in jail.²⁰ The second or subsequent offense carries a maximum fine of \$1000²¹ or maximum 1 year in jail.²² The statute does not provide an expiration time after which a first offense is not considered for purposes of accruing a second or subsequent offense. Similarly, subparagraph 379.401(2)(a)11, F.S., provides that all prohibitions in ch. 379, F.S., which are not otherwise classified, are Level 2 violations.

“Fish and Wildlife” Definition

Present Situation

Currently, ch. 379, F.S., does not contain a definition for the term “fish and wildlife.” The Florida Endangered and Threatened Species Act does define the phrase as it relates specifically to that section.²³ It defines “fish and wildlife” to mean any member of the animal kingdom, including, but not limited to, any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate.²⁴

¹⁸ Section 379.401(4)(b), F.S.

¹⁹ Section 775.083(1)(e), F.S.

²⁰ Section 775.082(4)(b), F.S.

²¹ Section 775.083(1)(d), F.S.

²² Section 775.082(4)(a), F.S.

²³ Section 379.2291(3)(a), F.S.

²⁴ Id.

Effect of the Proposed Change

The bill amends s. 379.101, F.S., to add a definition for the term "fish and wildlife" that is identical to the definition in the Florida Endangered and Threatened Species Act.

Taking Game or Fur-Bearing Animals While Trespassing Penalties

Present Situation

In addition to other penalties in ch. 379, F.S., any person who violates the provisions of ch. 379, F.S., by illegally killing, taking, possessing, or selling game or fur-bearing animals in or out of season while trespassing or committing burglary must pay a \$250 fine plus court costs and restitution.²⁵

Effect of the Proposed Changes

The bill repeals s. 379.403, F.S., and creates a new subsection 379.401(5), F.S., to incorporate the additional trespassing and burglary penalty into the larger four tiered recreational penalty section. The bill increases the penalty from \$250 to \$500. Further, the bill expands the list of species affected to include fish and wildlife, rather than just fur-bearing animals.

Hunting or Fishing without a License

Present Situation

Individuals who wish to hunt or fish recreationally in Florida must obtain the appropriate license and permit, unless exempted by subsection 379.353(2), F.S.²⁶ Individuals who violate the hunting and fishing license and permit requirements in subsections 379.354(1) through (15), F.S., commit a Level 1 violation.²⁷ Persons convicted of this must pay a \$50 fine, plus the cost of the appropriate license and permit, for the first offense. Persons who commit a second offence within 36 months of the first offense must pay a \$100 fine, plus the cost of the appropriate license and permit.²⁸

From 2012 to 2014, FWC officers issued 9,435 citations for hunting or fishing without a license.²⁹

Effect of the Proposed Changes

The bill amends subparagraphs 379.401(1)(c)1. and 2., F.S., to offer violators of recreational fishing and hunting license provisions, except for a person who violates s. 379.354(6), (7), (8)(f), or (8)(h), F.S.,³⁰ the option to purchase the appropriate license or permit in addition to the fine rather than just paying the cost of the license or permit. Thus, these individuals will possess the appropriate license and permit in the future. The bill also amends paragraph 379.401(1)(f), F.S., to provide a method to provide proof of compliance with the penalty.

The bill creates subsection 379.354(18), F.S., to provide a cross reference that, unless otherwise provided by law, violations of the hunting and fishing license and permit requirements are a Level 1 violation. This is consistent with subparagraph 379.401(1)(a)5., F.S.

²⁵ Section 379.403, F.S.

²⁶ Section 379.354, F.S.

²⁷ Section 379.401(1)5., F.S.

²⁸ Section 379.401(1)(c)1. and 2., F.S.

²⁹ FWC, *2016 Agency Legislative Bill Analysis, Fish and Wildlife Conservation Commission*, p. 17 (October 23, 2015).

³⁰ Section 379.354(6), F.S., pertains to pier licenses, s. 379.354(7), F.S., pertains to vessel licenses, and s. 379.354(8)(f) and (h), F.S., pertains to special use permits for limited entry permits and permits for recreational hunting on lands leased from FWC by nongovernmental owners.

Repeat Offense of a Level 1 Violation

Present Situation

Currently, individuals who commit a Level 1 violation within 36 months of a previous Level 1 violation must pay a \$100 fine.³¹

Effect of the Proposed Changes

The bill amends subparagraphs 379.401(1)(c)2. and (d)2., F.S., to increase the penalty for a repeat Level 1 violation from \$100 to \$250.

Alligator License Hunting, Tagging, and Reporting Requirement Penalties

Present Situation

Individuals who wish to hunt alligators must obtain an alligator trapping license or alligator trapping agent's license.³² FWC issues Convention on International Trade in Endangered Species (CITES) tags with each alligator trapper license.³³ Once an alligator is killed, the trapper must attach a CITES tag 6 inches from tip of the alligator's tail.³⁴ All unused CITES tags must be returned to FWC within 14 days (for recreational licensees) or 15 days (for alligator management programs) after the expiration of the alligator harvest permit.³⁵ Failure to return a CITES tag may be grounds to deny future alligator harvest permits.³⁶

Further, within 24 hours of harvesting an alligator and prior to transfer of the carcass, the trapper must submit a harvest report form to FWC.³⁷ On the form, the trapper must indicate the CITES tag number, the harvest date, the location of the harvest, the size of the alligator, the disposition of the carcass, the sex, and the meat yield.³⁸ The alligator processor must fill out the same form upon receipt of the alligator carcass.³⁹ The processor must report its facility number, the disposition of the carcass, the sex of the alligator, and the meat yield.⁴⁰ The processor must maintain this information for one year.⁴¹

Other reporting requirements also apply to individuals who handle alligators. Hide dealers must keep records and make an annual report to FWC about the number of hides bought and who bought the hides.⁴² Individuals permitted to operate captive wildlife exhibits with alligators must complete and sign the Captive Alligator and Egg Transportation/Transfer Document before the transport of live untagged alligators.⁴³ Individuals who operate alligator farms must keep inventory records of alligators and

³¹ Section 379.401(1)(c)2. and (d)2., F.S.

³² Section 379.3751(1), F.S.

³³ Rule 68A-25.042(2)(d), F.A.C.; CITES is an international agreement between governments to regulate the trade of wild animal and plant species. Convention on International Trade in Endangered Species, *What is CITES?*, <https://www.cites.org/eng/disc/what.php> (last visited October 7, 2015).

³⁴ Section 379.3752(1), F.S.; rule 68A-25.042(3)(h), F.A.C.

³⁵ Rules 68A-25.032(5) and 68A-25.042(3)(k), F.A.C.

³⁶ Id.

³⁷ Rules 68A-25.032(2)(g) and 68A-25.042(3)(i), F.A.C.

³⁸ FWC, *Alligator Harvest Report Form* (FWC form 1001AT, effective April 30, 2000), available at http://myfwc.com/media/310137/Alligator_1001at.pdf (last visited October 7, 2015).

³⁹ Rule 68A-25.042(5)(a)1., F.A.C.

⁴⁰ FWC, *Alligator Harvest Report Form* (FWC form 1001AT, effective April 30, 2000), available at http://myfwc.com/media/310137/Alligator_1001at.pdf (last visited October 7, 2015).

⁴¹ Rule 68A-25.042(5)(a)2., F.A.C.

⁴² Rule 68A-24.004(2)(a), F.A.C.

⁴³ Rule 68A-25.002(1)(b), F.A.C.

alligator eggs and document their transfer.⁴⁴ Individuals who collect alligator eggs and hatchlings must tag and report the collection.⁴⁵

It appears unclear whether failing to possess an alligator trapper license or alligator trapping agent's license, failing to comply with the tagging requirements, and failing to file a report relating to alligator licensees or alligator reporting requirements are:

- Level 2 violations under the catch all provision of subparagraph 379.401(2)(a)9., F.A.C., for violations of a rule or order of the commission which are not otherwise categorized;
- Level 2 violations under the catch all provisions of subparagraph 379.401(2)(a)11., F.S., for violations of all prohibitions in ch. 379 which are not otherwise classified; or
- A second degree misdemeanor under the catch all provision of subsection 379.401(5), F.S., for violations of ch. 379, F.S.

From 2012 to 2014, FWC officers issued 22 citations for violations of alligator trapping license requirement.⁴⁶ From 2012 to 2014, FWC officers did not issue any citations for violations of alligator tagging requirements.⁴⁷

Effect of Proposed Changes

The bill adds subparagraph 379.401(1)(a)5., F.S., to decrease the penalty for violating FWC rules or orders requiring the return of unused CITES tags issued under the Statewide Alligator Harvest Program or Statewide Nuisance Alligator Program from a Level 2 violation to a Level 1 violation. Violating rules or orders of the commission requiring the return of unused CITES tags issued under an alligator program other than the Statewide Alligator Harvest Program or Statewide Nuisance Alligator Program will remain a Level 2 violation because the bill adds subparagraph 379.401(2)(a)12., F.S.

The bill amends subparagraph 379.401(1)(a)1., F.S., to decrease the penalty for violating rules or orders of the commission relating to the filing of reports or other documents required to be filed by persons who holds an any alligator trapping license or permit from a Level 2 violation to a Level 1 violation. Violating FWC rules or orders that require the maintenance of records relating to alligators will be a Level 2 violation because the bill adds subparagraph 379.401(2)(a)11., F.S.

Lastly, the bill creates subparagraph 379.401(2)(a)29. and 30., F.S., subsection 379.3751(5), F.S., and subsection 379.3752(3), F.S., to provide cross references that violations of the requirements to possess an alligator trapping license (or alligator trapping agent's license) or to place a CITES tag on a harvested alligator are Level 2 violations.

Wildlife Management Areas on U.S. Forest Service Land

Present Situation

Section 379.2257, F.S., authorizes FWC to enter into cooperative agreements with the U.S. Forest Service (USFS) for the development of game, bird, fish, reptile, or fur-bearing animal management and demonstration projects in the National Forests in Florida.⁴⁸ With the cooperation of the USFS, FWC may make, adopt, promulgate, amend, and repeal rules and regulations, consistent with law, for the further or better control of hunting, fishing, and control of wildlife in the National Forests.⁴⁹ These

⁴⁴ Rule 68A-25.004(3), F.A.C.

⁴⁵ Rule 68A-25.031(1)(b) and (2)(b), F.A.C.

⁴⁶ FWC, *2016 Agency Legislative Bill Analysis, Fish and Wildlife Conservation Commission*, p. 20 (October 23, 2015).

⁴⁷ *Id.*

⁴⁸ Section 379.2257(1), F.S.

⁴⁹ Section 379.2257(2), F.S.

regulations include requiring hunting and fishing licenses, restricting hunting during certain times of the year, regulating how game is taken, regulating camping, and regulating vehicle access.⁵⁰

Individuals who violate these rules commit a second degree misdemeanor.⁵¹ Violators face a maximum civil penalty of \$500 or a maximum 60 days in jail.⁵² These penalties are inconsistent with violations in other wildlife management areas. For example, violations of FWC rules or orders relating to quota hunt permits, daily use permits, hunting zone assignments, camping, alcoholic beverages, vehicles, and check stations within wildlife management areas or other areas managed by the commission are Level 1 violations.⁵³ Whereas, violations of FWC rules or orders prohibiting access or otherwise relating to access to wildlife management areas or other areas managed by the commission are a Level 2 violation.⁵⁴

Effect of Proposed Changes

The bill amends s. 379.2257, F.S., to indicate that penalties for violations of rules or regulations for wildlife management areas on USFS lands will be penalized under s. 379.401, F.S. Thus, the penalties for these areas will be consistent for all lands. This change will increase the penalty for repeat offenders of wildlife management area, wildlife and environmental area, and fish management area rules on USFS lands. According to FWC, USFS indicated it preferred to eliminate the inconsistency.⁵⁵

Sale, Barter, or Trade of Tarpon Penalties

Present Situation

Tarpon are a popular sport fish found throughout Florida's coastal environment. In June 2013, FWC approved a series of changes to the tarpon tag rules.⁵⁶ Previously individuals could harvest two tarpon per day.⁵⁷ The rule amendments restricted tarpon to a catch-and-release only fishery.⁵⁸ FWC's rule does allow for the temporary possession of tarpon for the purpose of photography, measuring length and girth, and taking scientific samples.⁵⁹

Section 379.357, F.S., provides that individuals may only harvest tarpon when in pursuit of an International Game Fish Association record.⁶⁰ Further, individuals may not possess or harvest a tarpon without first purchasing a tarpon tag and securely attaching the tag through the lower jaw of the tarpon.⁶¹ A person may not use more than one tarpon tag during a single license year.⁶²

Individual may not take, kill, or possess any tarpon unless the individual has purchased a tarpon tag and securely attached it through the lower jaw of the fish.⁶³ Individuals who violate this prohibition commit a Level 2 violation.⁶⁴ Further, individuals may not sell, offer for sale, barter, exchange for merchandise, transport for sale, either within or without the state, offer to purchase, or purchase any

⁵⁰ See chapters 68A-15 and 68A-17, F.A.C.

⁵¹ Section 379.2257(3), F.S.

⁵² Sections 775.082 and 775.083, F.S.

⁵³ Section 379.401(1)(a)2., F.S.

⁵⁴ Section 379.401(2)(a)3., F.S.

⁵⁵ FWC, *2016 Agency Legislative Bill Analysis, Fish and Wildlife Conservation Commission*, p. 9 (October 23, 2015).

⁵⁶ 39 Fla. Admin. R. 94 (May 14, 2013).

⁵⁷ Rule 68B-32.004, F.A.C. (2005).

⁵⁸ Rule 68B-32.001, F.A.C.

⁵⁹ Rule 68B-32.004(2), F.A.C.

⁶⁰ Rule 68B-32.009(1)(a), F.A.C.

⁶¹ Rule 68B-32.009(1)(b), F.A.C.

⁶² Rule 68B-32.009(1)(c), F.A.C.

⁶³ Section 379.357(3), F.S.

⁶⁴ Section 379.357(4), F.S.

tarpon.⁶⁵ Violations of any FWC rules or orders prohibiting the sale of saltwater fish, including tarpon, are Level 3 violations.⁶⁶

From 2012 to 2014, FWC officers issued two citations for violations of tarpon regulations.⁶⁷

Effect of Proposed Changes

The bill amends subsection 379.357(5), F.S., and adds subparagraph 379.401(3)(a)6., F.S., to increase the penalty for the sale, transfer, or purchase of tarpon from a Level 2 violation to a Level 3 violation. This will make the penalty consistent with the penalty for violations prohibiting the sale of all saltwater fish.

The bill amends subsection 379.357(4), F.S., and creates subparagraph 379.401(2)(a)23, F.S., so that the unauthorized take, kill, or possession of tarpon remains a Level 2 violation.

“Changing” or “Altering” a License Penalties

Present Situation

Individuals may not “alter” or “change” in any manner, or loan or transfer to another, unless otherwise provided, any license or permit issued by FWC.⁶⁸ It is unclear whether violators of this provision are:

- Level 2 violations under the catch all provisions of subparagraph 379.401(2)(a)11., F.S., for violations of all prohibitions in ch. 379 which are not otherwise classified; or
- Second degree misdemeanors under the catch all provision of subsection 379.401(5), F.S., for violations of ch. 379, F.S.

Whereas, individuals who make, forge, counterfeit, or reproduce a license or permit issued by FWC or knowingly possess such a license commit a Level 4 violation.⁶⁹ Level 4 violations are third degree felonies which are consistent with the penalty for counterfeiting and forgery in the criminal statutes.⁷⁰

From 2012 to 2014, FWC officers did not issue any citations altering or changing a license or permit.⁷¹

Effect of Proposed Changes

The bill amends s. 379.3502, F.S., to remove the reference to “altering” or “changing” a license because “altering” or “changing” a license may be charged as forging or counterfeiting a license.

The bill also clarifies that loaning, transferring, or using a borrowed or transferred license or permit without permission is a Level 2 violation by amending s. 379.3502, F.S., and adding subparagraph 379.401(2)(a)20, F.S.

⁶⁵ Section 379.357(5), F.S.

⁶⁶ Section 379.401(3)(a)1., F.S.

⁶⁷ FWC, *2016 Agency Legislative Bill Analysis, Fish and Wildlife Conservation Commission*, p. 17 (October 23, 2015).

⁶⁸ Section 379.3502, F.S.

⁶⁹ Sections 379.354(16) and 379.401(4)(a)5., F.S.

⁷⁰ Sections 831.01 and 831.02, F.S.

⁷¹ FWC, *2016 Agency Legislative Bill Analysis, Fish and Wildlife Conservation Commission*, p. 11 (October 23, 2015).

Sale, Purchase, Harvest, or Attempted Harvest of any Saltwater Product Penalties & Stone Crab and Spiny Lobster Trap Tags Penalties

Present Situation

Individuals or corporations who wish to commercially sell, purchase, or harvest saltwater products must obtain the appropriate license.⁷² Individuals must obtain a stone trap tag to use a stone crab trap.⁷³ Further, individuals must obtain a spiny lobster certificate and trap tag to use a spiny lobster trap.⁷⁴ Violators of these regulations commit a Level 2 violation.⁷⁵ However, such violations are commercial activities that are punishable under s. 379.407, F.S.

Further, individuals who steal stone crab and spiny lobster trap contents and gear commit Level 2 violations.⁷⁶

Effect of Proposed Changes

The bill removes subparagraphs 379.365(2)(a)2. and 379.401(2)(a)13., F.S., and amends subparagraphs 379.401(2)(a)16. and 18., F.S., to remove these commercial violations from the recreation penalty statute. Thus, violations of the requirements to obtain a saltwater products license, stone crab trap tags, and spiny lobster certificate and trap tags will now be punishable under the commercial fishing penalty statute, s. 379.407, F.S.

Theft of stone crab and spiny lobster trap contents and gear will remain Level 2 violations under the new subparagraphs 379.401(2)(a)26. and 28., F.S.

Authorized Spearfishing

Present Situation

Subsection 379.2425(2), F.S., prohibits spearfishing within the boundaries of the John Pennekamp Coral Reef State Park, the waters of Collier County, and the area in Monroe County known as Upper Keys. However, rule 68B-20.003, F.A.C., allows spearfishing in these areas if authorized in other marine fisheries rules.⁷⁷

In addition, it appears unclear whether violating spearfishing regulations are:

- Level 2 violations under the catch all provision of subparagraph 379.401(2)(a)9, F.A.C., for violations of a rule or order of the commission which are not otherwise categorized;
- Level 2 violations under the catch all provisions of subparagraph 379.401(2)(a)11., F.S., for violations of all prohibitions in ch. 379, F.S., which are not otherwise classified; or
- Second degree misdemeanors under the catch all provision of subsection 379.401(5), F.S., for violations of ch. 379, F.S.

From 2012 to 2014, FWC officers issued 38 citations for spearfishing where prohibited.⁷⁸

⁷² Section 379.361, F.S.

⁷³ Section 379.365(2)(a), F.S.

⁷⁴ Section 379.3671(2)(c), F.S.

⁷⁵ Sections 379.365(2)(a)2. and 379.401(2)(a)13., 16., and 18., F.S.

⁷⁶ Sections 379.401(2)(a)16. and 18., F.S.

⁷⁷ See rules 68B-20.003 and 68B-20.004, F.A.C.

⁷⁸ FWC, *2016 Agency Legislative Bill Analysis, Fish and Wildlife Conservation Commission*, p. 10 (October 23, 2015).

Effect of Proposed Changes

The bill amends subsection 379.2425(2), F.S., to allow spearfishing within the boundaries of the John Pennekamp Coral Reef State Park, the waters of Collier County, and the area in Monroe County known as Upper Keys when authorized by rule.

The bill also creates subsection 379.2425(2), F.S., and subparagraph 379.401(2)(a)16., F.S., to make violations of the spearfishing regulations a Level 2 violation.

Unlawful Use of Traps Penalties

Present Situation

FWC sets forth numerous regulations on the use of traps.⁷⁹ Individuals who violate FWC rules or orders prohibiting unlawful use of finfish traps commit a Level 2 violation. However, the statute does not indicate the penalty for the unlawful use of other traps. Thus, it appears unclear whether violating the trap regulations are:

- Level 2 violations under the catch all provision of subparagraph 379.401(2)(a)9, F.A.C., for violations of a rule or order of the commission which are not otherwise categorized;
- Level 2 violations under the catch all provisions of subparagraph 379.401(2)(a)11., F.S., for violations of all prohibitions in ch. 379, F.S., which are not otherwise classified; or
- Second degree misdemeanors under the catch all provision of subsection 379.401(5), F.S., for violations of ch. 379, F.S.

Effect of Proposed Changes

The bill amends subparagraph 379.401(2)(a)10., F.S., to make violations of all trap regulations a Level 2 violation.

