

1                                   A bill to be entitled  
2       An act relating to environmental resources; amending s.  
3       337.0261, F.S.; defining the term "construction materials  
4       mining activities"; providing legislative intent;  
5       providing for the assessment of aggregate construction  
6       materials in the state contingent upon a specific  
7       appropriation; providing duties for the Department of  
8       Transportation, the Department of Environmental  
9       Protection, the Department of Community Affairs, and the  
10      Florida Geological Survey relating to such assessment;  
11      providing parameters for the assessment; authorizing the  
12      Department of Transportation to adopt rules; creating s.  
13      373.4146, F.S.; providing conditions for construction  
14      aggregate materials mining permitting; requiring the  
15      Department of Environmental Protection to consider adverse  
16      impacts to wetlands in aggregate mining permits; providing  
17      an exemption for the Miami-Dade County Lake Belt Area;  
18      amending s. 378.412, F.S.; prohibiting local governments  
19      from enacting or enforcing actions that prohibit mining in  
20      certain lands; providing an expedited permitting process  
21      for certain environmental resource permitting and  
22      reclamation applications; providing requirements for the  
23      challenge of agency actions; amending s. 403.061, F.S.;  
24      revising powers and duties of the Department of  
25      Environmental Protection relating to proposals for certain  
26      projects or activities; authorizing counties to establish  
27      dedicated funds for certain projects; amending s. 403.813,  
28      F.S.; prohibiting a local government from requiring

29 additional verification from the Department of  
 30 Environmental Protection for certain projects; prohibiting  
 31 local governments from requiring the Department of  
 32 Environmental Protection or a water management district to  
 33 provide certain project authorization; providing an  
 34 effective date.

35  
 36 Be It Enacted by the Legislature of the State of Florida:

37  
 38 Section 1. Subsections (1) and (2) of section 337.0261,  
 39 Florida Statutes, are amended, and subsection (6) is added to  
 40 that section, to read:

41 337.0261 Construction aggregate materials.--

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

43 (a) "Construction aggregate materials" means crushed  
 44 stone, limestone, dolomite, limerock, shell rock, cemented  
 45 coquina, sand for use as a component of mortars, concrete,  
 46 bituminous mixtures, or underdrain filters, and other mined  
 47 resources providing the basic material for concrete, asphalt,  
 48 and road base.

49 (b) "Construction materials mining activities" means the  
 50 extraction of limestone and sand suitable for production of  
 51 construction aggregates, sand, cement, and road base materials  
 52 for shipment offsite by any person or company primarily engaged  
 53 in the commercial mining of any such natural resources.

54 (2) LEGISLATIVE INTENT.--The Legislature finds that:

55 (a) There is a strategic and critical need for an  
 56 available supply of construction aggregate materials within the

| [PCB ENRC 08-13BILL](#)

Redraft—A

[2008YEAR](#)

57 | state and that a disruption of the supply would cause a  
58 | significant detriment to the state's construction industry,  
59 | transportation system, and overall health, safety, and welfare.

60 | (b) Construction aggregate materials are a finite natural  
61 | resource.

62 | (c) Construction aggregate materials mining is an industry  
63 | of critical importance to the state and is therefore in the  
64 | public interest.

65 | (d) There is a need for a reliable, predictable, and  
66 | sustainable supply of construction aggregate materials so that  
67 | public and private construction is maintained without  
68 | interruption.

69 | (e) There are a limited number of aggregate resource  
70 | counties within the state where aggregate and sand resources  
71 | exist.

72 | (f) There is a need to accurately identify and locate  
73 | available supplies of aggregate construction materials in the  
74 | state.

75 | (6) STRATEGIC AGGREGATE RESOURCE ASSESSMENT.--Contingent  
76 | upon a specific appropriation, the Department of Transportation  
77 | shall organize and provide administrative support in the  
78 | preparation of a strategic aggregate resource assessment. The  
79 | Department of Transportation shall work with the Department of  
80 | Environmental Protection, the Department of Community Affairs,  
81 | and local governments in the preparation of a strategic  
82 | aggregate resource assessment.

83 | (a) For construction aggregate materials:

84        1. The Florida Geological Survey shall identify and map  
85 areas where construction aggregate materials deposits are  
86 located in the state. Information may be submitted by willing  
87 land owners to the Florida Geological Survey for inclusion in  
88 the state data repository. Proprietary or business information  
89 submitted to or acquired by the Florida Geological Survey shall  
90 be maintained in an electronic database under the control of the  
91 Florida Geological Survey and protected as trade secrets  
92 pursuant to s. 815.045.

93        2. The Department of Transportation shall identify and  
94 superimpose on the aggregate resource map a high to low quality  
95 grading classification to identifying the areas that contain  
96 geologically valuable resources needed for road building and  
97 repair. The quality grading classification mapping shall be for  
98 planning purposes only and shall not constitute a formal  
99 determination by the department for any other reason.