Enforcement of Commission Rules

Present Situation

Section 379.33, F.S., states, “[e]xcept as provided under s. 379.401, any person who violates or otherwise fails to comply with any rule adopted by the commission shall be punished pursuant to s. 379.407(1).” Section 379.401, F.S., contains most of the recreational fishing and hunting penalties while s. 379.407, F.S., contains the penalties for commercial saltwater fishing regulations. However, other penalties enforced by FWC are found in other statutes.⁸⁰ Thus, the statement in s. 379.33, F.S., is inaccurate and confusing.

Effect of Proposed Changes

The bill amends s. 379.33, F.S., to remove the inaccurate statement.

Control and Management of State Game Lands Penalties

Present Situation

The Legislature authorized FWC to make, adopt, promulgate, amend, repeal, and enforce all reasonable rules and regulations necessary for the protection, control, operation, management, or

⁷⁹ See e.g., rule 68A-24.002, F.A.C. (relating to fur bearing animals); rule 68A-23.002, F.A.C. (relating to taking freshwater fish); and rule 68A-9.010 (relating to taking nuisance animals).

⁸⁰ See ch. 372, F.S., and s. 379.4015, F.S.

development of lands or waters owned by, leased by, or otherwise assigned to, FWC for fish or wildlife management purposes.⁸¹

State game lands include Wildlife Management Areas (WMAs), Wildlife and Environmental Areas (WEAs), and Fish Management Areas (FMAs). FWC manages a WMA system in order to sustain the widest possible range of native wildlife in their natural habitats. These lands are more rugged than parks, with fewer developed amenities. The WMA system includes more than 5.8 million acres of land established as WMAs or WEAs.⁸²

Chapter 68A-15, F.A.C., establishes the rules for Florida's WMAs, and ch. 68A-17, F.A.C., establishes the rules for Florida's WEAs. These regulations include requiring hunting and fishing licenses, restricting hunting during certain times of the year, regulating how game is taken, regulating camping, and regulating vehicle access.

Individuals who violation these rules commit a second degree misdemeanor,⁸³ punishable by a maximum civil penalty of \$500⁸⁴ or a maximum 60 days in jail.⁸⁵

Effect of Proposed Changes

The bill amends subsection 379.2223(2), F.S., to make violations of WMA and FMA rules subject to the penalties in the recreational penalties statute. Thus, the penalties in subparagraphs 379.401(1)(a)2., 379.401(1)(a)3., and 379.401(2)(a)3., F.S., will apply to violations of WMA and FMA rules.

Contamination of Freshwater Penalties

Present Situation

Individual, firms, and corporations may not cause any dyestuff, coal tar, oil, sawdust, poison, or deleterious substances to be thrown, run, or drained into any of the fresh running waters of this state in quantities sufficient to injure, stupefy, or kill fish.⁸⁶ Violators of this prohibition commit a second degree misdemeanor for first offense, and first degree misdemeanor for the second or subsequent offense.⁸⁷ Thus, the first offense carries a maximum civil penalty of \$500⁸⁸ or maximum 60 days in jail.⁸⁹ The second or subsequent offense carries a maximum fine of \$1000⁹⁰ or maximum 1 year in jail.⁹¹

Effect of Proposed Changes

The bill amends subsection 379.29(2), F.S., and adds subparagraph 379.401(2)(a)17., F.S., to make contaminating fresh water in a way that injures fish a Level 2 violation.

⁸¹ Section 379.2223(1), F.S.

⁸² FWC, *2016 Agency Legislative Bill Analysis, Fish and Wildlife Conservation Commission*, p. 8 (October 23, 2015).

⁸³ Section 379.2223(2), F.S.

⁸⁴ Section 775.083(1)(e), F.S.

⁸⁵ Section 775.082(4)(b), F.S.

⁸⁶ Section 379.29(1), F.S.

⁸⁷ Section 379.29(2), F.S.

⁸⁸ Section 775.083(1)(e), F.S.

⁸⁹ Section 775.082(4)(b), F.S.

⁹⁰ Section 775.083(1)(d), F.S.

⁹¹ Section 775.082(4)(a), F.S.

Use of Explosives or Other Substances Penalties

Present Situation

Individuals may not use explosives or other similar substances in freshwaters of the state to injure fish.⁹² It appears unclear whether violating this provision is a:

- Level 2 violations under the catch all provisions of subparagraph 379.401(2)(a)11., F.S., for violations of all prohibitions in ch. 379, F.S., which are not otherwise classified; or
- Second degree misdemeanors under the catch all provision of subsection 379.401(5), F.S., for violations of ch. 379, F.S.

Effect of Proposed Change

The bill amends s. 379.295, F.S., and creates subparagraph 379.401(2)(a)18., F.S., to make violations of the use of explosives prohibition a Level 2 violation.

Freshwater Fish Dealer's and Fur and Hide Dealer's License Penalties

Present Situation

An individual who wishes to engage in the business of taking for sale or selling any frogs or freshwater fish, including live bait, of any species or size, or importing any exotic or nonnative fish must obtain a freshwater fish dealer's license.⁹³ Further, individuals who wish to engage in the business of a dealer or buyer in green or dried alligator hides or green or dried furs or purchase such hides or furs must obtain a fur and hide dealer's license.

It appears unclear whether violating of these license requirements are:

- Level 2 violations under the catch all provisions of subparagraph 379.401(2)(a)11., F.S., for violations of all prohibitions in ch. 379, F.S., which are not otherwise classified; or
- Second degree misdemeanors under the catch all provision of subsection 379.401(5), F.S., for violations of ch. 379, F.S.

From 2012 to 2014, FWC officers issued 51 citations for violations of the freshwater fish dealer's license requirements.⁹⁴ From 2012 to 2014, FWC officers did not issue any citations for violations of the fur and hide dealer's license requirements.⁹⁵

Effect of Proposed Changes

The bill amends ss. 379.363 and 379.364, F.S., and creates subparagraphs 379.401(1)(a)24. and 379.401(2)(a)25., F.S., to make violations of the freshwater fish dealer's and fur and hide dealer's license requirements a Level 2 violation.

False Statement on License, Permit, or Application Penalties

Present Situation

Individuals who swear or affirm to a false statement on an application for a license or permit violates ch. 379, F.S.⁹⁶ Such statement also make the license or permit void.⁹⁷

⁹² Section 379.295, F.S.

⁹³ Section 379.363(1), F.S.

⁹⁴ FWC, *2016 Agency Legislative Bill Analysis, Fish and Wildlife Conservation Commission*, p. 18 (October 23, 2015).

⁹⁵ Id. at 19.

⁹⁶ Section 379.3503, F.S.

⁹⁷ Id.

Likewise, individuals who knowingly and willfully enter false information on, or allow or cause false information to be entered on or shown upon any license or permit in order to avoid prosecution or to assist another to avoid prosecution, or for any other wrongful purpose must be punished under s. 379.401, F.S.⁹⁸

It is unclear whether violations of these provisions are:

- Level 2 violations under the catch all provisions of subparagraph 379.401(2)(a)11., F.S., for violations of all prohibitions in ch. 379, F.S., which are not otherwise classified; or
- Second degree misdemeanors under the catch all provision of subsection 379.401(5), F.S., for violations of ch. 379, F.S.

From 2012 to 2014, FWC officers issued three citations for making false statements on an application for a license or permit.⁹⁹ From 2012 to 2014, FWC officers issued two citations for entering false information on, or allowing or causing false information to be entered on or shown upon any license or permit.¹⁰⁰

Effect of Proposed Changes

The bill amends ss. 379.3503 and 379.3504, F.S., and creates subparagraphs 379.401(2)(a)20. and 21., F.S., to make false statements in an application for a license or permit or entering false information on licenses or permits Level 2 violations.

License Subagent Penalties

Present Situation

The Legislature authorized FWC to appoint subagents to act on the behalf of FWC to sell hunting, fishing, and trapping licenses and permits.¹⁰¹ FWC may prohibit subagents from selling certain types of licenses and permits.¹⁰² Further, only individuals appointed by FWC may handle licenses or permits for a fee or compensation of any kind.¹⁰³

As of July 2015, FWC has contracted with 883 bonded subagents to sell hunting, fishing, and trapping licenses and permits.¹⁰⁴ The subagents include 215 Florida tax collectors offices, as well retail stores, sporting goods stores, hardware stores, bait and tackle establishments, and others.¹⁰⁵

Individuals who violate the subagent regulations and rules commit a second degree misdemeanor.¹⁰⁶ Thus, violators face a maximum civil penalty of \$500¹⁰⁷ or a maximum 60 days in jail.¹⁰⁸

From 2012 to 2014, FWC officers did not issue any citations for violations of the subagent licensing requirements.¹⁰⁹

⁹⁸ Section 379.3504, F.S.

⁹⁹ FWC, *2016 Agency Legislative Bill Analysis, Fish and Wildlife Conservation Commission*, p. 12 (October 23, 2015).

¹⁰⁰ Id.

¹⁰¹ Section 379.3511, F.S.

¹⁰² Section 379.3511(1)(b), F.S.

¹⁰³ Section 379.3511(1)(c), F.S.

¹⁰⁴ FWC, *2016 Agency Legislative Bill Analysis, Fish and Wildlife Conservation Commission*, p. 13 (October 23, 2015).

¹⁰⁵ Id.

¹⁰⁶ Section 379.3511(1)(d), F.S.

¹⁰⁷ Section 775.083(1)(e), F.S.

¹⁰⁸ Section 775.082(4)(b), F.S.

¹⁰⁹ FWC, *2016 Agency Legislative Bill Analysis, Fish and Wildlife Conservation Commission*, p. 13 (October 23, 2015).

Effect of Proposed Change

The bill repeals paragraph 379.3511(1)(d), F.S., creates subsection 379.3511(4), F.S., and adds subparagraph 379.401(2)(a)22., F.S., to make violations of the subagent regulations and rules a Level 2 violation.

Illegal Killing, Possessing, or Capturing of Alligators or Other Crocodilia or Eggs Penalties

Present Situation

Individuals may not intentionally kill, injure, possess, or capture, or attempt to kill, injure, possess, or capture, an alligator or other crocodilian, or the eggs of an alligator or other crocodilian, unless authorized by the FWC. Subsection 379.409(1), F.S., makes a violation of this prohibition a third degree felony. Subparagraph 379.401(4)(a), F.S., makes a violation of this provision a Level 4 violation. Both carry a maximum fine of \$5000¹¹⁰ or a maximum jail time of 5 years for the first offense.¹¹¹ These penalties may increase if the individual is a habitual felony offender or a habitual violent felony offender.¹¹²

From 2012 to 2014, FWC officers issued 32 citations for intentionally killing, injuring, possessing, or capturing, or attempting to kill, injure, possess, or capture, an alligator or other crocodilian, or the eggs of an alligator or other crocodilian.¹¹³

Effect of Proposed Changes

The bill amends subsection 379.409(1), F.S., and creates subsection 379.409(4), F.S., to clarify that violations of this prohibition are a Level 4 violation. The penalties for habitual felony offenders and habitual violent felony offenders will no longer apply.

Intentional Killing or Wounding Species Designated as Endangered, Threatened, or of Special Concern Penalties

Present Situation

Individuals may not intentionally kill or wound any fish or wildlife of a species designated by the FWC as endangered, threatened, or of special concern, or to intentionally destroy the eggs or nest of any such fish or wildlife without authorization from FWC.¹¹⁴ Violators of this prohibition face a third degree felony.¹¹⁵ Third degree felonies carry a maximum fine of \$5000¹¹⁶ or a maximum jail time of 5 years.¹¹⁷ These penalties may increase if the individual is a habitual felony offender or a habitual violent felony offender.¹¹⁸

From 2012 to 2014, FWC officers issued 12 citations for intentionally killing or wounding any fish or wildlife of a species designated by the FWC as endangered, threatened, or of special concern, or intentionally destroying the eggs or nest of any such fish or wildlife.¹¹⁹

¹¹⁰ Section 775.083, F.S.

¹¹¹ Section 775.082, F.S.

¹¹² Section 379.409(1), F.S.

¹¹³ FWC, *2016 Agency Legislative Bill Analysis, Fish and Wildlife Conservation Commission*, p. 21 (October 23, 2015).

¹¹⁴ Section 379.411, F.S.

¹¹⁵ Id.

¹¹⁶ Section 775.083, F.S.

¹¹⁷ Section 775.082, F.S.

¹¹⁸ Section 379.411, F.S.

¹¹⁹ FWC, *2016 Agency Legislative Bill Analysis, Fish and Wildlife Conservation Commission*, p. 21 (October 23, 2015).

Effect of Proposed Change

The bill amends s. 379.411, F.S., and creates subparagraph 379.401(4)(a)9., F.S., to make violations of this prohibition a Level 4 violation. The penalties for habitual felony offenders and habitual violent felony offenders will no longer apply.

Killing Florida or Wild Panther Penalties

Present Situation

Individuals may not kill any Florida panther or wild panther.¹²⁰ Violators of this prohibition face a third degree felony.¹²¹ Third degree felonies carry a maximum fine of \$5000¹²² or a maximum jail time of 5 years for the first offense.¹²³ These penalties may increase if the individual is a habitual felony offender or a habitual violent felony offender.¹²⁴

From 2012 to 2014, FWC officers did not issue any citations for killing any Florida panther or wild panther.¹²⁵

Effect of Proposed Changes

The bill amends s. 379.4115, F.S., and creates subparagraph 379.401(4)(a)10., F.S., to make violations of this prohibition a Level 4 violation. The penalties for habitual felony offenders and habitual violent felony offenders will no longer apply.

Catch All Chapter Violation Penalties

Present Situation

Subparagraph 379.401(2)(a)11., F.S., makes violations of ch. 379, F.S., Level 2 violations. Whereas, subsection 379.401(5), F.S., makes violations of ch. 379, F.S., a second degree misdemeanor for the first offense and a first degree misdemeanor for the second and subsequent offenses.

Effect of the Proposed Changes

The bill removes subsection 379.401(5), F.S., to eliminate this inconsistency. Thus, the catch all penalty for violations of ch. 379, F.S., will be a Level 2 violation under subparagraph 379.401(2)(a)13., F.S.

Southeastern Guide Dogs, Inc.

Present Situation

Individuals purchasing a license or permit from FWC may voluntarily check a box on their application to authorize an additional \$2 fee.¹²⁶ FWC must retain \$0.90 to cover administrative costs.¹²⁷ Southeastern Guide Dogs, Inc., must use the money they receive to breed, raise, and train guide dogs

¹²⁰ Section 379.4115, F.S.

¹²¹ Id.

¹²² Section 775.083, F.S.

¹²³ Section 775.082, F.S.

¹²⁴ Section 379.4115(3), F.S.

¹²⁵ FWC, *2016 Agency Legislative Bill Analysis, Fish and Wildlife Conservation Commission*, p. 22 (October 23, 2015).

¹²⁶ Section 379.359, F.S.

¹²⁷ Id.

for the blind, specifically for the "Paws for Patriots" program, which includes in-residence training for veterans who are provided guide dogs by Southeastern Guide Dogs, Inc.¹²⁸

Southeastern Guide Dogs, Inc., a 501(c)(3) nonprofit organization, formed in 1982. The organization places more than 100 trained dogs each year into careers benefitting people with visual impairments and veterans. The organization provides all services free of charge and receives no government funding. The Paws for Patriots Program matches guide dogs, service dogs, facility therapy dogs, and emotional support dogs with active duty soldiers and retired servicemen and women who have one of the needs these dogs can help meet.¹²⁹

When s. 379.359, F.S., passed, FWC contracted with a third-party vendor to operate a system that issues recreational licenses. As part of that contract, the vendor charged FWC \$0.90 to process each individual voluntary contribution made to Southeastern Guide Dogs, Inc. In practice, FWC retained \$0.90 of each contribution made to cover this processing fee, and forwarded \$1.10 to Southeastern Guide Dogs, Inc.¹³⁰

In October 2012, FWC contracted with a new company to process recreational licenses. Under the new contract, the new vendor does not charge FWC any fees to process the contributions to Southeastern Guide Dogs, Inc. Thus, FWC stopped retaining any fees from the contributions and began sending the entirety of each contribution (\$2.00) to Southeastern Guide Dogs, Inc.¹³¹

In 2015, the Department of Financial Services (DFS) contacted FWC staff and advised that because the statutes says that \$0.90 "shall" be retained from each voluntary contribution made under s. 379.359, F.S., FWC was not permitted to send the entirety of the contributions to Southeastern Guide Dogs, Inc. DFS temporarily authorized the agency to continue sending the entire contributions to Southeastern Guide Dogs, Inc., with an agreement that FWC will seek a legislative change that would eliminate the requirement that FWC retain the \$0.90 fee.¹³²

Effect of Proposed Changes

The bill amends s. 379.359, F.S., to eliminate the requirement that FWC retain the administrative fee. Instead, FWC may retain the fee at its discretion.

B. SECTION DIRECTORY:

- Section 1.** Amends s. 379.101, F.S., defining the term "fish and wildlife."
- Section 2.** Amends s. 379.2223, F.S., relating to control and management of state game lands.
- Section 3.** Amends s. 379.2257, F.S., relating to penalties on U.S. Forest Service lands.
- Section 4.** Amends s. 379.2425, F.S., relating to spearfishing.
- Section 5.** Amends s. 379.29, F.S., relating to contaminating fresh water.
- Section 6.** Amends s. 379.295, F.S., relating to use of explosives and other substances.
- Section 7.** Amends s. 379.33, F.S., relating to enforcement of commission rules.

¹²⁸ Id.

¹²⁹ Southeastern Guide Dogs, *About Us*, <http://www.guidedogs.org/about/about-us/> (last visited October 8, 2015).

¹³⁰ FWC, *2016 Agency Legislative Bill Analysis, Fish and Wildlife Conservation Commission*, p. 22 (October 23, 2015).

¹³¹ Id.

¹³² FWC, *2016 Legislative Proposal, Southeastern Guide Dogs, Inc. Donation Fee*, p. 2 (October 5, 2015).

- Section 8.** Amends s. 379.3502, F.S., relating to prohibition on the transferring licenses and permits.
- Section 9.** Amends s. 379.3503, F.S., relating to false statements in application for licenses or permits.
- Section 10.** Amends s. 379.3594, F.S., relating to entering false information on licenses or permits.
- Section 11.** Amends s. 379.3511, F.S., relating to appointment of subagents for the sale of hunting, fishing, and trapping licenses and permits.
- Section 12.** Amends s. 379.354, F.S., relating to recreational licenses, permits, and authorization numbers.
- Section 13.** Amends s. 379.357, F.S., relating to FWC license program for tarpon.
- Section 14.** Amends s. 379.359, F.S., relating to license application provision for voluntary contribution to Southeastern Guide Dogs, Inc.
- Section 15.** Amends s. 379.363, F.S., relating to freshwater fish dealer's license.
- Section 16.** Amends s. 379.364, F.S., relating to license required for fur and hide dealers.
- Section 17.** Amends s. 379.365, F.S., relating to stone crab regulations.
- Section 18.** Amends s. 379.3751, F.S., relating to taking and possession of alligators.
- Section 19.** Amends s. 379.3752, F.S., relating to required tagging of alligators and hides.
- Section 20.** Amends s. 379.401, F.S., relating to penalties and violation; civil penalties for noncriminal infractions; criminal penalties; suspension and forfeiture of licenses and permits.
- Section 21.** Repeals s. 379.403, F.S., relating to illegal killing, taking, possessing, or selling wildlife or game.
- Section 22.** Amends s. 379.409, F.S., relating to illegal killing, possessing, or capturing of alligators or other crocodilia or eggs.
- Section 23.** Amends s. 379.411, F.S., relating to intentionally killing or wounding of any species designated as endangered, threatened, or of special concern.
- Section 24.** Amends s. 379.4115, F.S., relating to prohibition of killing Florida or wild panther.
- Section 25.** Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may have an insignificant positive fiscal impact on FWC because it provides violators who hunt or fish without a license the option to purchase a recreational license when they are cited for not having one, rather than pay the clerk of court the cost of the recreational license. Currently, the

clerks of courts collect these fines.¹³³ Now the money will be deposited in the Dedicated License Trust Fund,¹³⁴ the Lifetime Fish and Wildlife Trust Fund,¹³⁵ the State Game Trust Fund,¹³⁶ or the Marine Resources Conservation Trust Fund¹³⁷ if the individual chooses to purchase the appropriate license and permit. Based on FWC's estimation, if every violator chooses to purchase a license, the bill would increase funds collected by FWC by \$50,806.¹³⁸

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill may have an insignificant negative fiscal impact on the clerks of court. The bill amends subparagraphs 379.401(1)(c)1. and 2., F.S., to provide persons who hunt or fish without a license the option to purchase a recreational license when they are cited for not having one, rather than pay the clerk of court the cost of the recreational license, thereby reducing the fines that may be collected by the clerks of courts.¹³⁹ However, the bill also increases the penalties collected by the clerks of court for certain violations. Based on FWC's estimation, if every judge imposes the maximum penalty and every violator chooses to purchase a license, the bill would reduce funds deposited with the clerks of court by approximately \$85,456.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate fiscal impact on the individuals who violate the provisions of ch. 379, F.S. Depending on the specific violation, the bill may increase or decrease the penalty.

In addition, the bill may create a positive impact on Southern Guide Dogs, Inc., by amending s. 379.359, F.S., to authorize FWC to transfer all of the \$2 contribution to the non-profit rather than requiring FWC to retain \$.90 for administrative costs.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18, of the Florida Constitution may apply because this bill amends subparagraphs 379.401(1)(c)1. and 2., F.S., to provide persons who hunt or fish without a license the option to purchase a recreational license when they are cited for not having one, rather than pay the clerk of court the cost of the recreational license, thereby reducing

¹³³ Sections 142.01(1)(a) and 379.2203(1), F.S.

¹³⁴ Section 379.203, F.S.

¹³⁵ Section 379.207, F.S.

¹³⁶ Section 379.211, F.S.

¹³⁷ Section 379.2201, F.S.

¹³⁸ Florida Fish and Wildlife Conservation Commission, *Recreational Penalties Fiscal Impact*, p. 3 (October 23, 2015).

¹³⁹ Sections 142.01(1)(a) and 379.2203(1), F.S.

the fines that may be collected by the clerks of court. However, an exemption may apply if the bill results in an insignificant fiscal impact to county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
 2 An act relating to the Fish and Wildlife Conservation
 3 Commission; amending s. 379.101, F.S.; defining the
 4 term "fish and wildlife"; amending s. 379.2223, F.S.;
 5 revising penalties for violations of commission rules
 6 or regulations relating to control and management of
 7 state game lands; amending s. 379.2257, F.S.; revising
 8 penalties for violations of wildlife management area
 9 rules and regulations on United States Forest Service
 10 lands; amending s. 379.2425, F.S.; authorizing
 11 spearfishing in specified areas by commission rule or
 12 order; providing a penalty for violations of
 13 commission rules or orders relating to spearfishing;
 14 amending s. 379.29, F.S.; revising penalties for
 15 violations relating to the contamination of fresh
 16 waters; amending s. 379.295, F.S.; providing a penalty
 17 for violations relating to the use of explosives and
 18 other substances or force in fresh waters; amending s.
 19 379.33, F.S.; deleting base penalty provisions for
 20 violation of or failure to comply with any commission
 21 rule; amending s. 379.3502, F.S.; deleting violation
 22 provisions for altering or changing, in any manner, a
 23 license or permit; providing a penalty for violations
 24 relating to loaning or transferring a license or
 25 permit to another person or using a borrowed or
 26 transferred license or permit; amending s. 379.3503,

27 F.S.; revising penalties for violations of swearing or
 28 affirming to a false statement on a license or permit
 29 application; amending s. 379.3504, F.S.; revising
 30 penalties for violations relating to entering false
 31 information on a license or permit; amending s.
 32 379.3511, F.S.; revising penalties relating to the
 33 sale of specified licenses and permits by appointed
 34 subagents; amending s. 379.354, F.S.; providing a
 35 penalty for violations relating to possession of
 36 recreational hunting, fishing, and trapping licenses,
 37 permits, and authorization numbers; amending s.
 38 379.357, F.S.; revising penalties for violations
 39 relating to the purchase of a tarpon tag and the sale
 40 of tarpon; amending s. 379.359, F.S.; authorizing,
 41 rather than requiring, the commission to retain a
 42 portion of voluntary contributions to Southeastern
 43 Guide Dogs, Inc.; amending s. 379.363, F.S.; providing
 44 a penalty for violations relating to freshwater fish
 45 dealers' licenses; amending s. 379.364, F.S.;
 46 providing a penalty for violations relating to fur and
 47 hide dealers' licenses; amending s. 379.365, F.S.;
 48 deleting penalty provisions for violations of stone
 49 crab regulations by persons other than commercial
 50 harvesters; amending s. 379.3751, F.S.; providing a
 51 penalty for violations relating to trapping licenses
 52 for taking and possessing alligators; amending s.

53 | 379.3752, F.S.; providing a penalty for violations
 54 | relating to the tagging of alligators and hides;
 55 | amending s. 379.401, F.S.; providing penalties for
 56 | violations relating to filing reports and documents by
 57 | persons who hold alligator licenses and permits;
 58 | reducing the penalties for failure to return CITES
 59 | tags issued under the Statewide Alligator Harvest
 60 | Program and the Stateside Nuisance Alligator Program;
 61 | providing an alternative penalty for specified
 62 | violations relating to recreational fishing, hunting,
 63 | and trapping licenses; increasing the civil penalty
 64 | amount for Level One repeat violations; providing that
 65 | the unlawful use of any trap is a Level Two violation;
 66 | providing that violations relating to record
 67 | requirements for alligators is a Level Two violation;
 68 | providing that violations relating to the return of
 69 | CITES tags issued in a program other than the
 70 | Statewide Alligator Harvest Program or the Statewide
 71 | Nuisance Alligator Program is a Level Two violation;
 72 | deleting penalty provisions for the sale, purchase,
 73 | harvest, or attempted harvest of any saltwater product
 74 | with intent to sell; providing additional penalties
 75 | for the illegal taking of fish and wildlife while
 76 | trespassing; repealing s. 379.403, F.S., relating to
 77 | the illegal killing, taking, possessing, or selling of
 78 | wildlife or game; amending s. 379.409, F.S.; revising

79 penalties for the illegal killing, possessing, or
 80 capturing of alligators or other crocodilia or their
 81 eggs; amending s. 379.411, F.S.; revising penalties
 82 for the intentional killing or wounding of any species
 83 designated as endangered, threatened, or of special
 84 concern; amending s. 379.4115, F.S.; revising
 85 penalties for violations relating to killing a Florida
 86 or wild panther; amending ss. 379.3004, 379.337,
 87 589.19, and 810.09, F.S.; conforming cross-references;
 88 providing an effective date.

89

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

91

92 Section 1. Section 379.101, Florida Statutes, is amended
 93 to read:

94 379.101 Definitions.—In construing this chapter ~~these~~
 95 ~~statutes~~, where the context does not clearly indicate otherwise,
 96 the word, phrase, or term:

97 (1) "Authorization" means a number issued by the Fish and
 98 Wildlife Conservation Commission, or its authorized agent, which
 99 serves in lieu of a license or permits and affords the privilege
 100 purchased for a specified period of time.

101 (2) "Beaches" and "shores" shall mean the coastal and
 102 intracoastal shoreline of this state bordering upon the waters
 103 of the Atlantic Ocean, the Gulf of Mexico, the Straits of
 104 Florida, and any part thereof, and any other bodies of water

105 | under the jurisdiction of the State of Florida, between the mean
 106 | high-water line and as far seaward as may be necessary to
 107 | effectively carry out the purposes of this act.

108 | (3) "Closed season" shall be that portion of the year
 109 | wherein the laws or rules of Florida forbid the taking of
 110 | particular species of game or varieties of fish.

111 | (4) "Coastal construction" includes any work or activity
 112 | which is likely to have a material physical effect on existing
 113 | coastal conditions or natural shore processes.

114 | (5) "Commercial harvester" means any person, firm, or
 115 | corporation that takes, harvests, or attempts to take or harvest
 116 | saltwater products for sale or with intent to sell; that is
 117 | operating under or is required to operate under a license or
 118 | permit or authorization issued pursuant to this chapter; that is
 119 | using gear that is prohibited for use in the harvest of
 120 | recreational amounts of any saltwater product being taken or
 121 | harvested; or that is harvesting any saltwater product in an
 122 | amount that is at least two times the recreational bag limit for
 123 | the saltwater product being taken or harvested.

124 | (6) "Commission" shall mean the Fish and Wildlife
 125 | Conservation Commission.

126 | (7) "Common carrier" shall include any person, firm, or
 127 | corporation, who undertakes for hire, as a regular business, to
 128 | transport persons or commodities from place to place offering
 129 | his or her services to all such as may choose to employ the
 130 | common carrier and pay his or her charges.

131 (8) "Coon oysters" are oysters found growing in bunches
 132 along the shore between high-water mark and low-water mark.

133 (9) "Department" shall mean the Department of
 134 Environmental Protection.

135 (10) "Erosion control," "beach preservation," and
 136 "hurricane protection" shall include any activity, work,
 137 program, project, or other thing deemed necessary by the
 138 Department of Environmental Protection to effectively preserve,
 139 protect, restore, rehabilitate, stabilize, and improve the
 140 beaches and shores of this state, as defined above.

141 (11) "Exhibit" means to present or display upon request.

142 (12) "Finfish" means any member of the classes Agnatha,
 143 Chondrichthyes, or Osteichthyes.

144 (13) "Fish and game" means all fresh and saltwater fish,
 145 shellfish, crustacea, sponges, wild birds, and wild animals.

146 (14) "Fish and wildlife" means any member of the animal
 147 kingdom, including, but not limited to, any mammal, fish, bird,
 148 amphibian, reptile, mollusk, crustacean, arthropod, or other
 149 invertebrate.

150 (15)~~(14)~~ "Fish management area" means a pond, lake, or
 151 other water within a county, or within several counties,
 152 designated to improve fishing for public use, and established
 153 and specifically circumscribed for authorized management by the
 154 commission and the board of county commissioners of the county
 155 in which such waters lie, under agreement between the commission
 156 and an owner with approval by the board of county commissioners

157 or under agreement with the board of county commissioners for
 158 use of public waters in the county in which such waters lie.

159 ~~(16)~~~~(15)~~ "Fish pond" means a body of water that does not
 160 occur naturally and that has been constructed and is maintained
 161 primarily for the purpose of fishing.

162 ~~(17)~~~~(16)~~ "Food fish" shall include mullet, trout, redbfish,
 163 sheepshead, pompano, mackerel, bluefish, red snapper, grouper,
 164 black drum, jack crevalle, and all other fish generally used for
 165 human consumption.

166 ~~(18)~~~~(17)~~ "Fresh water," except where otherwise provided by
 167 law, means all lakes, rivers, canals, and other waterways of
 168 Florida, to such point or points where the fresh and salt waters
 169 commingle to such an extent as to become unpalatable and unfit
 170 for human consumption because of the saline content, or to such
 171 point or points as may be fixed by order of the commission by
 172 and with the consent of the board of county commissioners of the
 173 county or counties to be affected by such order. The
 174 Steinhatchee River shall be considered fresh water from its
 175 source to mouth.

176 ~~(19)~~~~(18)~~ "Freshwater fish" means all classes of pisces
 177 that are native to fresh water.

178 ~~(20)~~~~(19)~~ "Fur-bearing animals" means muskrat, mink,
 179 raccoon, otter, civet cat, skunk, red and gray fox, and opossum.

180 ~~(21)~~~~(20)~~ "Game" means deer, bear, squirrel, rabbits, and,
 181 where designated by commission rules, wild hogs, ducks, geese,
 182 rails, coots, gallinules, snipe, woodcock, wild turkeys, grouse,

183 pheasants, quail, and doves.

184 ~~(22)~~(21) "Guide" shall include any person engaged in the
185 business of guiding hunters or hunting parties, fishers or
186 fishing parties, for compensation.

187 ~~(23)~~(22) "Marine fish" means any saltwater species of
188 finfish of the classes Agnatha, Chondrichthyes, and
189 Osteichthyes, and marine invertebrates in the classes
190 Gastropoda, Bivalvia, and Crustacea, or the phylum
191 Echinodermata, but does not include nonliving shells or
192 echinoderms.

193 ~~(24)~~(23) "Molest," in connection with any fishing trap or
194 its buoy or buoy line, means to touch, bother, disturb, or
195 interfere or tamper with, in any manner.

196 ~~(25)~~(24) A "natural oyster or clam reef" or "bed" or "bar"
197 shall be considered and defined as an area containing not less
198 than 100 square yards of the bottom where oysters or clams are
199 found in a stratum.

200 ~~(26)~~(25) "Nongame" means all species and populations of
201 native wild vertebrates and invertebrates in the state that are
202 not defined as game.

203 ~~(27)~~(26) "Nonresident alien" shall mean those individuals
204 from other nations who can provide documentation from the Bureau
205 of Citizenship and Immigration Services evidencing permanent
206 residency status in the United States. For the purposes of this
207 chapter, a "nonresident alien" shall be considered a
208 "nonresident."

209 (28)~~(27)~~ "Open season" shall be that portion of the year
 210 wherein the laws of Florida for the preservation of fish and
 211 game permit the taking of particular species of game or
 212 varieties of fish.

213 (29)~~(28)~~ "Private hunting preserve" includes any area set
 214 aside by a private individual or concern on which artificially
 215 propagated game or birds are taken.

216 (30)~~(29)~~ "Reef bunch oysters" are oysters found growing on
 217 the bars or reefs in the open bay and exposed to the air between
 218 high and low tide.

219 (31)~~(30)~~ "Resident" or "resident of Florida" means:

220 (a) For purposes of part VII, a citizen of the United
 221 States who has continuously resided in this state for 1 year
 222 before applying for a hunting, fishing, or other license.
 223 However, for purposes of ss. 379.363, 379.364, 379.3711,
 224 379.3712, 379.372, 379.373, 379.374, 379.3751, 379.3752,
 225 379.3761, and 379.3762, the term means a citizen of the United
 226 States who has continuously resided in this state for 6 months
 227 before applying for a hunting, fishing, or other license.

228 (b) For purposes of part VI:

229 1. A member of the United States Armed Forces who is
 230 stationed in the state and his or her family members residing
 231 with such member; or

232 2. A person who has declared Florida as his or her only
 233 state of residence as evidenced by a valid Florida driver
 234 license or identification card that has both a Florida address

235 and a Florida residency verified by the Department of Highway
 236 Safety and Motor Vehicles, or, in the absence thereof, one of
 237 the following:

- 238 a. A current Florida voter information card;
- 239 b. A sworn statement manifesting and evidencing domicile
 240 in Florida in accordance with s. 222.17;
- 241 c. Proof of a current Florida homestead exemption; or
- 242 d. For a child younger than 18 years of age, a student
 243 identification card from a Florida school or, if accompanied by
 244 his or her parent at the time of purchase, the parent's proof of
 245 residency.

246 (32)~~(31)~~ "Resident alien" means a person who has
 247 continuously resided in this state for at least 1 year and can
 248 provide documentation from the Bureau of Citizenship and
 249 Immigration Services evidencing permanent residency status in
 250 the United States. For the purposes of this chapter, a "resident
 251 alien" is considered a "resident."

252 (33)~~(32)~~ "Restricted species" means any species of
 253 saltwater products which the state by law, or the Fish and
 254 Wildlife Conservation Commission by rule, has found it necessary
 255 to so designate. The term includes a species of saltwater
 256 products designated by the commission as restricted within a
 257 geographical area or during a particular time period of each
 258 year. Designation as a restricted species does not confer the
 259 authority to sell a species pursuant to s. 379.361 if the law or
 260 rule prohibits the sale of the species.

261 (34)~~(33)~~ "Salt water," except where otherwise provided by
 262 law, shall be all of the territorial waters of Florida excluding
 263 all lakes, rivers, canals, and other waterways of Florida from
 264 such point or points where the fresh and salt waters commingle
 265 to such an extent as to become unpalatable because of the saline
 266 content, or from such point or points as may be fixed for
 267 conservation purposes by the Department of Environmental
 268 Protection and the Fish and Wildlife Conservation Commission,
 269 with the consent and advice of the board of county commissioners
 270 of the county or counties to be affected.

271 (35)~~(34)~~ "Saltwater fish" means:

272 (a) Any saltwater species of finfish of the classes
 273 Agnatha, Chondrichthyes, or Osteichthyes and marine
 274 invertebrates of the classes Gastropoda, Bivalvia, or Crustacea,
 275 or of the phylum Echinodermata, but does not include nonliving
 276 shells or echinoderms; and

277 (b) All classes of pisces, shellfish, sponges, and
 278 crustacea native to salt water.

279 (36)~~(35)~~ "Saltwater license privileges," except where
 280 otherwise provided by law, means any license, endorsement,
 281 certificate, or permit issued pursuant to this chapter.

282 (37)~~(36)~~ "Saltwater products" means any species of
 283 saltwater fish, marine plant, or echinoderm, except shells, and
 284 salted, cured, canned, or smoked seafood.

285 (38)~~(37)~~ "Shellfish" shall include oysters, clams, and
 286 whelks.

287 ~~(39)~~~~(38)~~ "Take" means taking, attempting to take,
 288 pursuing, hunting, molesting, capturing, or killing any wildlife
 289 or freshwater or saltwater fish, or their nests or eggs, by any
 290 means, whether or not such actions result in obtaining
 291 possession of such wildlife or freshwater or saltwater fish or
 292 their nests or eggs.

293 ~~(40)~~~~(39)~~ "Transport" shall include shipping, transporting,
 294 carrying, importing, exporting, receiving or delivering for
 295 shipment, transportation or carriage or export.

296 Section 2. Section 379.2223, Florida Statutes, is amended
 297 to read:

298 379.2223 Control and management of state game lands.—

299 (1) The Fish and Wildlife Conservation Commission is
 300 authorized to make, adopt, promulgate, amend, repeal, and
 301 enforce all reasonable rules and regulations necessary for the
 302 protection, control, operation, management, or development of
 303 lands or waters owned by, leased by, or otherwise assigned to,
 304 the commission for fish or wildlife management purposes,
 305 including, but not ~~being~~ limited to, the right of ingress and
 306 egress. Before any such rule or regulation is adopted, other
 307 than one relating to wild animal life, marine life, or
 308 freshwater aquatic life, the commission shall obtain the consent
 309 and agreement, in writing, of the owner, in the case of
 310 privately owned lands or waters, or the owner or primary
 311 custodian, in the case of public lands or waters.

312 (2) A person who violates a rule or regulation adopted

313 pursuant to this section is subject to penalties as provided in
 314 s. 379.401 ~~Any person violating or otherwise failing to comply~~
 315 ~~with any rule or regulation so adopted commits a misdemeanor of~~
 316 ~~the second degree, punishable as provided in s. 775.082 or s.~~
 317 ~~775.083.~~

318 Section 3. Subsection (3) of section 379.2257, Florida
 319 Statutes, is amended to read:

320 379.2257 Cooperative agreements with United States U.S.
 321 Forest Service; penalty.—The Fish and Wildlife Conservation
 322 Commission is authorized and empowered:

323 (3) In addition to the requirements of chapter 120, notice
 324 of the making and, ~~adoption, and promulgation of the above rules~~
 325 and regulations pursuant to this section shall be given by
 326 posting the said notices, ~~or~~ copies of the rules and
 327 regulations, ~~in the offices of the county judges and in the post~~
 328 ~~offices within the area to be affected and within 10 miles~~
 329 ~~thereof. In addition to the posting of the said notices, as~~
 330 ~~aforsaid,~~ copies of the said notices or ~~of said~~ rules and
 331 regulations shall ~~also~~ be published in newspapers published at
 332 the county seats of Baker, Columbia, Marion, Lake, Putnam, and
 333 Liberty Counties, or so many thereof as have newspapers, once
 334 between 28 and not more than 35 nor less than 28 days and once
 335 between 14 and not more than 21 nor less than 14 days before
 336 ~~prior to~~ the opening of the state hunting season in those said
 337 areas. A ~~Any~~ person who violates ~~violating~~ any rules or
 338 regulations of promulgated by the commission to manage such

339 ~~cover these areas under cooperative agreements between the Fish~~
 340 ~~and Wildlife Conservation~~ commission and the United States
 341 Forest Service is subject to penalties as provided in s.
 342 379.401, ~~none of which shall be in conflict with the laws of~~
 343 ~~Florida, shall be guilty of a misdemeanor of the second degree,~~
 344 ~~punishable as provided in s. 775.082 or s. 775.083.~~

345 Section 4. Paragraph (a) of subsection (2) of section
 346 379.2425, Florida Statutes, is amended, and subsection (4) is
 347 added to that section, to read:

348 379.2425 Spearfishing; definition; limitations; penalty.-

349 (2) (a) Except as otherwise provided by commission rule or
 350 order, spearfishing is prohibited within the boundaries of the
 351 John Pennekamp Coral Reef State Park, the waters of Collier
 352 County, and the area in Monroe County known as Upper Keys, which
 353 includes all salt waters under the jurisdiction of the ~~Fish and~~
 354 ~~Wildlife Conservation~~ commission beginning at the county line
 355 between Miami-Dade and Monroe Counties and running south,
 356 including all of the keys down to and including Long Key.