100       3. The Department of Environmental Protection shall  
101 identify and superimpose on the aggregate resource map the areas  
102 of natural resources that may be of concern during state  
103 permitting in order to identify any potential conflicts between  
104 the location of geologically valuable resources and natural land  
105 and water resources. The mapping of natural resources shall be  
106 for planning purposes only and shall not constitute a formal  
107 determination of the landward extent of wetlands and other  
108 surface waters pursuant to part IV of chapter 373.

109       4. The Department of Community Affairs, along with the  
110 local governments, shall identify and superimpose on the  
111 aggregate resource map the distribution, location, and extent of

112 land uses within a local government jurisdiction in addition to  
 113 future land use map designations and zoning elements in order to  
 114 identify any potential conflicts between the areas where growth  
 115 and development is planned and areas with deposits of  
 116 geologically valuable resources. The mapping of land uses within  
 117 a local government jurisdiction shall be for planning purposes  
 118 only and shall not constitute a formal determination by the  
 119 department or the local government for any other reason.

120  
 121 The strategic aggregate resource assessment shall provide a  
 122 projection of 5-year, 25-year, and 50-year demand for aggregate.  
 123 In addition, the strategic aggregate resource assessment shall  
 124 provide an estimate of volume of aggregate available from  
 125 already permitted mines to meet demand projections. The  
 126 strategic aggregate resource assessment shall identify  
 127 international and out-of-state construction aggregate materials  
 128 available to meet demand projections.

129 (b) For infrastructure, the strategic aggregate resource  
 130 assessment shall:

131 1. Provide a rating structure assessing the ability to  
 132 mine these deposits in an economic manner, taking into account  
 133 the proximity of the materials to the available markets, the  
 134 thickness of overburden, and the quantity and quality of the  
 135 materials. In assessing the economic viability of a geologic  
 136 deposit the strategic aggregate resource assessment shall take  
 137 into account the proximity to rail and port facilities where  
 138 similar or replacement products can be imported at a lower cost  
 139 than producing them locally.

140           2. Identify the current and potential capacity of  
 141 construction aggregate material imports into the state utilizing  
 142 current and planned rail, connecting roadways, and port  
 143 infrastructure.

144           (c) The strategic aggregate resource assessment shall be  
 145 updated every 5 years and be included as part of the Department  
 146 of Transportation Florida Transportation Plan.

147           (d) The Department of Transportation shall prepare the  
 148 findings of the strategic aggregate resource assessment in an  
 149 initial report submitted to the Governor, the President of the  
 150 Senate, and the Speaker of the House of Representatives no later  
 151 than February 1, 2010. Subsequent reports shall be submitted by  
 152 February 1 following each 5-year strategic aggregate resource  
 153 assessment update.

154           (e) The Department of Transportation is authorized to  
 155 adopt rules pursuant to ss. 120.536(1) and 120.54 to administer  
 156 this section and in the preparation of the strategic aggregate  
 157 resource assessment.

158           Section 2. Section 373.4146, Florida Statutes, is created  
 159 to read:

160           373.4146 Permitting of mining of construction aggregate  
 161 materials.--

162           (1) An applicant seeking an aggregate resource mining  
 163 permit shall attend a preapplication meeting with the department  
 164 to review construction, operation, environmental resource, and  
 165 reclamation issues. The department shall invite the local  
 166 government responsible for the review of the local regulations  
 167 impacting the aggregate resource mining permit to attend the

| [PCB ENRC 08-13BILL](#)

Redraft—A

[2008YEAR](#)

168 preapplication meeting to review land use issues with the  
169 applicant. Parties are encouraged to identify and resolve  
170 environmental and land use issues in order to streamline the  
171 application process to the greatest extent practicable.

172 (2) When permitting the construction, operation, and  
173 reclamation of construction aggregate material mines, including  
174 the permitting requirements in part IV of chapter 373 and the  
175 reclamation requirements in part IV of chapter 378, the  
176 department is directed to consider adverse impacts to all  
177 wetlands and other surface waters, notwithstanding the  
178 provisions of s. 373.414(2)(a). The department shall also  
179 require groundwater monitoring within the permit issued pursuant  
180 to part IV of chapter 373 to ensure that water quality outside  
181 the mining pit is protected.

182 (3) For purposes of this section, "construction aggregate  
183 material" means crushed stone, limestone, dolomite, limerock,  
184 shell rock, cemented coquina, and sand for use as a component of  
185 mortars, concrete, bituminous mixtures, or underdrain filters,  
186 and other mined resources providing the basic material for  
187 concrete, asphalt, and road base. Mined materials that do not  
188 require sorting and grading and that are used for fill are not  
189 construction aggregate materials.