357 (4) A person who violates this section commits a Level Two
 358 violation under s. 379.401.

359 Section 5. Subsection (2) of section 379.29, Florida
 360 Statutes, is amended to read:

361 379.29 Contaminating fresh waters.-

362 (2) A Any person, firm, or corporation that violates
 363 violating any of the provisions of this section commits a Level
 364 Two violation under s. 379.401 shall be guilty of a misdemeanor

365 ~~of the second degree, punishable as provided in s. 775.082 or s.~~
 366 ~~775.083 for the first offense, and for the second or subsequent~~
 367 ~~offense shall be guilty of a misdemeanor of the first degree,~~
 368 ~~punishable as provided in s. 775.082 or s. 775.083.~~

369 Section 6. Section 379.295, Florida Statutes, is amended
 370 to read:

371 379.295 Use of explosives and other substances or force
 372 prohibited.—~~A~~ No person may not throw or place, or cause to be
 373 thrown or placed, any dynamite, lyddite, gunpowder, cannon
 374 cracker, acids, filtration discharge, debris from mines, Indian
 375 berries, sawdust, green walnuts, walnut leaves, creosote, oil,
 376 or other explosives or deleterious substance or force into the
 377 fresh waters of this state whereby fish therein are or may be
 378 injured. Nothing in this section may be construed as preventing
 379 the release of water slightly discolored by mining operations or
 380 water escaping from such operations as the result of
 381 providential causes. A person who violates this section commits
 382 a Level Two violation under s. 379.401.

383 Section 7. Section 379.33, Florida Statutes, is amended to
 384 read:

385 379.33 Enforcement of commission rules; ~~penalties for~~
 386 ~~violation of rule.~~—Rules of the ~~Fish and Wildlife Conservation~~
 387 commission shall be enforced by any law enforcement officer
 388 certified pursuant to s. 943.13. ~~Except as provided under s.~~
 389 ~~379.401, any person who violates or otherwise fails to comply~~
 390 ~~with any rule adopted by the commission shall be punished~~

391 ~~pursuant to s. 379.407(1).~~

392 Section 8. Section 379.3502, Florida Statutes, is amended
393 to read:

394 379.3502 License and permit not transferable.—A person may
395 not ~~alter or change in any manner, or~~ loan or transfer to
396 another person, unless otherwise provided by commission rule or
397 order, any license or permit issued pursuant to ~~the provisions~~
398 ~~of~~ this chapter, and a ~~nor may any other~~ person, other than the
399 person to whom the license or permit ~~it~~ is issued, may not use a
400 borrowed or transferred license or permit the same. A person who
401 violates this section commits a Level Two violation under s.
402 379.401.

403 Section 9. Section 379.3503, Florida Statutes, is amended
404 to read:

405 379.3503 False statement in application for license or
406 permit.—A ~~Any~~ person who swears or affirms to any false
407 statement in any application for a license or permit provided by
408 this chapter commits a Level Two violation under, ~~is guilty of~~
409 ~~violating this chapter, and shall be subject to the penalty~~
410 ~~provided in~~ s. 379.401, and any false statement contained in any
411 application for such license or permit renders the license or
412 permit void.

413 Section 10. Section 379.3504, Florida Statutes, is amended
414 to read:

415 379.3504 Entering false information on licenses or
416 permits.—Whoever knowingly and willfully enters false

417 information on, or allows or causes false information to be
 418 entered on or shown upon, any license or permit issued under ~~the~~
 419 ~~provisions of this chapter in order to avoid prosecution or to~~
 420 assist another in avoiding ~~to avoid~~ prosecution, or for any
 421 other wrongful purpose, commits a Level Two violation under
 422 ~~shall be punished as provided in s. 379.401.~~

423 Section 11. Paragraphs (d), (e), and (f) of subsection (1)
 424 of section 379.3511, Florida Statutes, are amended, and
 425 subsection (4) is added to that section, to read:

426 379.3511 Appointment of subagents for the sale of hunting,
 427 fishing, and trapping licenses and permits.-

428 (1) Subagents shall serve at the pleasure of the
 429 commission. The commission may establish, by rule, procedures
 430 for the selection and appointment of subagents. The following
 431 are requirements for appointed subagents ~~so appointed~~:

432 ~~(d) Any person who willfully violates any of the~~
 433 ~~provisions of this section commits a misdemeanor of the second~~
 434 ~~degree, punishable as provided in s. 775.082 or s. 775.083.~~

435 (d)(e) A subagent may charge and receive as his or her
 436 compensation 50 cents for each license or permit sold. This
 437 charge is in addition to the sum required by law to be collected
 438 for the sale and issuance of each license or permit. This charge
 439 does not apply to the shoreline fishing license; however, for
 440 each shoreline fishing license issued, the subagent may retain
 441 50 cents from other license proceeds otherwise due the
 442 commission.

443 ~~(e)(f)~~ A subagent shall submit payment for and report the
 444 sale of licenses and permits to the commission as prescribed by
 445 the commission.

446 (4) A person who willfully violates this section commits a
 447 Level Two violation under s. 379.401.

448 Section 12. Subsection (18) is added to section 379.354,
 449 Florida Statutes, to read:

450 379.354 Recreational licenses, permits, and authorization
 451 numbers; fees established.-

452 (18) VIOLATION OF SECTION.-Unless otherwise provided by
 453 law, a person who violates this section commits a Level One
 454 violation under s. 379.401.

455 Section 13. Subsections (3) through (7) of section
 456 379.357, Florida Statutes, are amended to read:

457 379.357 Fish and Wildlife Conservation Commission license
 458 program for tarpon; fees; penalties.-

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

463 ~~(4) Any individual including a taxidermist who possesses a~~
 464 ~~tarpon which does not have a tag securely attached as required~~
 465 ~~by this section commits a Level Two violation under s. 379.401.~~
 466 ~~Provided, however,~~ A taxidermist may remove the tag during the
 467 process of mounting a tarpon. The removed tag shall remain with
 468 the fish during any subsequent storage or shipment. The purchase

469 of a tarpon tag does not authorize the purchaser to harvest or
 470 possess tarpon in violation of commission rules. A person who
 471 violates this subsection commits a Level Two violation under s.
 472 379.401.

473 ~~(4)(5)~~ A person ~~Purchase of a tarpon tag shall not accord~~
 474 ~~the purchaser any right to harvest or possess tarpon in~~
 475 ~~contravention of rules adopted by the commission. No individual~~
 476 may not sell, offer for sale, barter, exchange for merchandise,
 477 transport for sale, either within or without the state, offer to
 478 purchase, or purchase any species of fish known as tarpon. A
 479 person who violates this subsection commits a Level Three
 480 violation under s. 379.401.

481 ~~(5)(6)~~ The commission shall prescribe and provide suitable
 482 forms and tags necessary to carry out the provisions of this
 483 section.

484 ~~(6)(7)~~ ~~The provisions of~~ This section does ~~shall~~ not apply
 485 to anyone who immediately returns a tarpon uninjured to the
 486 water at the place where the fish was caught.

487 Section 14. Section 379.359, Florida Statutes, is amended
 488 to read:

489 379.359 License application provision for voluntary
 490 contribution to Southeastern Guide Dogs, Inc.—The application
 491 for any license for recreational activities issued under this
 492 part must include a check-off provision that permits the
 493 applicant for licensure to make a voluntary contribution of \$2.
 494 The ~~Fish and Wildlife Conservation~~ commission may ~~shall~~ retain

495 up to 90 cents from each contribution to cover administrative
 496 costs. The remainder shall be distributed quarterly by the ~~Fish~~
 497 ~~and Wildlife Conservation~~ commission to Southeastern Guide Dogs,
 498 Inc., located in Palmetto. Southeastern Guide Dogs, Inc., shall
 499 use the contributions to breed, raise, and train guide dogs for
 500 the blind, specifically for the "Paws for Patriots" program,
 501 including in-residence training for veterans who are provided
 502 guide dogs by Southeastern Guide Dogs, Inc.

503 Section 15. Subsection (4) is added to section 379.363,
 504 Florida Statutes, to read:

505 379.363 Freshwater fish dealer's license.—

506 (4) A person who violates this section commits a Level Two
 507 violation under s. 379.401.

508 Section 16. Subsection (5) is added to section 379.364,
 509 Florida Statutes, to read:

510 379.364 License required for fur and hide dealers.—

511 (5) A person who violates this section commits a Level Two
 512 violation under s. 379.401.

513 Section 17. Paragraph (a) of subsection (2) of section
 514 379.365, Florida Statutes, is amended to read:

515 379.365 Stone crab; regulation.—

516 (2) PENALTIES.—For purposes of this subsection, conviction
 517 is any disposition other than acquittal or dismissal, regardless
 518 of whether the violation was adjudicated under any state or
 519 federal law.

520 (a) It is unlawful to violate commission rules regulating

521 stone crab trap certificates and trap tags. No person may use an
 522 expired tag or a stone crab trap tag not issued by the
 523 commission or possess or use a stone crab trap in or on state
 524 waters or adjacent federal waters without having a trap tag
 525 required by the commission firmly attached thereto.

526 ~~1.~~ In addition to any other penalties provided in s.
 527 379.407, for a ~~any~~ commercial harvester who violates this
 528 paragraph, the following administrative penalties apply:-

529 1.a. For a first violation, the commission shall assess an
 530 administrative penalty of up to \$1,000.

531 2.b. For a second violation that occurs within 24 months
 532 after ~~of~~ any previous such violation, the commission shall
 533 assess an administrative penalty of up to \$2,000 and the stone
 534 crab endorsement under which the violation was committed may be
 535 suspended for 12 calendar months.

536 3.e. For a third violation that occurs within 36 months
 537 after ~~of~~ any previous two such violations, the commission shall
 538 assess an administrative penalty of up to \$5,000 and the stone
 539 crab endorsement under which the violation was committed may be
 540 suspended for 24 calendar months.

541 4.d. A fourth violation that occurs within 48 months after
 542 ~~of~~ any three previous such violations, shall result in permanent
 543 revocation of all of the violator's saltwater fishing
 544 privileges, including having the commission proceed against the
 545 endorsement holder's saltwater products license in accordance
 546 with s. 379.407.

547 ~~2. Any other person who violates the provisions of this~~
 548 ~~paragraph commits a Level Two violation under s. 379.401.~~

549
 550 Any commercial harvester assessed an administrative penalty
 551 under this paragraph shall, within 30 calendar days after
 552 notification, pay the administrative penalty to the commission,
 553 or request an administrative hearing under ss. 120.569 and
 554 120.57. The proceeds of all administrative penalties collected
 555 under this paragraph shall be deposited in the Marine Resources
 556 Conservation Trust Fund.

557 Section 18. Subsection (5) is added to section 379.3751,
 558 Florida Statutes, to read:

559 379.3751 Taking and possession of alligators; trapping
 560 licenses; fees.—

561 (5) A person who violates this section commits a Level Two
 562 violation under s. 379.401.

563 Section 19. Subsection (3) is added to section 379.3752,
 564 Florida Statutes, to read:

565 379.3752 Required tagging of alligators and hides; fees;
 566 revenues.—The tags provided in this section shall be required in
 567 addition to any license required under s. 379.3751.

568 (3) A person who violates this section commits a Level Two
 569 violation under s. 379.401.

570 Section 20. Subsections (1) through (5) of section
 571 379.401, Florida Statutes, are amended to read:

572 379.401 Penalties and violations; civil penalties for

573 noncriminal infractions; criminal penalties; suspension and
 574 forfeiture of licenses and permits.-

575 (1) (a) LEVEL ONE VIOLATIONS.-A person commits a Level One
 576 violation if he or she violates any of the following provisions:

577 1. Rules or orders of the commission relating to the
 578 filing of reports or other documents required to be filed by
 579 persons who hold any recreational licenses and permits or any
 580 alligator licenses and permits issued by the commission.

581 2. Rules or orders of the commission relating to quota
 582 hunt permits, daily use permits, hunting zone assignments,
 583 camping, alcoholic beverages, vehicles, and check stations
 584 within wildlife management areas or other areas managed by the
 585 commission.

586 3. Rules or orders of the commission relating to daily use
 587 permits, alcoholic beverages, swimming, possession of firearms,
 588 operation of vehicles, and watercraft speed within fish
 589 management areas managed by the commission.

590 4. Rules or orders of the commission relating to vessel
 591 size or specifying motor restrictions on specified water bodies.

592 5. Rules or orders of the commission requiring the return
 593 of unused CITES tags issued under the Statewide Alligator
 594 Harvest Program or the Statewide Nuisance Alligator Program.

595 6. Section 379.3003, prohibiting deer hunting unless
 596 required clothing is worn.

597 7.5- Section 379.354(1)-(15), providing for recreational
 598 licenses to hunt, fish, and trap.

599 ~~8.6.~~ Section 379.3581, providing hunter safety course
600 requirements.

601 ~~7.~~ ~~Section 379.3003, prohibiting deer hunting unless~~
602 ~~required clothing is worn.~~

603 (b) A person who commits a Level One violation commits a
604 noncriminal infraction and shall be cited to appear before the
605 county court.

606 (c)1. The civil penalty for committing a Level One
607 violation involving the license and permit requirements of s.
608 379.354 is \$50 plus the cost of the license or permit, unless
609 subparagraph 2. applies. Alternatively, except for a person who
610 violates s. 379.354(6), (7), (8)(f), or (8)(h), a person who
611 violates the license and permit requirements of s. 379.354 and
612 is subject to the penalties of this subparagraph may purchase
613 the license or permit, provide proof of such license or permit,
614 and pay a civil penalty of \$50.

615 2. The civil penalty for committing a Level One violation
616 involving the license and permit requirements of s. 379.354 is
617 \$250 ~~\$100~~ plus the cost of the license or permit if the person
618 cited has previously committed the same Level One violation
619 within the preceding 36 months. Alternatively, except for a
620 person who violates s. 379.354(6), (7), (8)(f), or (8)(h), a
621 person who violates the license and permit requirements of s.
622 379.354 and is subject to the penalties of this subparagraph may
623 purchase the license or permit, provide proof of such license or
624 permit, and pay a civil penalty of \$250.

625 (d)1. The civil penalty for any other Level One violation
 626 is \$50 unless subparagraph 2. applies.

627 2. The civil penalty for any other Level One violation is
 628 \$250 ~~\$100~~ if the person cited has previously committed the same
 629 Level One violation within the preceding 36 months.

630 (e) A person cited for a Level One violation shall sign
 631 and accept a citation to appear before the county court. The
 632 issuing officer may indicate on the citation the time and
 633 location of the scheduled hearing and shall indicate the
 634 applicable civil penalty.

635 (f) A person cited for a Level One violation may pay the
 636 civil penalty, and, if applicable, provide proof of the license
 637 or permit required under s. 379.354 by mail or in person within
 638 30 days after receipt of the citation. If the civil penalty is
 639 paid, the person shall be deemed to have admitted committing the
 640 Level One violation and to have waived his or her right to a
 641 hearing before the county court. Such admission may not be used
 642 as evidence in any other proceedings except to determine the
 643 appropriate fine for any subsequent violations.

644 (g) A person who refuses to accept a citation, who fails
 645 to pay the civil penalty for a Level One violation, or who fails
 646 to appear before a county court as required commits a
 647 misdemeanor of the second degree, punishable as provided in s.
 648 775.082 or s. 775.083.

649 (h) A person who elects to appear before the county court
 650 or who is required to appear before the county court shall be

651 deemed to have waived the limitations on civil penalties
652 provided under paragraphs (c) and (d). After a hearing, the
653 county court shall determine if a Level One violation has been
654 committed, and if so, may impose a civil penalty of not less
655 than \$50 for a first-time violation, and not more than \$500 for
656 subsequent violations. A person found guilty of committing a
657 Level One violation may appeal that finding to the circuit
658 court. The commission of a violation must be proved beyond a
659 reasonable doubt.

660 (i) A person cited for violating the requirements of s.
661 379.354 relating to personal possession of a license or permit
662 may not be convicted if, before ~~prior to~~ or at the time of a
663 county court hearing, the person produces the required license
664 or permit for verification by the hearing officer or the court
665 clerk. The license or permit must have been valid at the time
666 the person was cited. The clerk or hearing officer may assess a
667 \$10 fee for costs under this paragraph.

668 (2)(a) LEVEL TWO VIOLATIONS.—A person commits a Level Two
669 violation if he or she violates any of the following provisions:

670 1. Rules or orders of the commission relating to seasons
671 or time periods for the taking of wildlife, freshwater fish, or
672 saltwater fish.

673 2. Rules or orders of the commission establishing bag,
674 possession, or size limits or restricting methods of taking
675 wildlife, freshwater fish, or saltwater fish.

676 3. Rules or orders of the commission prohibiting access or

677 otherwise relating to access to wildlife management areas or
 678 other areas managed by the commission.

679 4. Rules or orders of the commission relating to the
 680 feeding of saltwater fish.

681 5. Rules or orders of the commission relating to landing
 682 requirements for freshwater fish or saltwater fish.

683 6. Rules or orders of the commission relating to
 684 restricted hunting areas, critical wildlife areas, or bird
 685 sanctuaries.

686 7. Rules or orders of the commission relating to tagging
 687 requirements for wildlife and fur-bearing animals.

688 8. Rules or orders of the commission relating to the use
 689 of dogs for the taking of wildlife.

690 9. Rules or orders of the commission which are not
 691 otherwise classified.

692 10. Rules or orders of the commission prohibiting the
 693 unlawful use of ~~finfish~~ traps, unless otherwise provided by law.

694 11. Rules or orders of the commission requiring the
 695 maintenance of records relating to alligators.

696 12. Rules or orders of the commission requiring the return
 697 of unused CITES tags issued under an alligator program other
 698 than the Statewide Alligator Harvest Program or the Statewide
 699 Nuisance Alligator Program.

700 13.11. All requirements or prohibitions under ~~in~~ this
 701 chapter which are not otherwise classified.

702 14. Section 379.105, prohibiting the intentional

- 703 harassment of hunters, fishers, or trappers.
- 704 15. Section 379.2421, relating to fishers and equipment.
- 705 16. Section 379.2425, relating to spearfishing.
- 706 17. Section 379.29, prohibiting the contamination of fresh
- 707 waters.
- 708 18. Section 379.295, prohibiting the use of explosives and
- 709 other substances or force in fresh waters.
- 710 19. Section 379.3502, prohibiting the loan or transfer of
- 711 a license or permit and the use of a borrowed or transferred
- 712 license or permit.
- 713 20. Section 379.3503, prohibiting false statements in an
- 714 application for a license or permit.
- 715 21. Section 379.3504, prohibiting entering false
- 716 information on licenses or permits.
- 717 22. Section 379.3511, relating to the sale of hunting,
- 718 fishing, and trapping licenses and permits by subagents.
- 719 23. Section 379.357(3), prohibiting the taking, killing,
- 720 or possession of tarpon without purchasing a tarpon tag.
- 721 24. Section 379.363, relating to freshwater fish dealer
- 722 licenses.
- 723 25. Section 379.364, relating to fur and hide dealer
- 724 licenses.
- 725 26. Section 379.365(2)(b), prohibiting the theft of stone
- 726 crab trap contents or trap gear.
- 727 27. Section 379.366(4)(b), prohibiting the theft of blue
- 728 crab trap contents or trap gear.

729 28. Section 379.3671(2)(c), except s. 379.3671(2)(c)5.,
 730 prohibiting the theft of spiny lobster trap contents or trap
 731 gear.

732 29. Section 379.3751, relating to licenses for the taking
 733 and possession of alligators.

734 30. Section 379.3752, relating to tagging requirements for
 735 alligators and hides.

736 ~~12. Section 379.33, prohibiting the violation of or~~
 737 ~~noncompliance with commission rules.~~

738 ~~13. Section 379.407(7), prohibiting the sale, purchase,~~
 739 ~~harvest, or attempted harvest of any saltwater product with~~
 740 ~~intent to sell.~~

741 ~~14. Section 379.2421, prohibiting the obstruction of~~
 742 ~~waterways with net gear.~~

743 ~~31.15.~~ Section 379.413, prohibiting the unlawful taking of
 744 bonefish.

745 ~~16. Section 379.365(2)(a) and (b), prohibiting the~~
 746 ~~possession or use of stone crab traps without trap tags and~~
 747 ~~theft of trap contents or gear.~~

748 ~~17. Section 379.366(4)(b), prohibiting the theft of blue~~
 749 ~~crab trap contents or trap gear.~~

750 ~~18. Section 379.3671(2)(c), prohibiting the possession or~~
 751 ~~use of spiny lobster traps without trap tags or certificates and~~
 752 ~~theft of trap contents or trap gear.~~

753 ~~19. Section 379.357, prohibiting the possession of tarpon~~
 754 ~~without purchasing a tarpon tag.~~

755 ~~20. Section 379.105, prohibiting the intentional~~
 756 ~~harassment of hunters, fishers, or trappers.~~

757 (b)1. A person who commits a Level Two violation but who
 758 has not been convicted of a Level Two or higher violation within
 759 the past 3 years commits a misdemeanor of the second degree,
 760 punishable as provided in s. 775.082 or s. 775.083.

761 2. Unless the stricter penalties in subparagraph 3. or
 762 subparagraph 4. apply, a person who commits a Level Two
 763 violation within 3 years after a previous conviction for a Level
 764 Two or higher violation commits a misdemeanor of the first
 765 degree, punishable as provided in s. 775.082 or s. 775.083, with
 766 a minimum mandatory fine of \$250.

767 3. Unless the stricter penalties in subparagraph 4. apply,
 768 a person who commits a Level Two violation within 5 years after
 769 two previous convictions for a Level Two or higher violation,
 770 commits a misdemeanor of the first degree, punishable as
 771 provided in s. 775.082 or s. 775.083, with a minimum mandatory
 772 fine of \$500 and a suspension of any recreational license or
 773 permit issued under s. 379.354 for 1 year. Such suspension shall
 774 include the suspension of the privilege to obtain such license
 775 or permit and the suspension of the ability to exercise any
 776 privilege granted under any exemption in s. 379.353.

777 4. A person who commits a Level Two violation within 10
 778 years after three previous convictions for a Level Two or higher
 779 violation commits a misdemeanor of the first degree, punishable
 780 as provided in s. 775.082 or s. 775.083, with a minimum

781 mandatory fine of \$750 and a suspension of any recreational
 782 license or permit issued under s. 379.354 for 3 years. Such
 783 suspension shall include the suspension of the privilege to
 784 obtain such license or permit and the suspension of the ability
 785 to exercise any privilege granted under s. 379.353. If the
 786 recreational license or permit being suspended was an annual
 787 license or permit, any privileges under ss. 379.353 and 379.354
 788 may not be acquired for a 3-year period following the date of
 789 the violation.

790 (3) (a) LEVEL THREE VIOLATIONS.—A person commits a Level
 791 Three violation if he or she violates any of the following
 792 provisions:

793 1. Rules or orders of the commission prohibiting the sale
 794 of saltwater fish.

795 2. Rules or orders of the commission prohibiting the
 796 illegal importation or possession of exotic marine plants or
 797 animals.

798 ~~3. Section 379.407(2), establishing major violations.~~

799 ~~4. Section 379.407(4), prohibiting the possession of~~
 800 ~~certain finfish in excess of recreational daily bag limits.~~

801 ~~3.5.~~ Section 379.28, prohibiting the importation of
 802 freshwater fish.

803 4. Section 379.3014, prohibiting the illegal sale or
 804 possession of alligators.

805 ~~5.6.~~ Section 379.354(17), prohibiting the taking of game,
 806 freshwater fish, or saltwater fish while a required license is

807 suspended or revoked.

808 6. Section 379.357(4), prohibiting the sale, transfer, or
 809 purchase of tarpon.

810 ~~7. Section 379.3014, prohibiting the illegal sale or~~
 811 ~~possession of alligators.~~

812 ~~7.8.~~ Section 379.404(1), (3), and (6), prohibiting the
 813 illegal taking and possession of deer and wild turkey.

814 ~~8.9.~~ Section 379.406, prohibiting the possession and
 815 transportation of commercial quantities of freshwater game fish.

816 9. Section 379.407(2), establishing major violations.

817 10. Section 379.407(4), prohibiting the possession of
 818 certain finfish in excess of recreational daily bag limits.

819 (b)1. A person who commits a Level Three violation but who
 820 has not been convicted of a Level Three or higher violation
 821 within the past 10 years commits a misdemeanor of the first
 822 degree, punishable as provided in s. 775.082 or s. 775.083.

823 2. A person who commits a Level Three violation within 10
 824 years after a previous conviction for a Level Three or higher
 825 violation commits a misdemeanor of the first degree, punishable
 826 as provided in s. 775.082 or s. 775.083, with a minimum
 827 mandatory fine of \$750 and a suspension of any recreational
 828 license or permit issued under s. 379.354 for the remainder of
 829 the period for which the license or permit was issued up to 3
 830 years. Such suspension shall include the suspension of the
 831 privilege to obtain such license or permit and the ability to
 832 exercise any privilege granted under s. 379.353. If the

833 recreational license or permit being suspended was an annual
 834 license or permit, any privileges under ss. 379.353 and 379.354
 835 may not be acquired for a 3-year period following the date of
 836 the violation.

837 3. A person who commits a violation of s. 379.354(17)
 838 shall receive a mandatory fine of \$1,000. Any privileges under
 839 ss. 379.353 and 379.354 may not be acquired for a 5-year period
 840 following the date of the violation.

841 (4) (a) LEVEL FOUR VIOLATIONS.—A person commits a Level
 842 Four violation if he or she violates any of the following
 843 provisions:

844 1. Section 379.354(16), prohibiting the making, forging,
 845 counterfeiting, or reproduction of a recreational license or the
 846 possession of same without authorization from the commission.

847 ~~2.1.~~ Section 379.365(2)(c), prohibiting criminal
 848 activities relating to the taking of stone crabs.

849 ~~3.2.~~ Section 379.366(4)(c), prohibiting criminal
 850 activities relating to the taking and harvesting of blue crabs.

851 ~~4.3.~~ Section 379.367(4), prohibiting the willful
 852 molestation of spiny lobster gear.

853 ~~5.4.~~ Section 379.3671(2)(c)5., prohibiting the unlawful
 854 reproduction, possession, sale, trade, or barter of spiny
 855 lobster trap tags or certificates.

856 ~~5. Section 379.354(16), prohibiting the making, forging,~~
 857 ~~counterfeiting, or reproduction of a recreational license or~~
 858 ~~possession of same without authorization from the commission.~~

859 6. Section 379.404(5), prohibiting the sale of illegally-
860 taken deer or wild turkey.

861 7. Section 379.405, prohibiting the molestation or theft
862 of freshwater fishing gear.

863 8. Section 379.409, prohibiting the unlawful killing,
864 injuring, possessing, or capturing of alligators or other
865 crocodilia or their eggs.

866 9. Section 379.411, prohibiting the intentional killing or
867 wounding of any species designated as endangered, threatened, or
868 of special concern.

869 10. Section 379.4115, prohibiting the killing of any
870 Florida or wild panther.

871 (b) A person who commits a Level Four violation commits a
872 felony of the third degree, punishable as provided in s. 775.082
873 or s. 775.083.

874 (5) ILLEGAL ACTIVITIES WHILE COMMITTING TRESPASS
875 VIOLATIONS OF CHAPTER.-In addition to any other penalty provided
876 by law, a person who violates the criminal provisions of this
877 chapter or rules or orders of the commission by illegally
878 killing, taking, possessing, or selling fish and wildlife as
879 defined in s. 379.101 in or out of season while violating
880 chapter 810 shall pay a fine of \$500 for each such violation,
881 plus court costs and any restitution ordered by the court. All
882 finest collected under this subsection shall be remitted by the
883 clerk of the court to the Department of Revenue to be deposited
884 into the State Game Trust Fund ~~Except as provided in this~~

885 | ~~chapter:~~

886 | ~~(a) A person who commits a violation of any provision of~~
 887 | ~~this chapter commits, for the first offense, a misdemeanor of~~
 888 | ~~the second degree, punishable as provided in s. 775.082 or s.~~
 889 | ~~775.083.~~

890 | ~~(b) A person who is convicted of a second or subsequent~~
 891 | ~~violation of any provision of this chapter commits a misdemeanor~~
 892 | ~~of the first degree, punishable as provided in s. 775.082 or s.~~
 893 | ~~775.083.~~

894 | Section 21. Section 379.403, Florida Statutes, is
 895 | repealed.

896 | Section 22. Subsection (1) of section 379.409, Florida
 897 | Statutes, is amended, and subsection (4) is added to that
 898 | section, to read:

899 | 379.409 Illegal killing, possessing, or capturing of
 900 | alligators or other crocodilia or eggs; confiscation of
 901 | equipment.—

902 | (1) A person may not ~~It is unlawful to~~ intentionally kill,
 903 | injure, possess, or capture, or attempt to kill, injure,
 904 | possess, or capture, an alligator or other crocodilian, or the
 905 | eggs of an alligator or other crocodilian, unless authorized by
 906 | ~~the rules of the Fish and Wildlife Conservation~~ commission. ~~Any~~
 907 | ~~person who violates this section is guilty of a felony of the~~
 908 | ~~third degree, punishable as provided in s. 775.082, s. 775.083,~~
 909 | ~~or s. 775.084, in addition to such other punishment as may be~~
 910 | ~~provided by law.~~ Any equipment, including, but not limited to,

911 weapons, vehicles, boats, and lines, used by a person in ~~the~~
 912 ~~commission~~ of a violation of any law, rule, regulation, or order
 913 relating to alligators or other crocodilia or the eggs of
 914 alligators or other crocodilia shall, upon conviction of such
 915 person, be confiscated by the ~~Fish and Wildlife Conservation~~
 916 commission and disposed of according to rules and regulations of
 917 the commission. The arresting officer shall promptly make a
 918 return of the seizure, describing in detail the property seized
 919 and the facts and circumstances under which it was seized,
 920 including the names of all persons known to the officer who have
 921 an interest in the property.

922 (4) A person who violates this section commits a Level
 923 Four violation under s. 379.401, in addition to such other
 924 punishment as provided by law.

925 Section 23. Section 379.411, Florida Statutes, is amended
 926 to read:

927 379.411 Intentional killing or wounding of any species
 928 designated as endangered, threatened, or of special concern;
 929 ~~criminal penalties. It is unlawful for~~ A person may not ~~to~~
 930 intentionally kill or wound any fish or wildlife ~~of a species~~
 931 designated by the ~~Fish and Wildlife Conservation~~ commission as
 932 endangered, threatened, or of special concern, or ~~to~~
 933 intentionally destroy the eggs or nest of any such fish or
 934 wildlife, unless authorized by ~~except as provided for in the~~
 935 rules of the commission. A ~~Any~~ person who violates this section
 936 commits a Level Four violation under s. 379.401 ~~provision with~~

937 ~~regard to an endangered or threatened species is guilty of a~~
 938 ~~felony of the third degree, punishable as provided in s.~~
 939 ~~775.082, s. 775.083, or s. 775.084.~~

940 Section 24. Subsection (3) of section 379.4115, Florida
 941 Statutes, is amended to read:

942 379.4115 Florida or wild panther; killing prohibited;
 943 penalty.—

944 (3) A person who violates this section commits a Level
 945 Four violation under s. 379.401 ~~convicted of unlawfully killing~~
 946 ~~a Florida panther, or unlawfully killing any member of the~~
 947 ~~species of panther occurring in the wild, is guilty of a felony~~
 948 ~~of the third degree, punishable as provided in s. 775.082, s.~~
 949 ~~775.083, or s. 775.084.~~

950 Section 25. Paragraph (a) of subsection (2) of section
 951 379.3004, Florida Statutes, is amended to read:

952 379.3004 Voluntary Authorized Hunter Identification
 953 Program.—

954 (2) Any person hunting on private land enrolled in the
 955 Voluntary Authorized Hunter Identification Program shall have
 956 readily available on the land at all times when hunting on the
 957 property written authorization from the owner or his or her
 958 authorized representative to be on the land for the purpose of
 959 hunting. The written authorization shall be presented on demand
 960 to any law enforcement officer, the owner, or the authorized
 961 agent of the owner.

962 (a) For purposes of this section, the term "hunting" means

963 to be engaged in or reasonably equipped to engage in the pursuit
 964 or taking by any means of any animal described in s. 379.101(20)
 965 or (21) ~~379.101(19) or (20)~~, and the term "written
 966 authorization" means a card, letter, or other written instrument
 967 which shall include, but need not be limited to, the name of the
 968 person or entity owning the property, the name and signature of
 969 the person granting the authorization, a description by
 970 township, range, section, partial section, or other geographical
 971 description of the land to which the authorization applies, and
 972 a statement of the time period during which the authorization is
 973 valid.

974 Section 26. Paragraph (d) of subsection (5) of section
 975 379.337, Florida Statutes, is amended to read:

976 379.337 Confiscation, seizure, and forfeiture of property
 977 and products.-

978 (5) CONFISCATION AND SALE OF PERISHABLE SALTWATER
 979 PRODUCTS; PROCEDURE.-

980 (d) For purposes of confiscation under this subsection,
 981 the term "saltwater products" has the meaning set out in s.
 982 379.101(37) ~~379.101(36)~~, except that the term does not include
 983 saltwater products harvested under the authority of a
 984 recreational license unless the amount of such harvested
 985 products exceeds three times the applicable recreational bag
 986 limit for trout, snook, or redfish.

987 Section 27. Paragraph (b) of subsection (4) of section
 988 589.19, Florida Statutes, is amended to read:

989 589.19 Creation of certain state forests; naming of
 990 certain state forests; Operation Outdoor Freedom Program.-

991 (4)

992 (b) Participation in the Operation Outdoor Freedom Program
 993 shall be limited to Florida residents, as defined in s.
 994 379.101(31)(b) ~~379.101(30)(b)~~, who:

995 1. Are honorably discharged military veterans certified by
 996 the United States Department of Veterans Affairs or its
 997 predecessor or by any branch of the United States Armed Forces
 998 to be at least 30 percent permanently service-connected
 999 disabled;

1000 2. Have been awarded the Military Order of the Purple
 1001 Heart; or

1002 3. Are active duty servicemembers with a service-connected
 1003 injury as determined by his or her branch of the United States
 1004 Armed Forces.

1005
 1006 Proof of eligibility under this subsection, as prescribed by the
 1007 Florida Forest Service, may be required.

1008 Section 28. Paragraph (h) of subsection (2) of section
 1009 810.09, Florida Statutes, is amended to read:

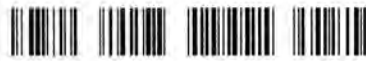
1010 810.09 Trespass on property other than structure or
 1011 conveyance.-

1012 (2)

1013 (h) Any person who in taking or attempting to take any
 1014 animal described in s. 379.101(20) or (21) ~~379.101(19) or (20)~~,

1015 or in killing, attempting to kill, or endangering any animal
 1016 described in s. 585.01(13) knowingly propels or causes to be
 1017 propelled any potentially lethal projectile over or across
 1018 private land without authorization commits trespass, a felony of
 1019 the third degree, punishable as provided in s. 775.082, s.
 1020 775.083, or s. 775.084. For purposes of this paragraph, the term
 1021 "potentially lethal projectile" includes any projectile launched
 1022 from any firearm, bow, crossbow, or similar tensile device. This
 1023 section does not apply to any governmental agent or employee
 1024 acting within the scope of his or her official duties.

1025 Section 29. This act shall take effect July 1, 2016.



Amendment No. /

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Agriculture & Natural
 2 Resources Subcommittee
 3 Representative Combee offered the following:

Amendment

6 Remove lines 872-873 and insert:
 7 felony of the third degree, punishable as provided in s.
 8 775.082, ~~or~~ s. 775.083, or s. 775.084.



The Florida Keys Area of Critical State Concern

Agriculture & Natural Resources Subcommittee

November 17, 2015

Designation History

1972

- Florida Legislature adopts the Environmental Land and Water Management Act

1975

- the Florida Keys and the City of Key West are designated as Area of Critical State Concern



Governor Askew and Cabinet- 1975
State Archives of Florida, *Florida Memory*

Legislative Intent of the Florida Keys Area Protection Act

Establish a
land use
management
system to
achieve the
following:



Protect the environment
and improve water quality



Support a diverse
economic base



Promote public land
acquisition



Provide affordable
housing



Protect property rights

What This Means Today

- DEO submits an annual report to the Administration Commission
- Progress report on completing Work Program tasks including:
 - Water quality improvements
 - Land acquisition
 - Ability to meet hurricane evacuation clearance times
- Unfavorable report results in 20% reduction of permit cap



2014

Florida Keys Area of Critical State Concern
Annual Report



Division of Community Planning
and Development
Areas of Critical State Concern Program

What This Means Today



Hurricane Evacuation Times



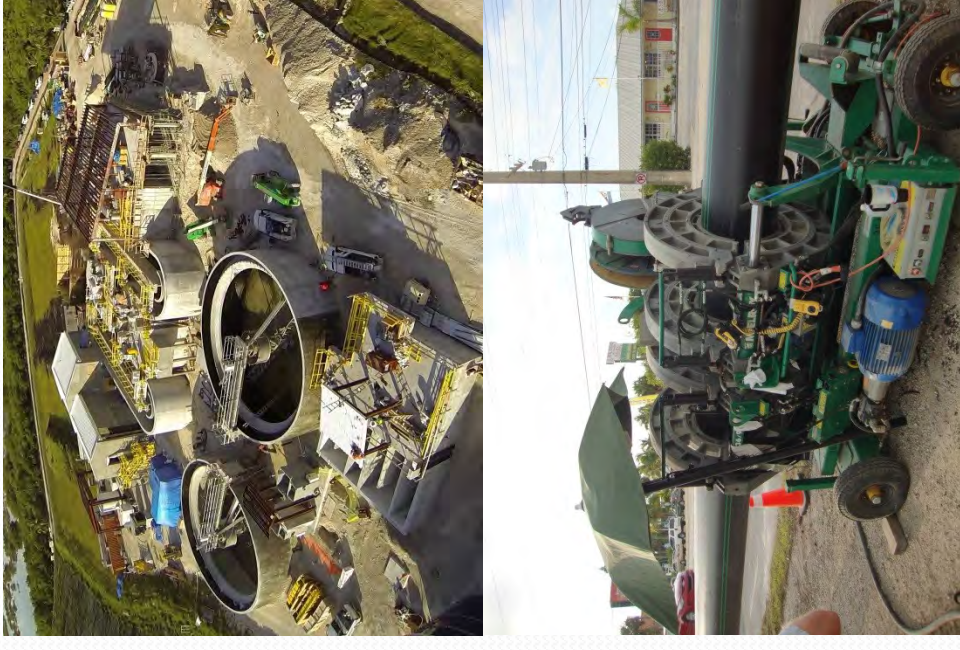
US Highway 1



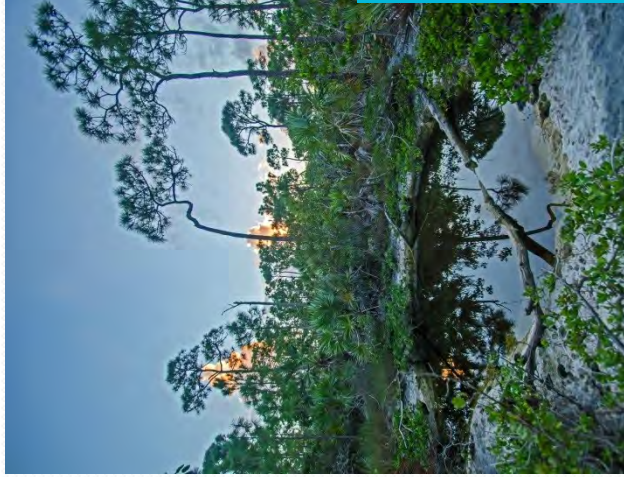
Building Permits

What We've Done

- Implemented the Wastewater Master Plan
 - Systems must be sized to serve the 74,000 residents plus 4 million tourists who visit annually
 - Total project cost nearly \$900 million
 - At current funding levels, each household will pay nearly \$19,000 out of pocket
 - Project is in final stages



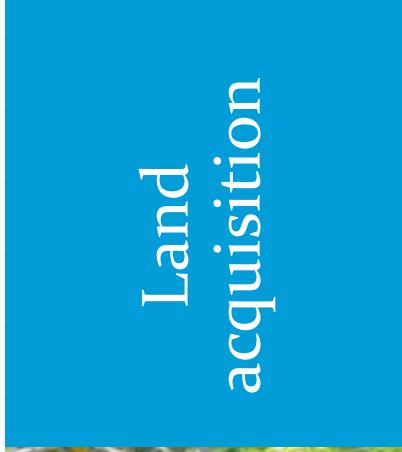
What Still Needs to Be Done



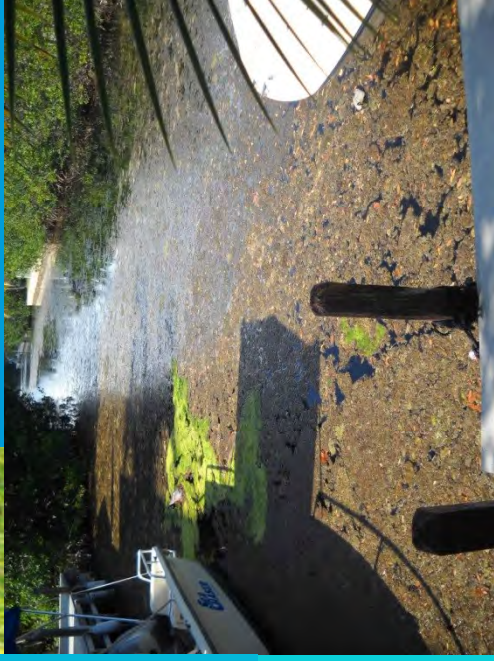
Restoration of impaired
canal waters



Stormwater
management

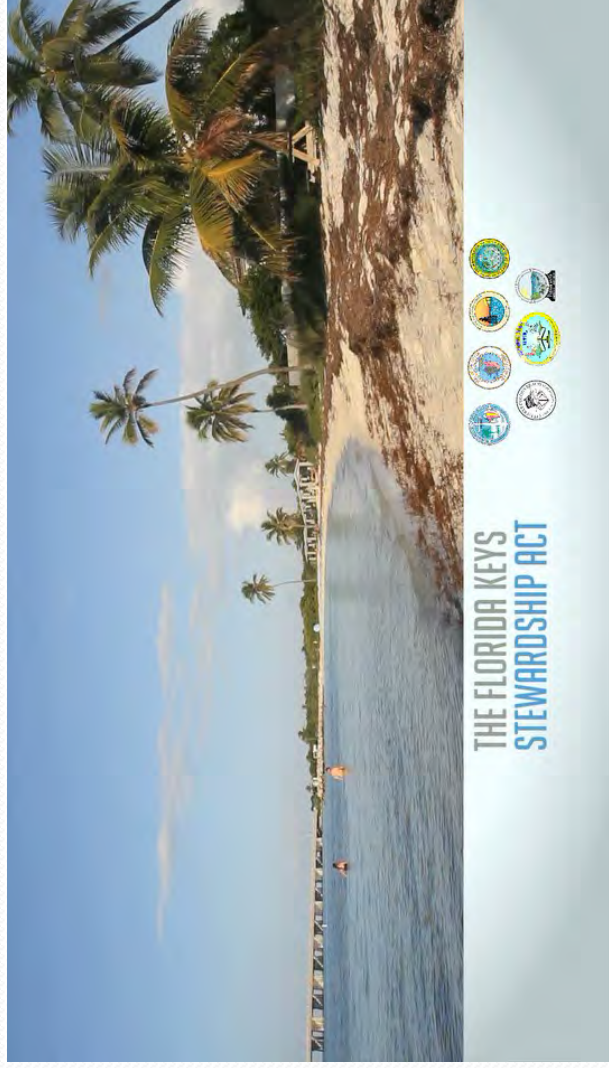


Land
acquisition



What's the Solution?