190 (4) This section does not apply to the Miami-Dade County  
191 Lake Belt Area as described in s. 373.4149.

192 Section 3. Section 378.412, Florida Statutes, is amended  
193 to read:

194 378.412 Relationship with other laws.--

195           (1) It is the intent of the Legislature that ss. 378.202-  
 196 378.804 supplement other laws regarding resource extraction.  
 197 Nothing contained in such sections shall be construed to limit,  
 198 abridge, or alter any agency's duties, authority, and  
 199 responsibilities granted pursuant to another statute. Nothing in  
 200 ss. 378.202-378.804 shall be deemed to preempt local ordinances  
 201 that impose stricter reclamation standards, except that no  
 202 county or municipality shall enact or enforce any ordinance,  
 203 resolution, regulation, rule, policy, or other action which  
 204 prohibits or prevents the construction or operation of a  
 205 limestone mine on lands where mining is a permissible use or on  
 206 lands zoned or classified as mining lands on or after March 1,  
 207 2008.

208           (2) Due to the state's critical infrastructure needs and  
 209 the potential shortfall in available construction aggregate  
 210 materials, limerock environmental resource permitting and  
 211 reclamation applications filed after March 1, 2008, are eligible  
 212 for the expedited permitting process under s. 403.973.  
 213 Challenges to state agency action in the expedited permitting  
 214 process for establishment of a limerock mine in this state under  
 215 s. 403.973 are subject to the same requirements as challenges  
 216 brought under s. 403.973(14)(a), except that, notwithstanding s.  
 217 120.574, summary proceedings must be conducted within 30 days  
 218 after a party files the motion for summary hearing, regardless  
 219 of whether the parties agree to the summary proceeding.

220           Section 4. Subsection (40) of section 403.061, Florida  
 221 Statutes, is renumbered as subsection (41), and a new subsection  
 222 (40) is added to that section to read:



223 403.061 Department; powers and duties.--The department  
 224 shall have the power and the duty to control and prohibit  
 225 pollution of air and water in accordance with the law and rules  
 226 adopted and promulgated by it and, for this purpose, to:

227 (40) Maintain a list of projects or activities that  
 228 applicants may consider when developing proposals to meet the  
 229 mitigation or public interest requirements of chapter 253,  
 230 chapter 373, or this chapter. The contents of such a list are  
 231 not a rule as defined in chapter 120, and listing a specific  
 232 project or activity does not imply approval by the department  
 233 for such project or activity. Each county government is  
 234 encouraged to develop a prioritized inventory of projects or  
 235 activities for inclusion on the list by obtaining input from  
 236 local stakeholder groups in the public, private, and nonprofit  
 237 sectors, including local governments, port authorities, marine  
 238 contractors, other representatives of the marine construction  
 239 industry, environmental or conservation organizations, and other  
 240 interested parties. Counties may establish dedicated funds for  
 241 depositing public interest donations into a reserve for future  
 242 public interest projects, including improvements to on-water law  
 243 enforcement.

244  
 245 The department shall implement such programs in conjunction with  
 246 its other powers and duties and shall place special emphasis on  
 247 reducing and eliminating contamination that presents a threat to  
 248 humans, animals or plants, or to the environment.

249 Section 5. Subsections (2) and (3) of section 403.813,  
 250 Florida Statutes, are amended to read:

251 403.813 Permits issued at district centers; exceptions.--

252 (2) A permit is not required under this chapter, chapter

253 373, chapter 61-691, Laws of Florida, or chapter 25214 or

254 chapter 25270, 1949, Laws of Florida, and a local government may

255 not require further verification from the department for

256 activities associated with the following types of projects;

257 however, except as otherwise provided in this subsection,

258 ~~nothing in~~ this subsection does not relieve ~~relieves~~ an

259 applicant from any requirement to obtain permission to use or

260 occupy lands owned by the Board of Trustees of the Internal

261 Improvement Trust Fund or any water management district in its

262 governmental or proprietary capacity or from complying with

263 applicable local pollution control programs authorized under

264 this chapter or other requirements of county and municipal

265 governments:

266 (a) The installation of overhead transmission lines, with

267 support structures which are not constructed in waters of the

268 state and which do not create a navigational hazard.