- Developing a long-term framework that invests in protecting and preserving the high-value environment of the Florida Keys, which is an economic engine for the entire State of Florida





Florida Bay Update

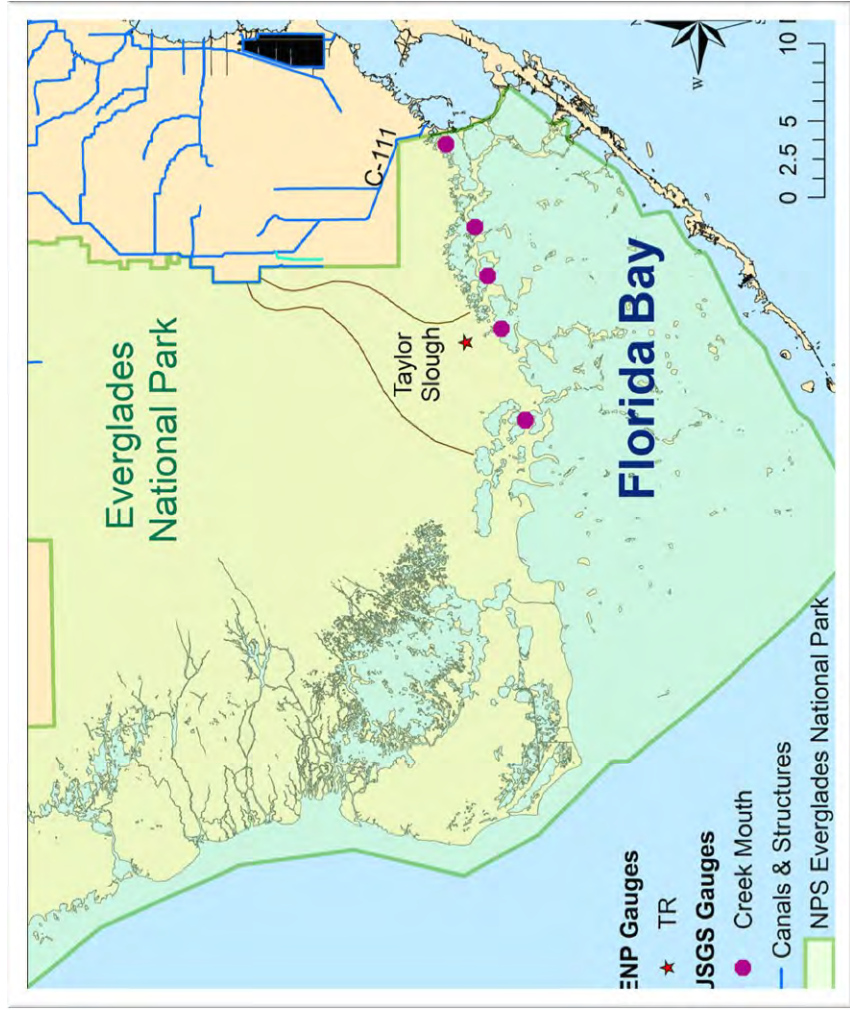
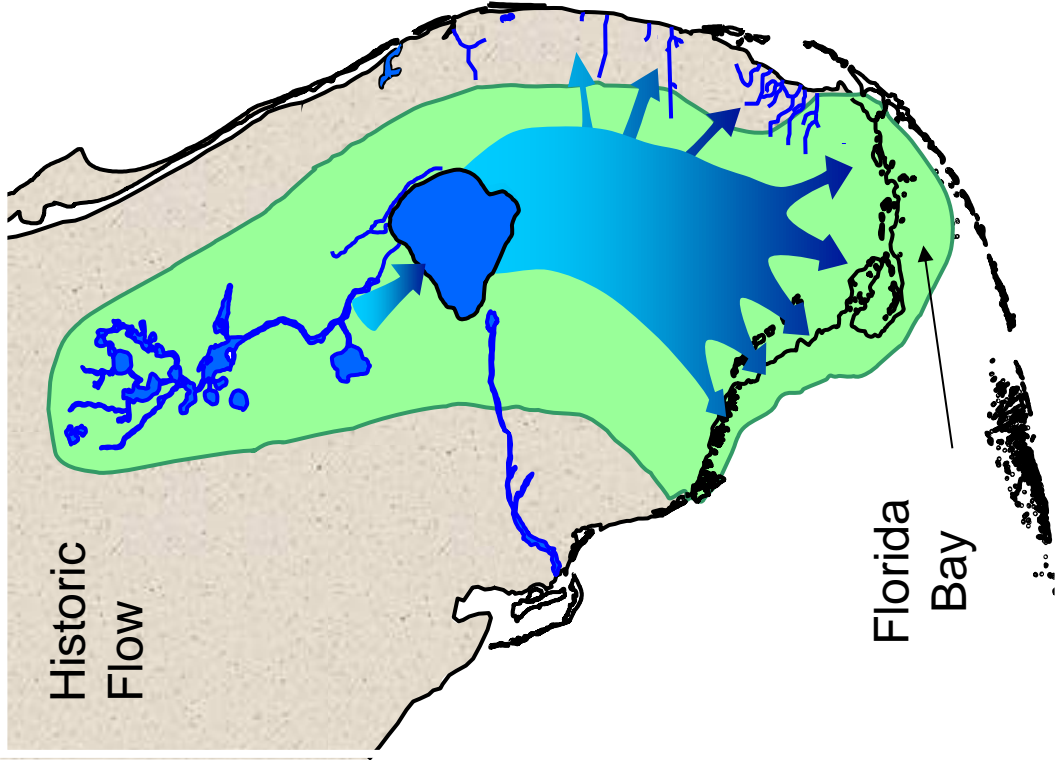
Terrie Bates

Water Resources Division Director

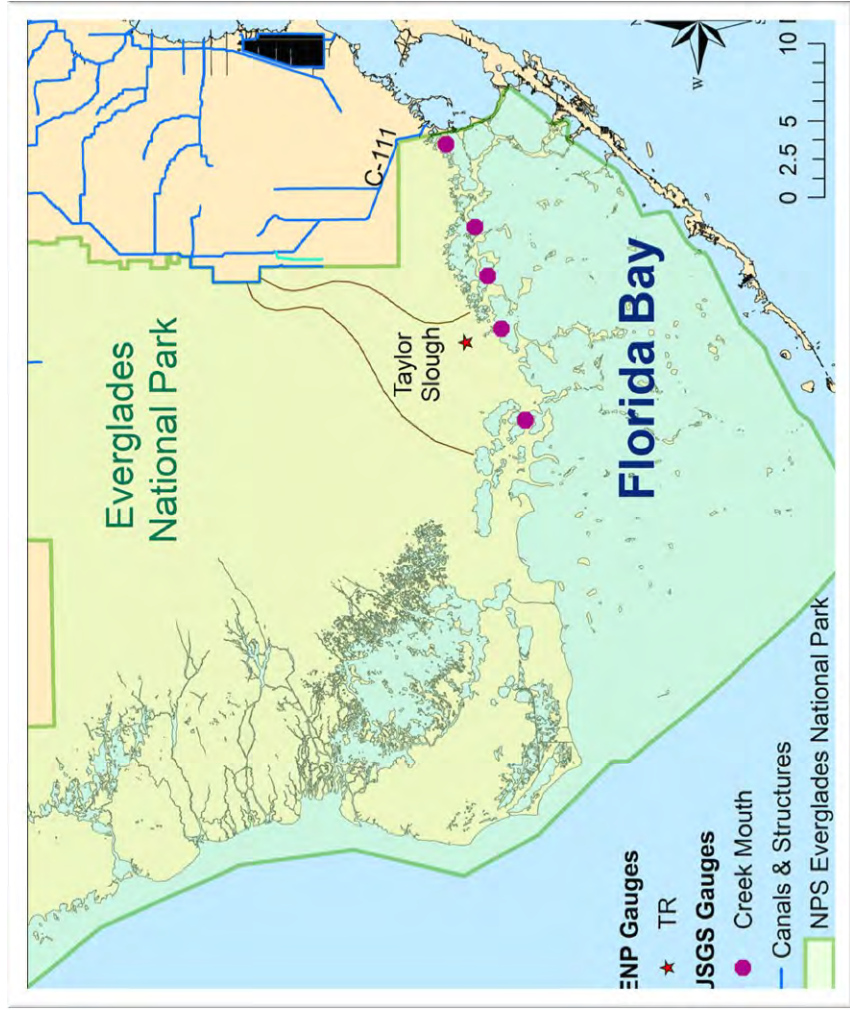
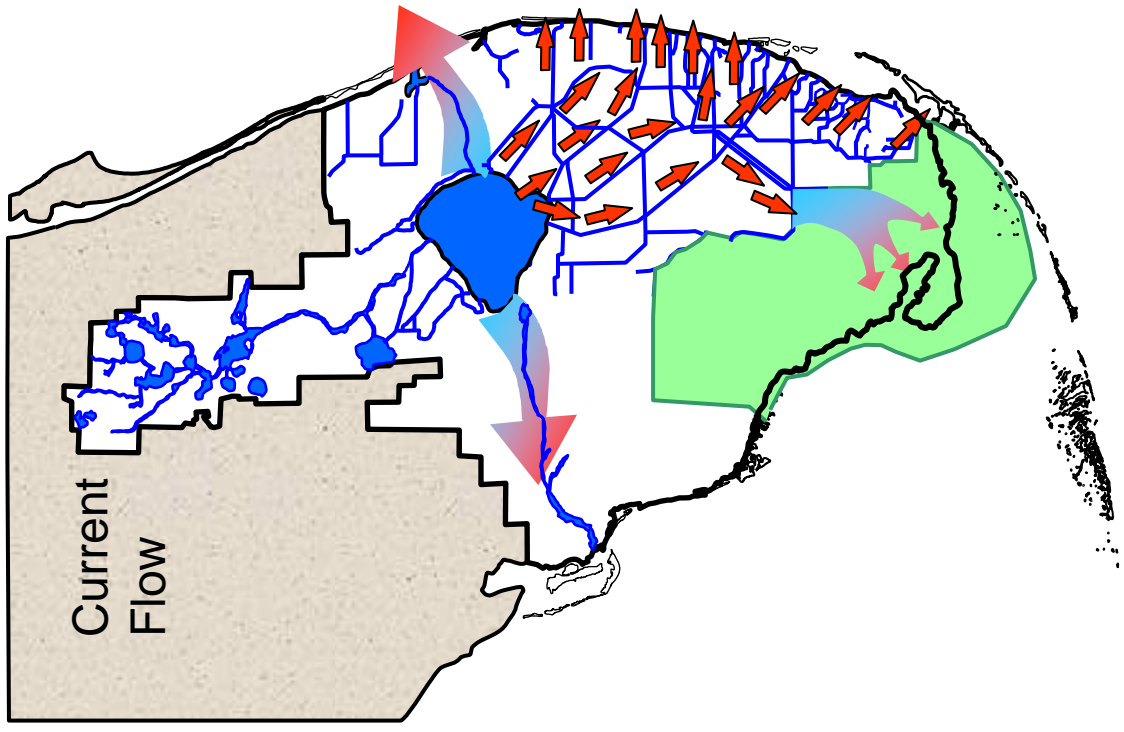
South Florida Water Management District

November 17, 2015

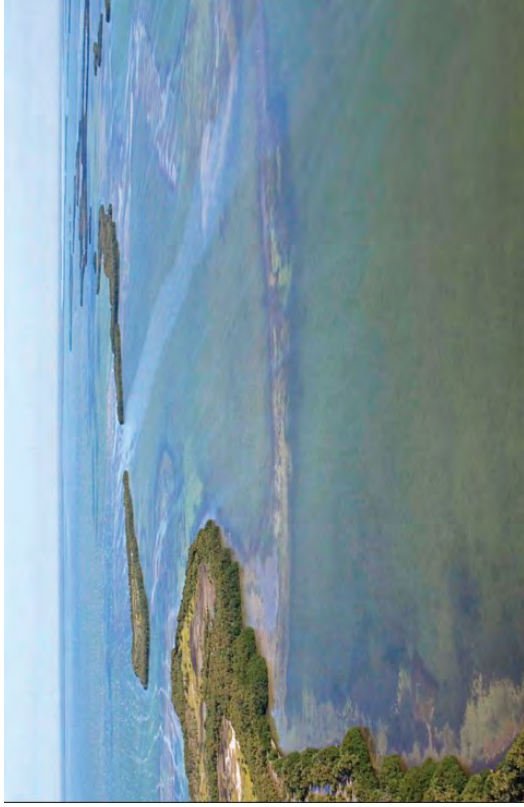
Everglades – Florida Bay System



Everglades – Florida Bay System



Florida Bay Ecology

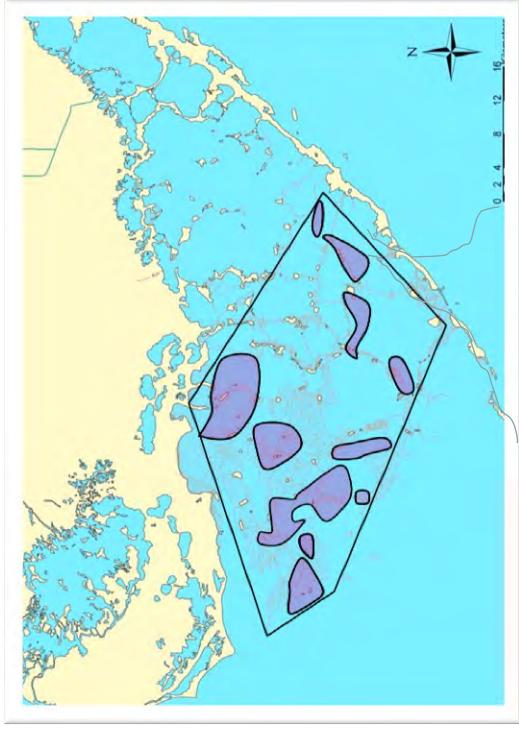


- At 500,000 acres, Florida Bay has one of the largest seagrass meadows in the world
- Important nursery grounds for recreational and commercial fisheries
- Complex estuary system with 22 basins separated by an extensive network of mud banks
- Freshwater inflows are critical for maintaining the Bay ecosystem



Previous Florida Bay Seagrass Die-Off

- Drought, hypersalinity, sulfide, hypoxia triggered seagrass die-off in 1987
- 10,000 acres of seagrass died in the central and western bay
- Nearly 60,000 more acres damaged with reduced productivity and biomass
- Die-off impacts lasted for 2 decades with reduced water clarity, increased nutrients, algae blooms, impaired fisheries
- Better conditions had returned with healthy seagrasses and clearer water
- Lack of fresh water inflows has left the bay vulnerable to drought