269 (b) The installation and repair of mooring pilings and

270 dolphins associated with private docking facilities or piers and

271 the installation of private docks, piers and recreational

272 docking facilities, or piers and recreational docking facilities

273 of local governmental entities when the local governmental

274 entity's activities will not take place in any manatee habitat,

275 any of which docks:

276 1. Has 500 square feet or less of over-water surface area

277 for a dock which is located in an area designated as Outstanding

278 Florida Waters or 1,000 square feet or less of over-water

279 surface area for a dock which is located in an area which is not  
 280 designated as Outstanding Florida Waters;

281 2. Is constructed on or held in place by pilings or is a  
 282 floating dock which is constructed so as not to involve filling  
 283 or dredging other than that necessary to install the pilings;

284 3. Shall not substantially impede the flow of water or  
 285 create a navigational hazard;

286 4. Is used for recreational, noncommercial activities  
 287 associated with the mooring or storage of boats and boat  
 288 paraphernalia; and

289 5. Is the sole dock constructed pursuant to this exemption  
 290 as measured along the shoreline for a distance of 65 feet,  
 291 unless the parcel of land or individual lot as platted is less  
 292 than 65 feet in length along the shoreline, in which case there  
 293 may be one exempt dock allowed per parcel or lot.

294  
 295 Nothing in this paragraph shall prohibit the department from  
 296 taking appropriate enforcement action pursuant to this chapter  
 297 to abate or prohibit any activity otherwise exempt from  
 298 permitting pursuant to this paragraph if the department can  
 299 demonstrate that the exempted activity has caused water  
 300 pollution in violation of this chapter.

301 (c) The installation and maintenance to design  
 302 specifications of boat ramps on artificial bodies of water where  
 303 navigational access to the proposed ramp exists or the  
 304 installation of boat ramps open to the public in any waters of  
 305 the state where navigational access to the proposed ramp exists  
 306 and where the construction of the proposed ramp will be less

| [PCB ENRC 08-13BILL](#)

Redraft—A

[2008YEAR](#)

307 | than 30 feet wide and will involve the removal of less than 25  
308 | cubic yards of material from the waters of the state, and the  
309 | maintenance to design specifications of such ramps; however, the  
310 | material to be removed shall be placed upon a self-contained  
311 | upland site so as to prevent the escape of the spoil material  
312 | into the waters of the state.

313 | (d) The replacement or repair of existing docks and piers,  
314 | except that no fill material is to be used and provided that the  
315 | replacement or repaired dock or pier is in the same location and  
316 | of the same configuration and dimensions as the dock or pier  
317 | being replaced or repaired. This shall not preclude the use of  
318 | different construction materials or minor deviations to allow  
319 | upgrades to current structural and design standards.

320 | (e) The restoration of seawalls at their previous  
321 | locations or upland of, or within 1 foot waterward of, their  
322 | previous locations. However, this shall not affect the  
323 | permitting requirements of chapter 161, and department rules  
324 | shall clearly indicate that this exception does not constitute  
325 | an exception from the permitting requirements of chapter 161.

326 | (f) The performance of maintenance dredging of existing  
327 | manmade canals, channels, intake and discharge structures, and  
328 | previously dredged portions of natural water bodies within  
329 | drainage rights-of-way or drainage easements which have been  
330 | recorded in the public records of the county, where the spoil  
331 | material is to be removed and deposited on a self-contained,  
332 | upland spoil site which will prevent the escape of the spoil  
333 | material into the waters of the state, provided that no more  
334 | dredging is to be performed than is necessary to restore the

335 | canals, channels, and intake and discharge structures, and  
 336 | previously dredged portions of natural water bodies, to original  
 337 | design specifications or configurations, provided that the work  
 338 | is conducted in compliance with s. 370.12(2)(d), provided that  
 339 | no significant impacts occur to previously undisturbed natural  
 340 | areas, and provided that control devices for return flow and  
 341 | best management practices for erosion and sediment control are  
 342 | utilized to prevent bank erosion and scouring and to prevent  
 343 | turbidity, dredged material, and toxic or deleterious substances  
 344 | from discharging into adjacent waters during maintenance  
 345 | dredging. Further, for maintenance dredging of previously  
 346 | dredged portions of natural water bodies within recorded  
 347 | drainage rights-of-way or drainage easements, an entity that  
 348 | seeks an exemption must notify the department or water  
 349 | management district, as applicable, at least 30 days prior to  
 350 | dredging and provide documentation of original design  
 351 | specifications or configurations where such exist. This  
 352 | exemption applies to all canals and previously dredged portions  
 353 | of natural water bodies within recorded drainage rights-of-way  
 354 | or drainage easements constructed prior to April 3, 1970, and to  
 355 | those canals and previously dredged portions of natural water  
 356 | bodies constructed on or after April 3, 1970, pursuant to all  
 357 | necessary state permits. This exemption does not apply to the  
 358 | removal of a natural or manmade barrier separating a canal or  
 359 | canal system from adjacent waters. When no previous permit has  
 360 | been issued by the Board of Trustees of the Internal Improvement  
 361 | Trust Fund or the United States Army Corps of Engineers for  
 362 | construction or maintenance dredging of the existing manmade

363 canal or intake or discharge structure, such maintenance  
 364 dredging shall be limited to a depth of no more than 5 feet  
 365 below mean low water. The Board of Trustees of the Internal  
 366 Improvement Trust Fund may fix and recover from the permittee an  
 367 amount equal to the difference between the fair market value and  
 368 the actual cost of the maintenance dredging for material removed  
 369 during such maintenance dredging. However, no charge shall be  
 370 exacted by the state for material removed during such  
 371 maintenance dredging by a public port authority. The removing  
 372 party may subsequently sell such material; however, proceeds  
 373 from such sale that exceed the costs of maintenance dredging  
 374 shall be remitted to the state and deposited in the Internal  
 375 Improvement Trust Fund.

376 (g) The maintenance of existing insect control structures,  
 377 dikes, and irrigation and drainage ditches, provided that spoil  
 378 material is deposited on a self-contained, upland spoil site  
 379 which will prevent the escape of the spoil material into waters  
 380 of the state. In the case of insect control structures, if the  
 381 cost of using a self-contained upland spoil site is so  
 382 excessive, as determined by the Department of Health, pursuant  
 383 to s. 403.088(1), that it will inhibit proposed insect control,  
 384 then-existing spoil sites or dikes may be used, upon  
 385 notification to the department. In the case of insect control  
 386 where upland spoil sites are not used pursuant to this  
 387 exemption, turbidity control devices shall be used to confine  
 388 the spoil material discharge to that area previously disturbed  
 389 when the receiving body of water is used as a potable water  
 390 supply, is designated as shellfish harvesting waters, or

PCB ENRC 08-13BILL

Redraft—A

2008YEAR

391 functions as a habitat for commercially or recreationally  
392 important shellfish or finfish. In all cases, no more dredging  
393 is to be performed than is necessary to restore the dike or  
394 irrigation or drainage ditch to its original design  
395 specifications.

396 (h) The repair or replacement of existing functional pipes  
397 or culverts the purpose of which is the discharge or conveyance  
398 of stormwater. In all cases, the invert elevation, the diameter,  
399 and the length of the culvert shall not be changed. However, the  
400 material used for the culvert may be different from the  
401 original.

402 (i) The construction of private docks of 1,000 square feet  
403 or less of over-water surface area and seawalls in artificially  
404 created waterways where such construction will not violate  
405 existing water quality standards, impede navigation, or affect  
406 flood control. This exemption does not apply to the construction  
407 of vertical seawalls in estuaries or lagoons unless the proposed  
408 construction is within an existing manmade canal where the  
409 shoreline is currently occupied in whole or part by vertical  
410 seawalls.

411 (j) The construction and maintenance of swales.

412 (k) The installation of aids to navigation and buoys  
413 associated with such aids, provided the devices are marked  
414 pursuant to s. 327.40.

415 (l) The replacement or repair of existing open-trestle  
416 foot bridges and vehicular bridges that are 100 feet or less in  
417 length and two lanes or less in width, provided that no more  
418 dredging or filling of submerged lands is performed other than

PCB ENRC 08-13BILL

Redraft—A

2008YEAR

419 that which is necessary to replace or repair pilings and that  
420 the structure to be replaced or repaired is the same length, the  
421 same configuration, and in the same location as the original  
422 bridge. No debris from the original bridge shall be allowed to  
423 remain in the waters of the state.

424 (m) The installation of subaqueous transmission and  
425 distribution lines laid on, or embedded in, the bottoms of  
426 waters in the state, except in Class I and Class II waters and  
427 aquatic preserves, provided no dredging or filling is necessary.

428 (n) The replacement or repair of subaqueous transmission  
429 and distribution lines laid on, or embedded in, the bottoms of  
430 waters of the state.

431 (o) The construction of private seawalls in wetlands or  
432 other surface waters where such construction is between and  
433 adjoins at both ends existing seawalls; follows a continuous and  
434 uniform seawall construction line with the existing seawalls; is  
435 no more than 150 feet in length; and does not violate existing  
436 water quality standards, impede navigation, or affect flood  
437 control. However, in estuaries and lagoons the construction of  
438 vertical seawalls is limited to the circumstances and purposes  
439 stated in s. 373.414(5)(b)1.-4. This paragraph does not affect  
440 the permitting requirements of chapter 161, and department rules  
441 must clearly indicate that this exception does not constitute an  
442 exception from the permitting requirements of chapter 161.

443 (p) The restoration of existing insect control impoundment  
444 dikes which are less than 100 feet in length. Such impoundments  
445 shall be connected to tidally influenced waters for 6 months  
446 each year beginning September 1 and ending February 28 if



447 | feasible or operated in accordance with an impoundment  
 448 | management plan approved by the department. A dike restoration  
 449 | may involve no more dredging than is necessary to restore the  
 450 | dike to its original design specifications. For the purposes of  
 451 | this paragraph, restoration does not include maintenance of  
 452 | impoundment dikes of operating insect control impoundments.