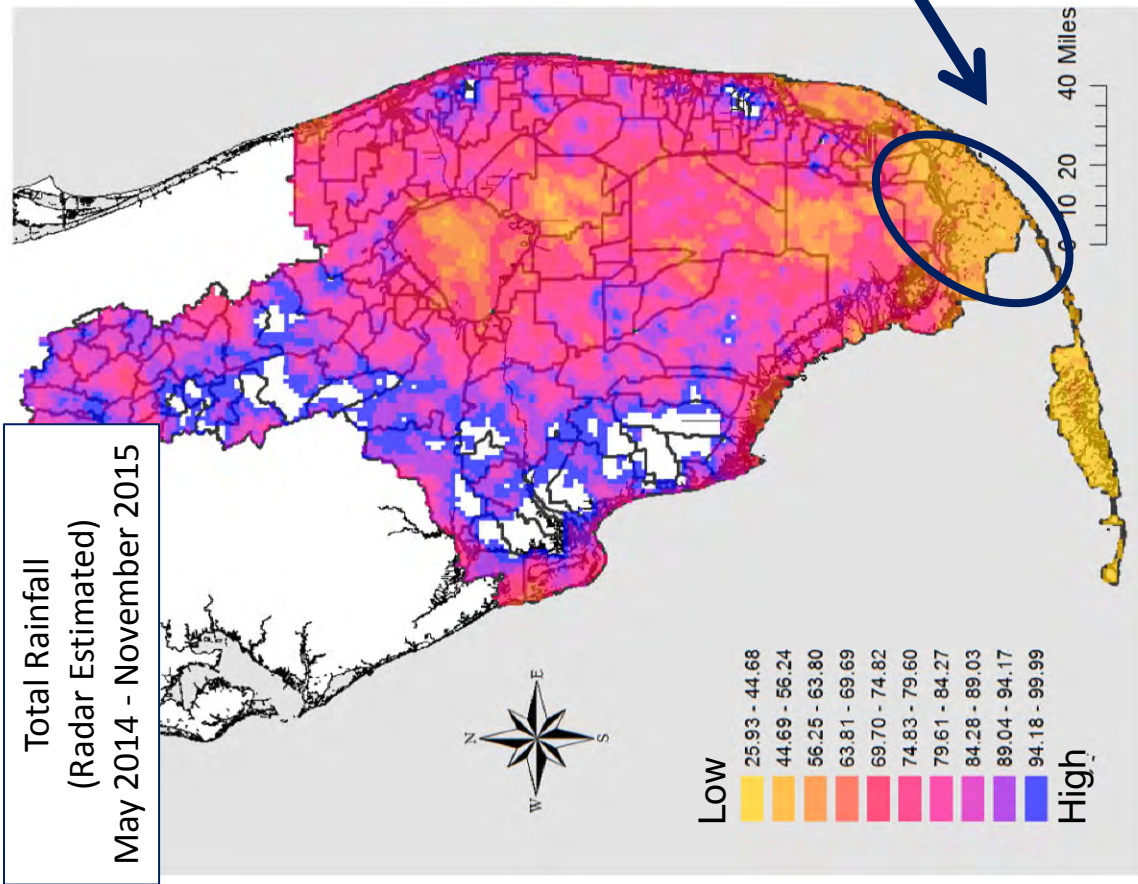


Stippled areas affected by severe loss of seagrass in 1987



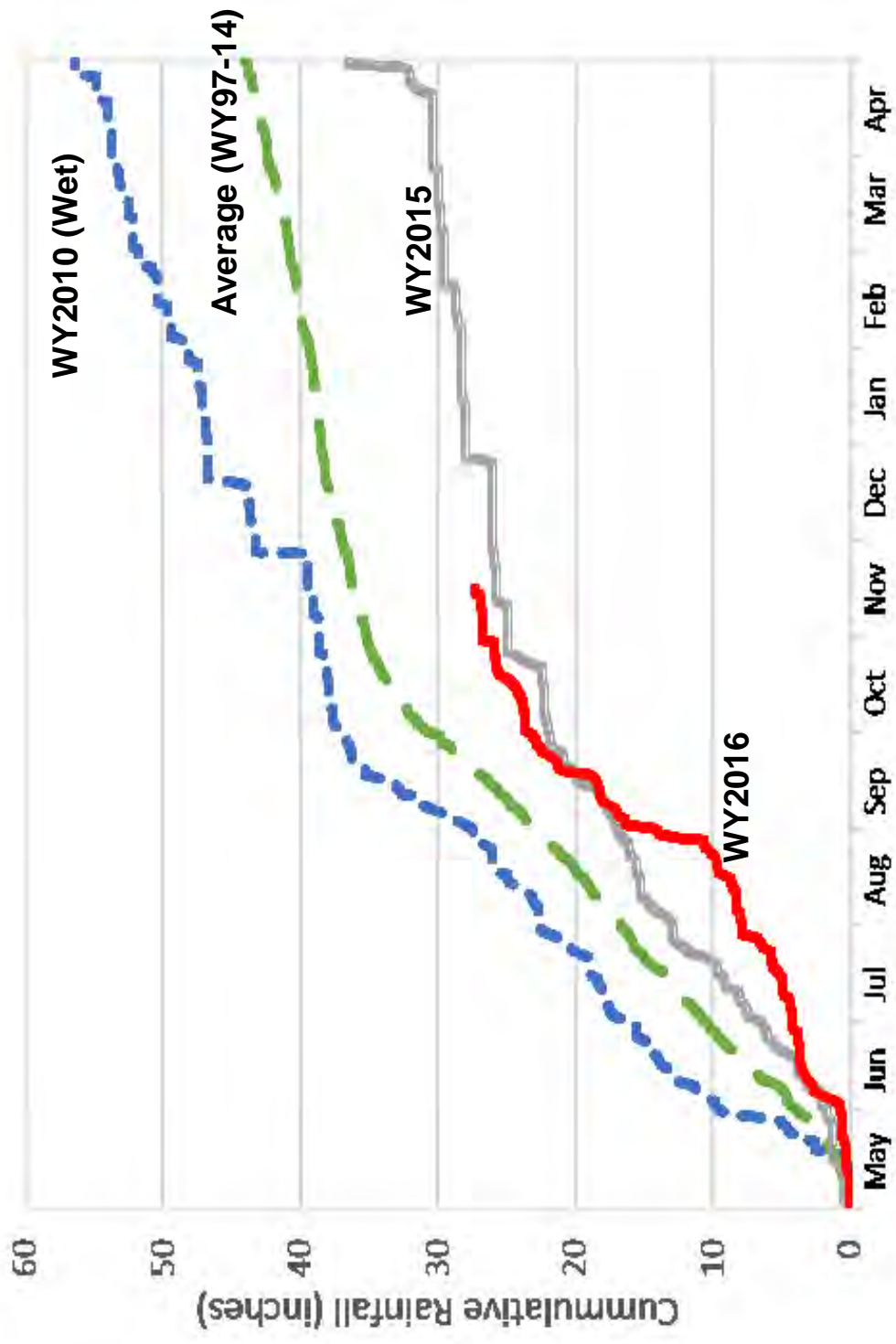
2015 Conditions - District Rainfall Distribution

Total Rainfall
(Radar Estimated)
May 2014 - November 2015

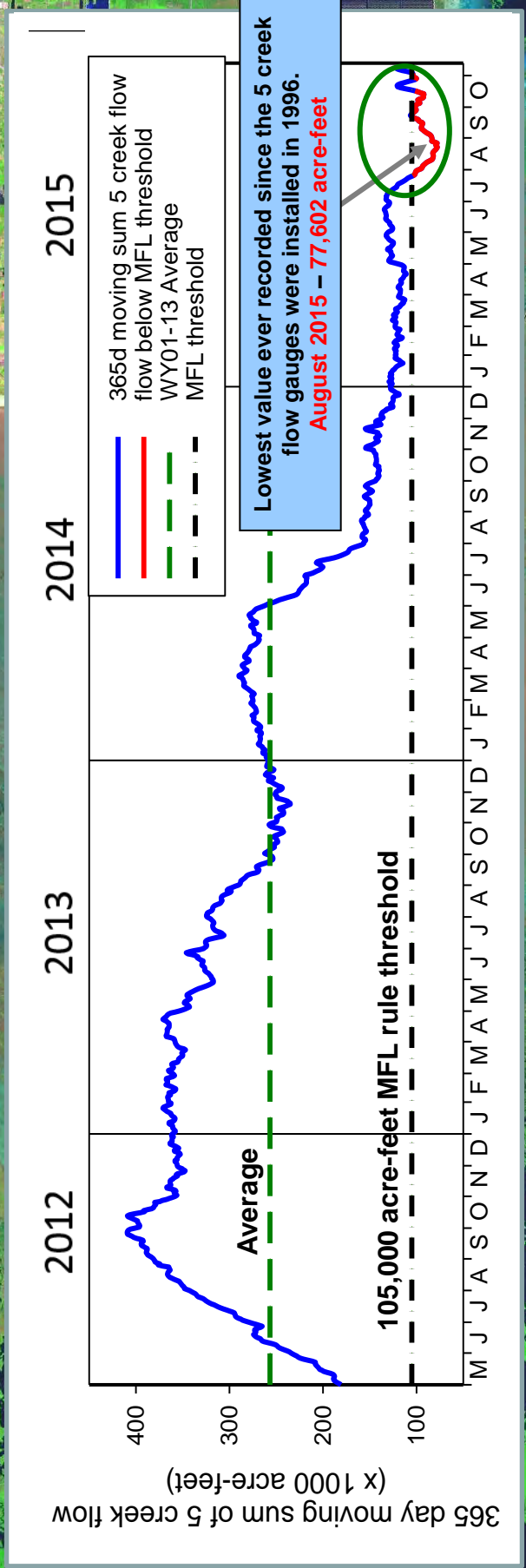


- Taylor Slough & Florida Bay received the lowest amounts of rainfall
- 25-45 inches since May 2014 compared to District-wide average of 80 inches

Rainfall Deficit

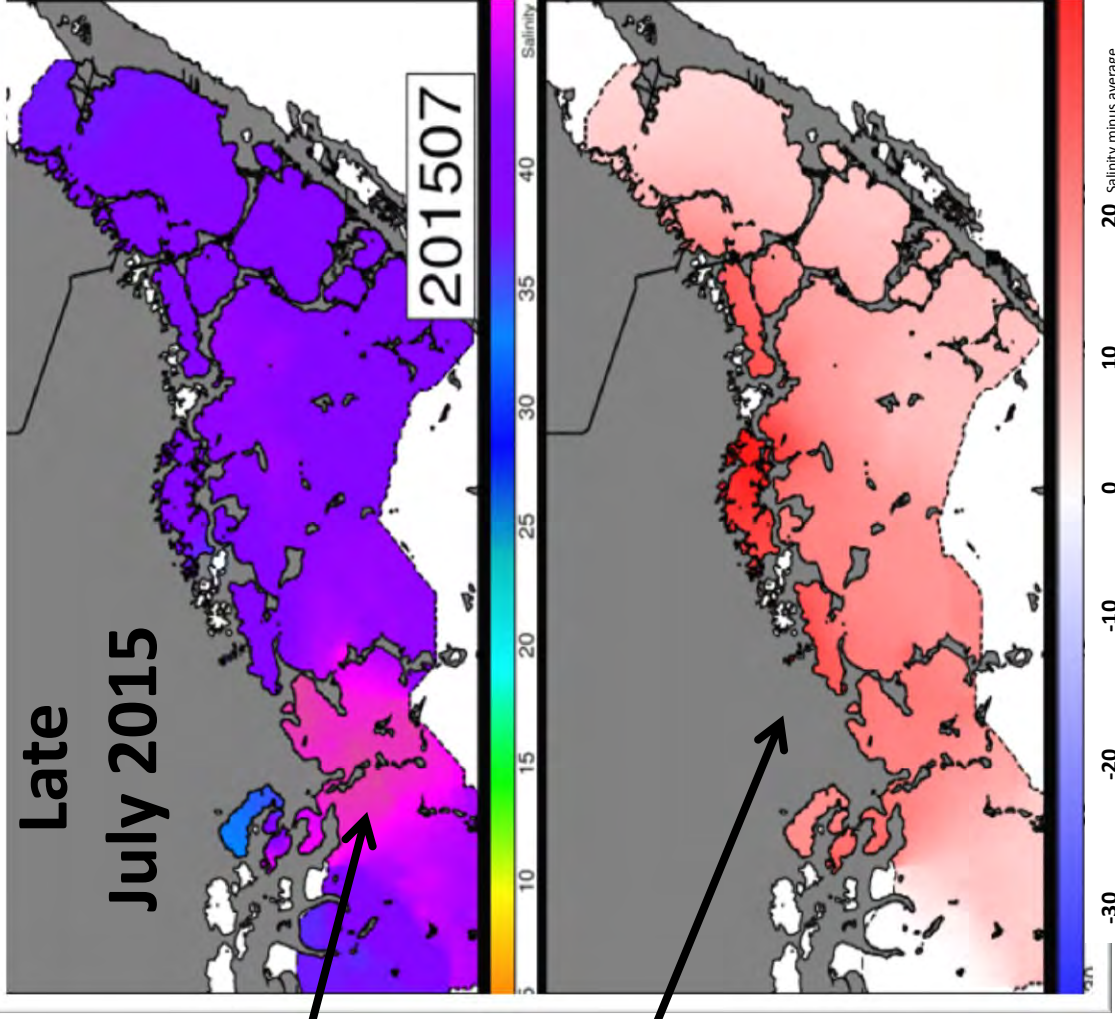


2012-2015 Conditions - Florida Bay Taylor River Salinity & MFL Flow



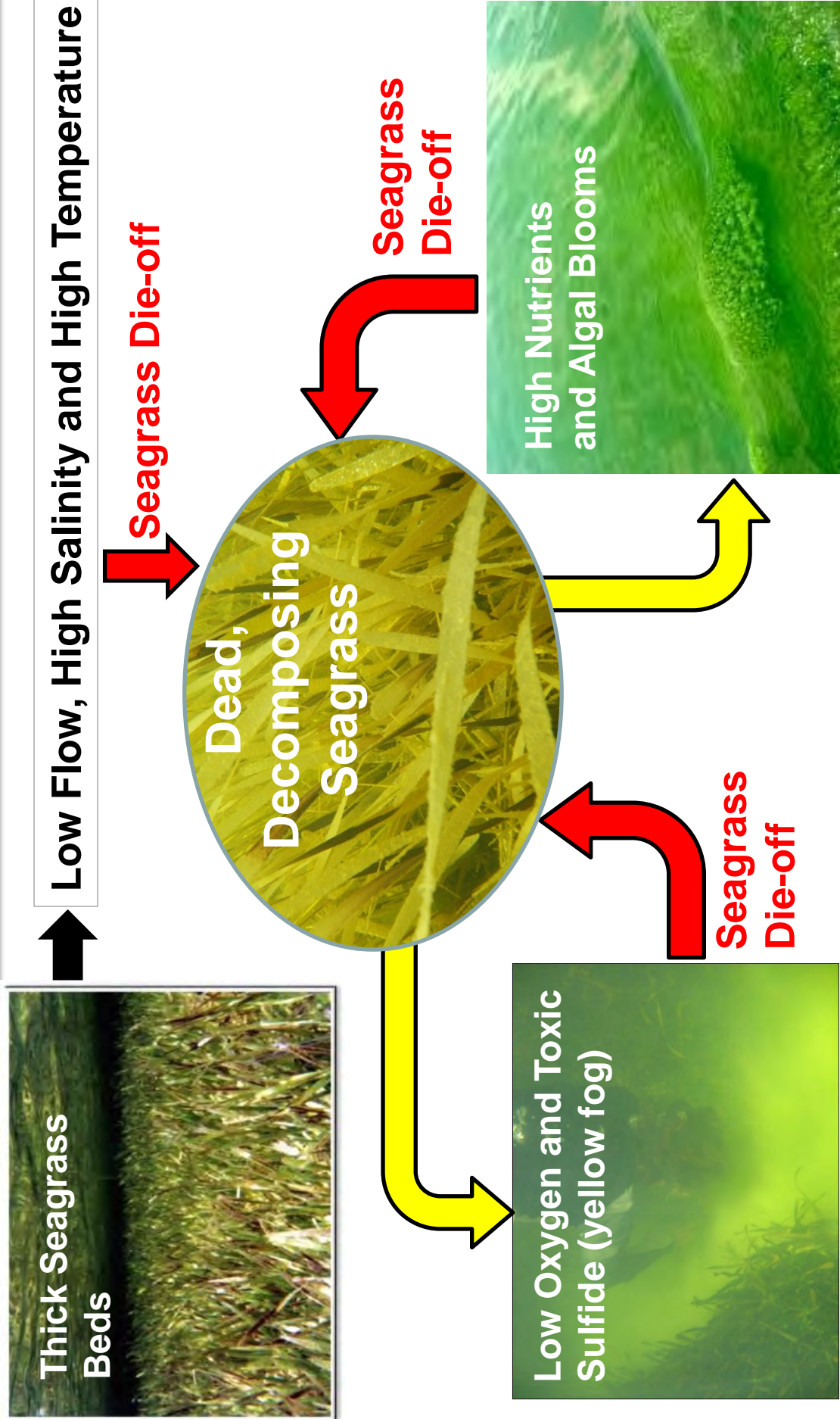
Mapping Florida Bay Salinity

- Average salinity – 35 psu
- In July, salinities exceeded 50 psu in large area of central Florida Bay
- Salinity as high as 72 psu measured at Garfield Bight



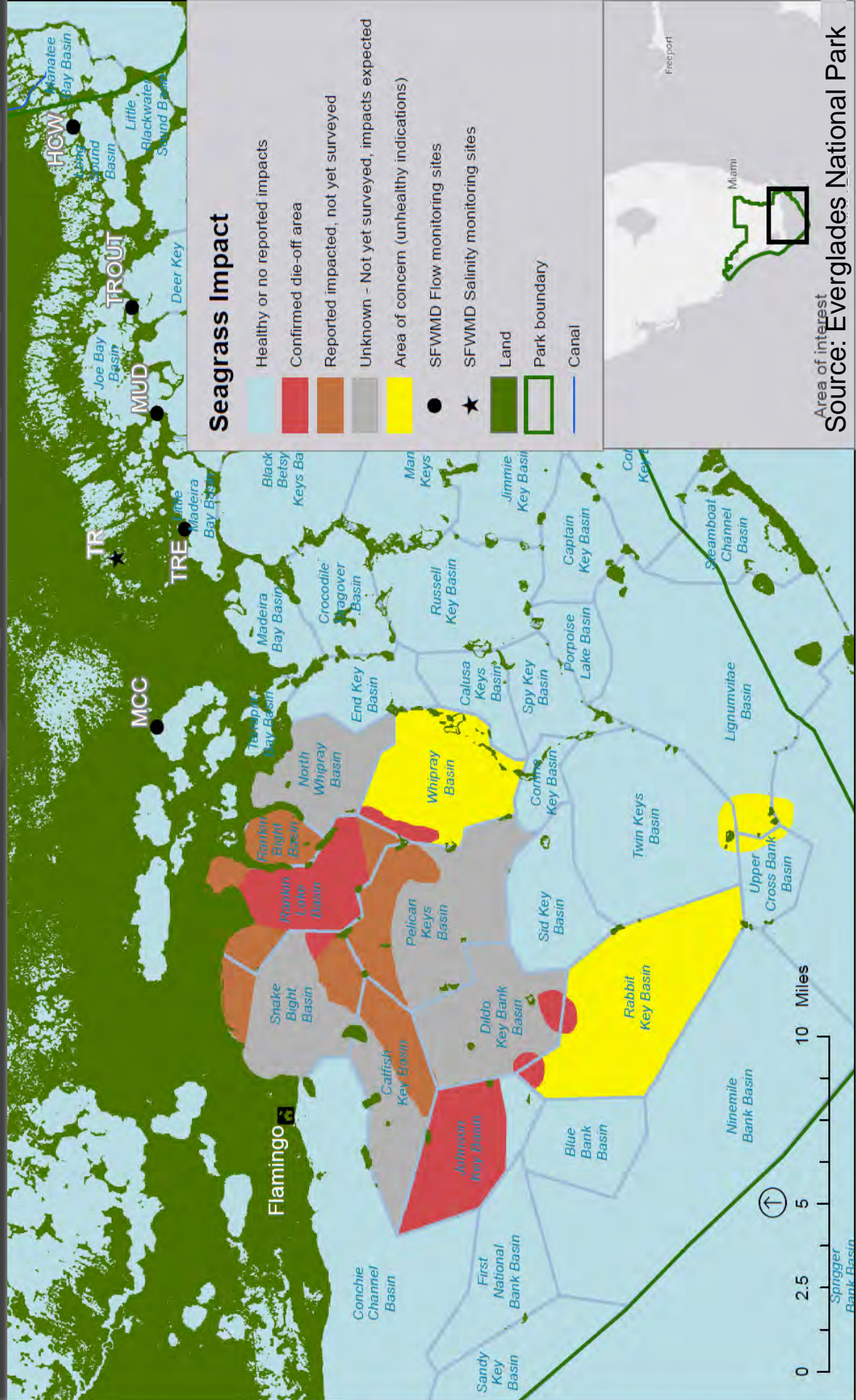
- Map shows how much salinity levels deviate from average conditions*
- Darker the pink coloration, the higher above average the salinity

Cascading Impact Loop



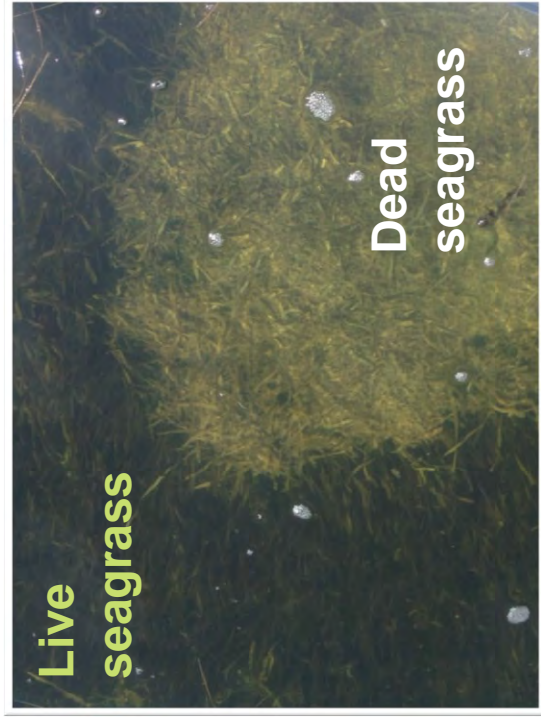
Google Image

Impact Areas Being Surveyed



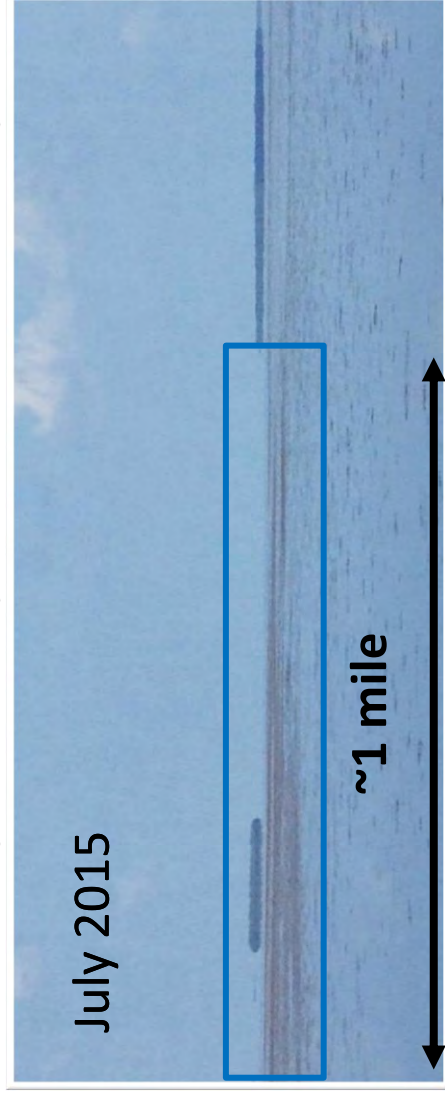
Area of interest
Source: Everglades National Park