453 | (q) The construction, operation, or maintenance of  
 454 | stormwater management facilities which are designed to serve  
 455 | single-family residential projects, including duplexes,  
 456 | triplexes, and quadruplexes, if they are less than 10 acres  
 457 | total land and have less than 2 acres of impervious surface and  
 458 | if the facilities:

- 459 | 1. Comply with all regulations or ordinances applicable to  
 460 | stormwater management and adopted by a city or county;
- 461 | 2. Are not part of a larger common plan of development or  
 462 | sale; and
- 463 | 3. Discharge into a stormwater discharge facility exempted  
 464 | or permitted by the department under this chapter which has  
 465 | sufficient capacity and treatment capability as specified in  
 466 | this chapter and is owned, maintained, or operated by a city,  
 467 | county, special district with drainage responsibility, or water  
 468 | management district; however, this exemption does not authorize  
 469 | discharge to a facility without the facility owner's prior  
 470 | written consent.

471 | (r) The removal of aquatic plants, the removal of  
 472 | tussocks, the associated replanting of indigenous aquatic  
 473 | plants, and the associated removal from lakes of organic  
 474 | detrital material when such planting or removal is performed and

475 | authorized by permit or exemption granted under s. 369.20 or s.  
 476 | 369.25, provided that:

477 |       1. Organic detrital material that exists on the surface of  
 478 | natural mineral substrate shall be allowed to be removed to a  
 479 | depth of 3 feet or to the natural mineral substrate, whichever  
 480 | is less;

481 |       2. All material removed pursuant to this paragraph shall  
 482 | be deposited in an upland site in a manner that will prevent the  
 483 | reintroduction of the material into waters in the state except  
 484 | when spoil material is permitted to be used to create wildlife  
 485 | islands in freshwater bodies of the state when a governmental  
 486 | entity is permitted pursuant to s. 369.20 to create such islands  
 487 | as a part of a restoration or enhancement project;

488 |       3. All activities are performed in a manner consistent  
 489 | with state water quality standards; and

490 |       4. No activities under this exemption are conducted in  
 491 | wetland areas, as defined by s. 373.019(25), which are supported  
 492 | by a natural soil as shown in applicable United States  
 493 | Department of Agriculture county soil surveys, except when a  
 494 | governmental entity is permitted pursuant to s. 369.20 to  
 495 | conduct such activities as a part of a restoration or  
 496 | enhancement project.

497 |  
 498 | The department may not adopt implementing rules for this  
 499 | paragraph, notwithstanding any other provision of law.

500 |       (s) The construction, installation, operation, or  
 501 | maintenance of floating vessel platforms or floating boat lifts,  
 502 | provided that such structures:

503           1. Float at all times in the water for the sole purpose of  
504 supporting a vessel so that the vessel is out of the water when  
505 not in use;

506           2. Are wholly contained within a boat slip previously  
507 permitted under ss. 403.91-403.929, 1984 Supplement to the  
508 Florida Statutes 1983, as amended, or part IV of chapter 373, or  
509 do not exceed a combined total of 500 square feet, or 200 square  
510 feet in an Outstanding Florida Water, when associated with a  
511 dock that is exempt under this subsection or associated with a  
512 permitted dock with no defined boat slip or attached to a  
513 bulkhead on a parcel of land where there is no other docking  
514 structure;

515           3. Are not used for any commercial purpose or for mooring  
516 vessels that remain in the water when not in use, and do not  
517 substantially impede the flow of water, create a navigational  
518 hazard, or unreasonably infringe upon the riparian rights of  
519 adjacent property owners, as defined in s. 253.141;

520           4. Are constructed and used so as to minimize adverse  
521 impacts to submerged lands, wetlands, shellfish areas, aquatic  
522 plant and animal species, and other biological communities,  
523 including locating such structures in areas where seagrasses are  
524 least dense adjacent to the dock or bulkhead; and

525           5. Are not constructed in areas specifically prohibited  
526 for boat mooring under conditions of a permit issued in  
527 accordance with ss. 403.91-403.929, 1984 Supplement to the  
528 Florida Statutes 1983, as amended, or part IV of chapter 373, or  
529 other form of authorization issued by a local government.

530

531 Structures that qualify for this exemption are relieved from any  
 532 requirement to obtain permission to use or occupy lands owned by  
 533 the Board of Trustees of the Internal Improvement Trust Fund  
 534 and, with the exception of those structures attached to a  
 535 bulkhead on a parcel of land where there is no docking  
 536 structure, shall not be subject to any more stringent permitting  
 537 requirements, registration requirements, or other regulation by  
 538 any local government. Local governments may require either  
 539 permitting or one-time registration of floating vessel platforms  
 540 to be attached to a bulkhead on a parcel of land where there is  
 541 no other docking structure as necessary to ensure compliance  
 542 with local ordinances, codes, or regulations. Local governments  
 543 may require either permitting or one-time registration of all  
 544 other floating vessel platforms as necessary to ensure  
 545 compliance with the exemption criteria in this section; to  
 546 ensure compliance with local ordinances, codes, or regulations  
 547 relating to building or zoning, which are no more stringent than  
 548 the exemption criteria in this section or address subjects other  
 549 than subjects addressed by the exemption criteria in this  
 550 section; and to ensure proper installation, maintenance, and  
 551 precautionary or evacuation action following a tropical storm or  
 552 hurricane watch of a floating vessel platform or floating boat  
 553 lift that is proposed to be attached to a bulkhead or parcel of  
 554 land where there is no other docking structure. The exemption  
 555 provided in this paragraph shall be in addition to the exemption  
 556 provided in paragraph (b). The department shall adopt a general  
 557 permit by rule for the construction, installation, operation, or  
 558 maintenance of those floating vessel platforms or floating boat

559 lifts that do not qualify for the exemption provided in this  
 560 paragraph but do not cause significant adverse impacts to occur  
 561 individually or cumulatively. The issuance of such general  
 562 permit shall also constitute permission to use or occupy lands  
 563 owned by the Board of Trustees of the Internal Improvement Trust  
 564 Fund. No local government shall impose a more stringent  
 565 regulation, permitting requirement, registration requirement, or  
 566 other regulation covered by such general permit. Local  
 567 governments may require either permitting or one-time  
 568 registration of floating vessel platforms as necessary to ensure  
 569 compliance with the general permit in this section; to ensure  
 570 compliance with local ordinances, codes, or regulations relating  
 571 to building or zoning that are no more stringent than the  
 572 general permit in this section; and to ensure proper  
 573 installation and maintenance of a floating vessel platform or  
 574 floating boat lift that is proposed to be attached to a bulkhead  
 575 or parcel of land where there is no other docking structure.

576 (t) The repair, stabilization, or paving of existing  
 577 county maintained roads and the repair or replacement of bridges  
 578 that are part of the roadway, within the Northwest Florida Water  
 579 Management District and the Suwannee River Water Management  
 580 District, provided:

- 581 1. The road and associated bridge were in existence and in  
 582 use as a public road or bridge, and were maintained by the  
 583 county as a public road or bridge on or before January 1, 2002;
- 584 2. The construction activity does not realign the road or  
 585 expand the number of existing traffic lanes of the existing  
 586 road; however, the work may include the provision of safety

587 | shoulders, clearance of vegetation, and other work reasonably  
 588 | necessary to repair, stabilize, pave, or repave the road,  
 589 | provided that the work is constructed by generally accepted  
 590 | engineering standards;

591 |         3. The construction activity does not expand the existing  
 592 | width of an existing vehicular bridge in excess of that  
 593 | reasonably necessary to properly connect the bridge with the  
 594 | road being repaired, stabilized, paved, or repaved to safely  
 595 | accommodate the traffic expected on the road, which may include  
 596 | expanding the width of the bridge to match the existing  
 597 | connected road. However, no debris from the original bridge  
 598 | shall be allowed to remain in waters of the state, including  
 599 | wetlands;

600 |         4. Best management practices for erosion control shall be  
 601 | employed as necessary to prevent water quality violations;

602 |         5. Roadside swales or other effective means of stormwater  
 603 | treatment must be incorporated as part of the project;

604 |         6. No more dredging or filling of wetlands or water of the  
 605 | state is performed than that which is reasonably necessary to  
 606 | repair, stabilize, pave, or repave the road or to repair or  
 607 | replace the bridge, in accordance with generally accepted  
 608 | engineering standards; and

609 |         7. Notice of intent to use the exemption is provided to  
 610 | the department, if the work is to be performed within the  
 611 | Northwest Florida Water Management District, or to the Suwannee  
 612 | River Water Management District, if the work is to be performed  
 613 | within the Suwannee River Water Management District, 30 days  
 614 | prior to performing any work under the exemption.