Current Ecological Conditions

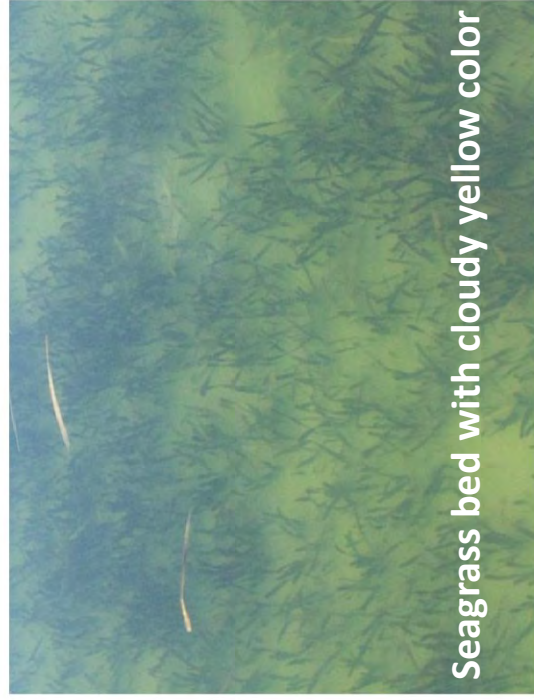


- Estimated 3,000 – 5,000+ acres of dead seagrass in Rankin Lake and Johnson Key basins
- Additional areas being surveyed
- Dead seagrass accumulation 6” to 2’ thick on bay bottom

Large floating rafts of dead seagrass - not typical in the bay



Current Ecological Conditions



Seagrass bed with cloudy yellow color

- Areas of yellow cloudy water with very low dissolved oxygen and high sulfur
- Low sport fish numbers (cannot be wholly attributed to recent hypersalinity)

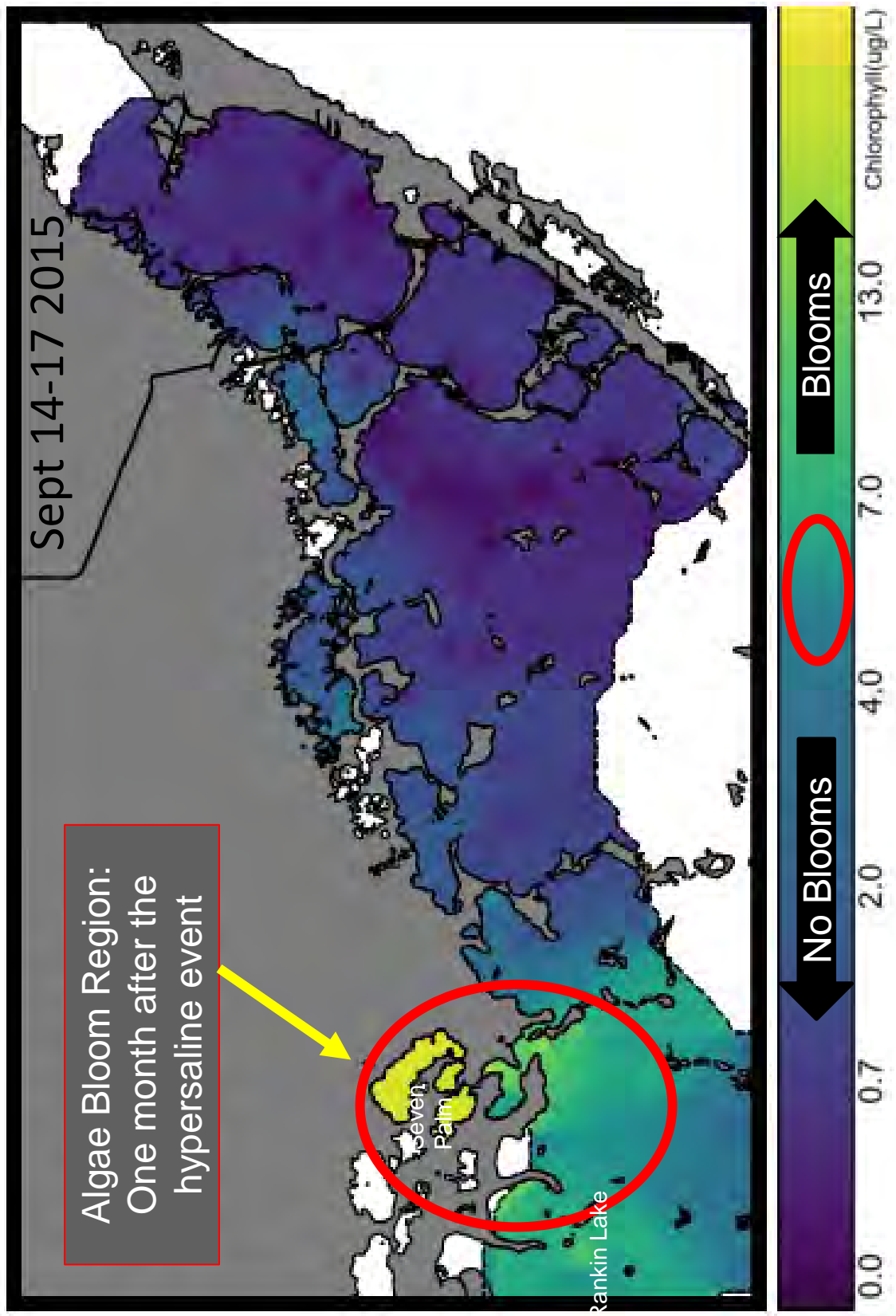


Spotted seatrout

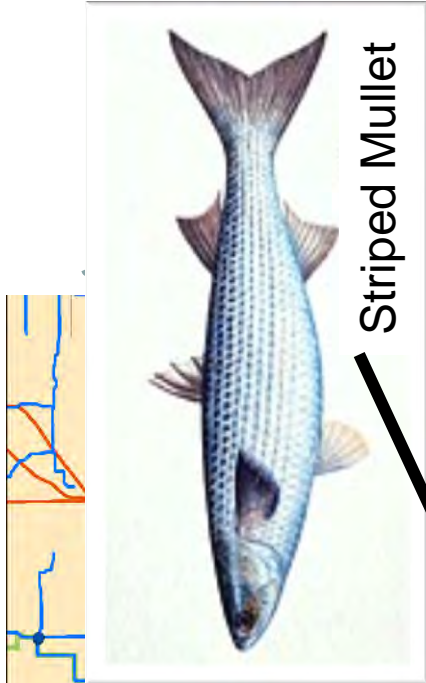
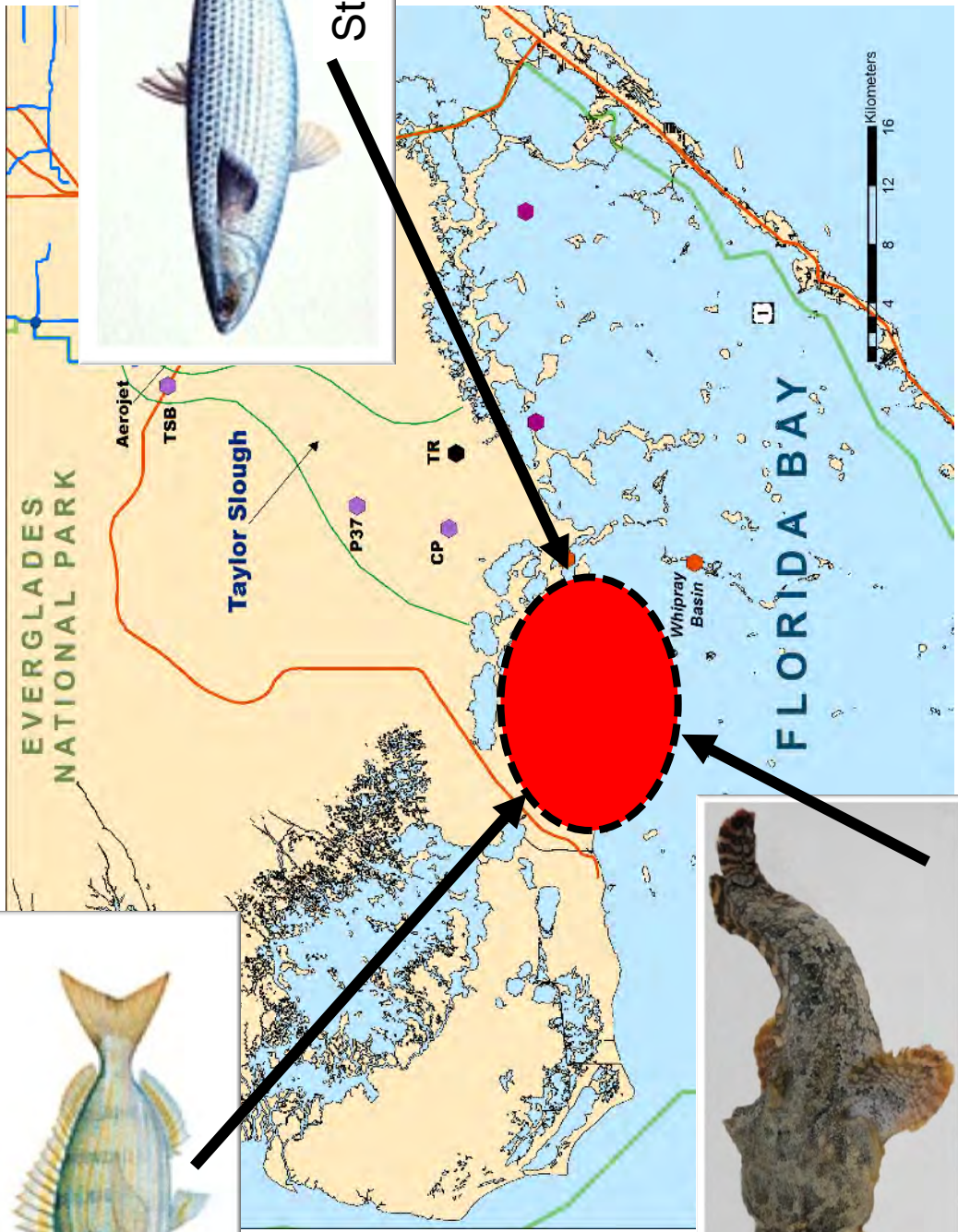


ENP and FWC have collected samples

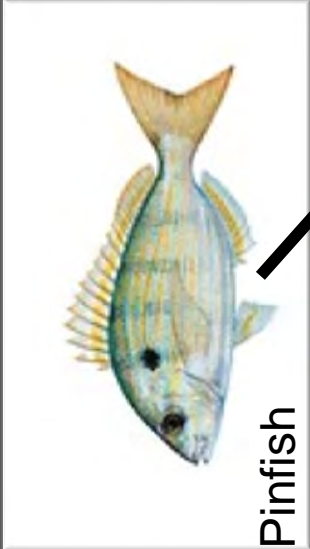
Florida Bay Algal Bloom Location



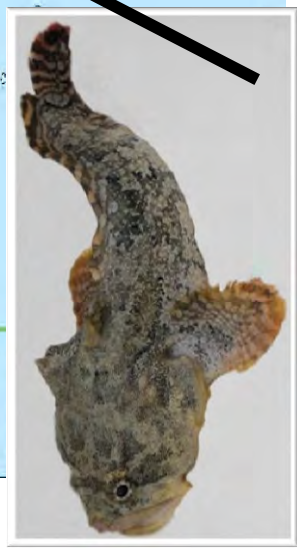
Region of Recent Fish Kills



Striped Mullet



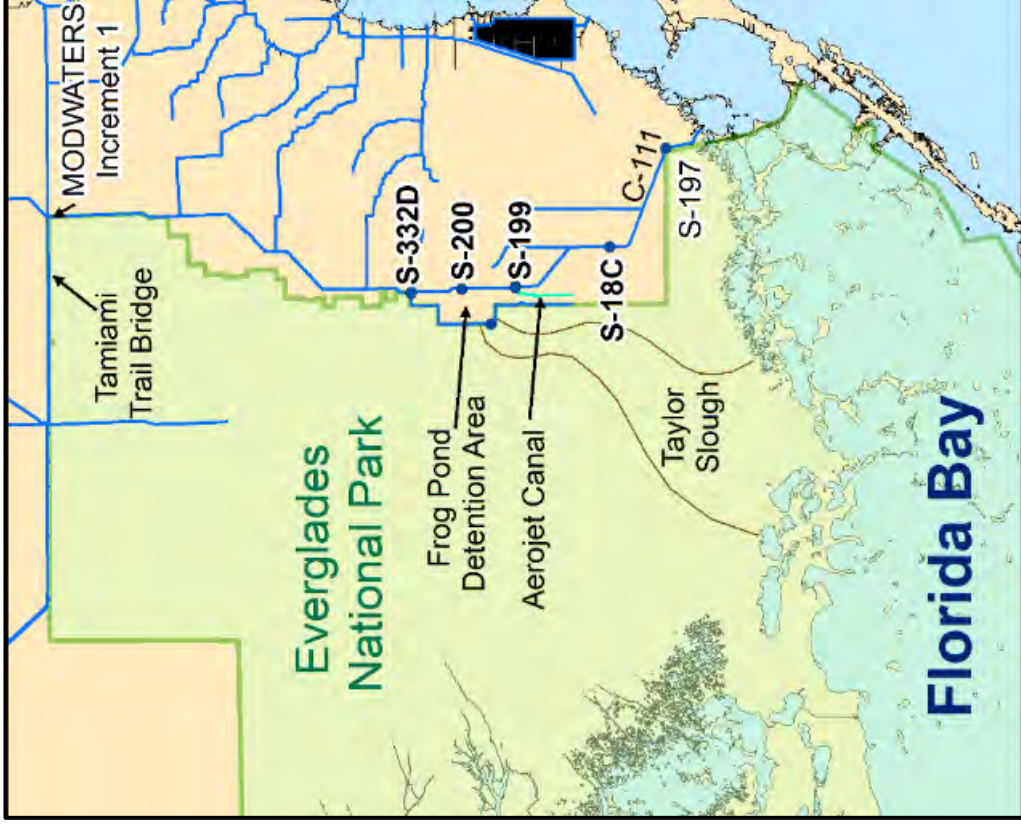
Pinfish



Gulf Toadfish

Getting Water to Florida Bay

- ModWaters Project**
 - One Mile Bridge
 - S-356 Pump Station
 - 8.5 Square Mile Flood Mitigation
 - Increment 1 Field Test
- C-111 South Dade**
 - S-332 pump stations & Detention Areas
 - Taylor Slough Bridge
 - Degrading southern C-111 Levee
 - Northern Detention - Contract 8 construction
- C-111 West Spreader Canal Project**
 - Frog Pond Detention Area-S-200 pump station
 - Aerojet Canal Extension S-199 pump station
- Tamiami Trail Next Steps- 2.6 Mile Bridge**
 - FDOT and ENP- advertising for Design-Build
- South Dade Initiative**
 - Ag Interests /ACOE/Everglades Nat. Park/ NGOs
 - Exploring potential operational and structural modifications to keep water in park, improve flood protection to ag lands



** Projects are in various stages of implementation. Some are complete.*



Questions ?

OP-ED NOVEMBER 12, 2015

Answering the alarm bells in Florida Bay

BY SAM ACCURSIO

my.sfwmd.gov

It's no longer a question whether two years of localized drought might mean trouble for Florida Bay. It clearly does, because this vast, shallow area between the mainland and Florida Keys is now in distress. The bay's waters have become much saltier than they should be, and seagrasses are dead or dying. Algae blooms are starting to appear, painful reminders of a sick bay back in the 1980's.

As a recently appointed Governing Board member of the South Florida Water Management District — and as part of a family that has been farming in Miami-Dade County since 1948 — I ask a lot of questions about water.

One of them is, "Why do Everglades National Park and Florida Bay have too little fresh water, but there is way too much water

on my nearby farm?"

It doesn't make sense.

Experts agree that scant rainfall over two years is central to the current conditions, and no one can change that. But water managers, federal officials and environmental groups each have played a part in affecting the bay's long-term health and its resiliency to drought. Consider:

- When Everglades restoration was initiated in the early 1990's, one of its primary goals was increased water flow into Everglades National Park. Florida Bay, at nearly 1,000 square miles, is part of the park. Regrettably, the projects to deliver more water are not yet constructed, although project components, scientific analyses and engineering designs are in place.

- Moving more water through the *existing* system is an especially complex challenge. It is restricted by federal operational plans, bird species protection, groundwater seepage, flood control requirements, landscape features, conveyance limitations and other significant factors, which — as always — require adequate rainfall so there's enough extra water to move.

I want to be part of solving this challenge, and I do believe there are short-term steps to take, even as we work on implementing the projects that will provide longer-term improvement.

At the SFWMD Governing Board's direction, a South Dade investigation effort has been convened to explore innovative ways to move water south to Florida Bay. Participants include water managers, federal agencies, environmental advocates and farmers in the region, which includes me and my family business.

We all recognize the competing needs for water management decisions in South Dade. Farmers need water to support the fruit and vegetable production that is an **important source for America's domestic food supply** (yet too much water destroys huge fields of crops).

Like our urban neighbors to the east, we all expect and need flood protection and adequate water supplies in our communities.

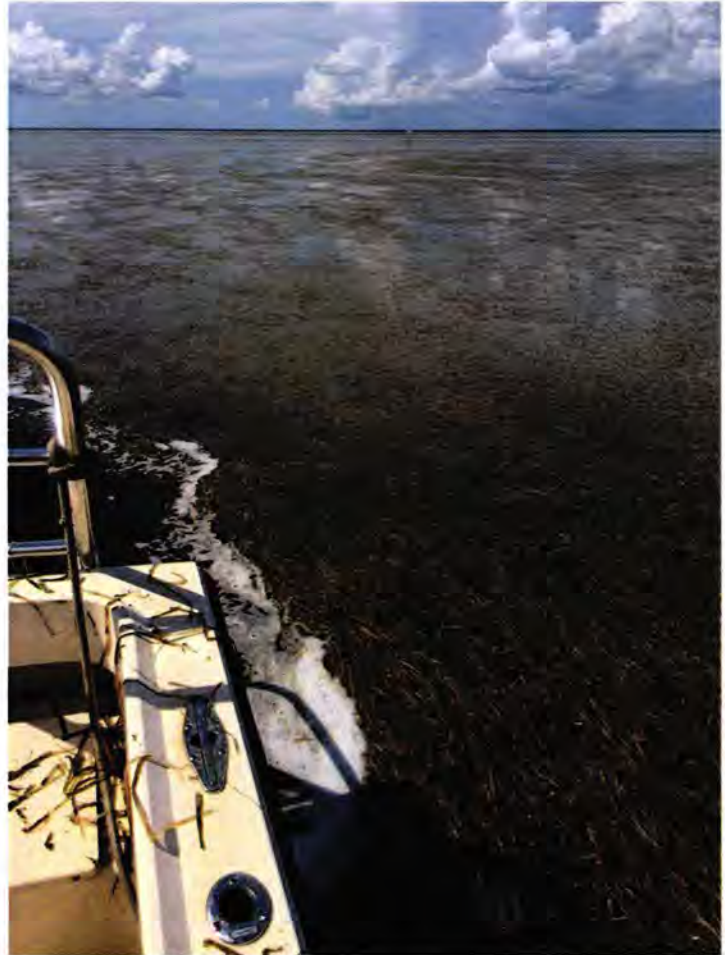
At the same time, federal park managers have a responsibility to preserve existing flora and fauna, even as some environmentalists advocate for single-species protection above all other needs.

As a fundamental goal, it makes sense to move water *away* from areas where there is too much and *into* areas, like Florida

Bay and Everglades National Park, where there is not enough. It's especially frustrating that growers' fields are too wet now — even after this summer's near-drought conditions — yet only a few miles to the west, the natural systems of Everglades National Park and Florida Bay are suffering for lack of fresh water.

The South Dade investigation is tasked with identifying the projects and operational changes that will provide relief. As a Governing Board member, agricultural stakeholder and one who shares public concern for responsible water management, I am committed to finding and implementing solutions to this critical problem.

SAM ACCURSIO IS A MEMBER OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT.



<http://www.miamiherald.com/opinion/op-ed/article44505945.html>

Answering the alarm bells in Florida Bay | Miami Herald

11/16/2015