615  
616 Within 30 days after this act becomes a law, the department  
617 shall initiate rulemaking to adopt a no fee general permit for  
618 the repair, stabilization, or paving of existing roads that are  
619 maintained by the county and the repair or replacement of  
620 bridges that are part of the roadway where such activities do  
621 not cause significant adverse impacts to occur individually or  
622 cumulatively. The general permit shall apply statewide and, with  
623 no additional rulemaking required, apply to qualified projects  
624 reviewed by the Suwannee River Water Management District, the  
625 St. Johns River Water Management District, the Southwest Florida  
626 Water Management District, and the South Florida Water  
627 Management District under the division of responsibilities  
628 contained in the operating agreements applicable to part IV of  
629 chapter 373. Upon adoption, this general permit shall, pursuant  
630 to the provisions of subsection (3), supersede and replace the  
631 exemption in this paragraph.

632 (u) Notwithstanding any provision to the contrary in this  
633 subsection, a permit or other authorization under chapter 253,  
634 chapter 369, chapter 373, or this chapter is not required for an  
635 individual residential property owner for the removal of organic  
636 detrital material from freshwater rivers or lakes that have a  
637 natural sand or rocky substrate and that are not Aquatic  
638 Preserves or for the associated removal and replanting of  
639 aquatic vegetation for the purpose of environmental enhancement,  
640 providing that:

641 1. No activities under this exemption are conducted in  
642 wetland areas, as defined by s. 373.019(25), which are supported

643 by a natural soil as shown in applicable United States  
 644 Department of Agriculture county soil surveys.

645 2. No filling or peat mining is allowed.

646 3. No removal of native wetland trees, including, but not  
 647 limited to, ash, bay, cypress, gum, maple, or tupelo, occurs.

648 4. When removing organic detrital material, no portion of  
 649 the underlying natural mineral substrate or rocky substrate is  
 650 removed.

651 5. Organic detrital material and plant material removed is  
 652 deposited in an upland site in a manner that will not cause  
 653 water quality violations.

654 6. All activities are conducted in such a manner, and with  
 655 appropriate turbidity controls, so as to prevent any water  
 656 quality violations outside the immediate work area.

657 7. Replanting with a variety of aquatic plants native to  
 658 the state shall occur in a minimum of 25 percent of the  
 659 preexisting vegetated areas where organic detrital material is  
 660 removed, except for areas where the material is removed to bare  
 661 rocky substrate; however, an area may be maintained clear of  
 662 vegetation as an access corridor. The access corridor width may  
 663 not exceed 50 percent of the property owner's frontage or 50  
 664 feet, whichever is less, and may be a sufficient length  
 665 waterward to create a corridor to allow access for a boat or  
 666 swimmer to reach open water. Replanting must be at a minimum  
 667 density of 2 feet on center and be completed within 90 days  
 668 after removal of existing aquatic vegetation, except that under  
 669 dewatered conditions replanting must be completed within 90 days  
 670 after reflooding. The area to be replanted must extend waterward



PCB ENRC 08-13BILL

Redraft—A

2008YEAR

671 from the ordinary high water line to a point where normal water  
672 depth would be 3 feet or the preexisting vegetation line,  
673 whichever is less. Individuals are required to make a reasonable  
674 effort to maintain planting density for a period of 6 months  
675 after replanting is complete, and the plants, including  
676 naturally recruited native aquatic plants, must be allowed to  
677 expand and fill in the revegetation area. Native aquatic plants  
678 to be used for revegetation must be salvaged from the  
679 enhancement project site or obtained from an aquatic plant  
680 nursery regulated by the Department of Agriculture and Consumer  
681 Services. Plants that are not native to the state may not be  
682 used for replanting.

683 8. No activity occurs any farther than 100 feet waterward  
684 of the ordinary high water line, and all activities must be  
685 designed and conducted in a manner that will not unreasonably  
686 restrict or infringe upon the riparian rights of adjacent upland  
687 riparian owners.

688 9. The person seeking this exemption notifies the  
689 applicable department district office in writing at least 30  
690 days before commencing work and allows the department to conduct  
691 a preconstruction site inspection. Notice must include an  
692 organic-detrital-material removal and disposal plan and, if  
693 applicable, a vegetation-removal and revegetation plan.

694 10. The department is provided written certification of  
695 compliance with the terms and conditions of this paragraph  
696 within 30 days after completion of any activity occurring under  
697 this exemption.

[PCB ENRC 08-13BILL](#)

Redraft—A

[2008YEAR](#)

698 (3) The provisions of subsection (2) are superseded by  
699 general permits established pursuant to ss. 373.118 and 403.814  
700 which include the same activities. Until such time as general  
701 permits are established, or if should general permits are ~~be~~  
702 suspended or repealed, the exemptions under subsection (2) shall  
703 remain or shall be reestablished in full force and effect.

704 Section 6. Notwithstanding any other provisions of law to  
705 the contrary, a local government may not require the production  
706 of written documentation from the Department of Environmental  
707 Protection or a water management district that a project does  
708 not require a permit pursuant to s. 403.813(2), Florida  
709 Statutes.

710 Section 7. This act shall take effect upon becoming a law.