

Agriculture and Natural Resources Policy Committee

Meeting Packet

**February 3, 2010
3:30 pm - 6:00 pm
102 Reed Hall**

**Larry Cretul
Speaker**

**Trudi Williams
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

(AMENDED 1/28/2010 3:47:50PM)

Amended(1)

Agriculture & Natural Resources Policy Committee

Start Date and Time: Wednesday, February 03, 2010 03:30 pm

End Date and Time: Wednesday, February 03, 2010 06:00 pm

Location: Reed Hall (102 HOB)

Duration: 2.50 hrs

Consideration of the following proposed committee bill(s):

PCB ANR 10-02 -- Relating to pollutant discharge prevention and control

PCB ANR 10-04 -- Relating to an aquaculture plan

PCB ANR 10-05 -- Relating to South Florida tropical fruit plan

PCB ANR 10-06 -- Relating to interagency agreement

PCB ANR 10-07 -- Relating to trust fund review

Consideration of the following bill(s):

HB 149 Florida Institute of Phosphate Research by McKeel

HB 199 Household Moving Services by Weinstein

HB 233 Vessel Safety by Kiar

Presentation and discussion on Numeric Nutrient Criteria

THIS NOTICE IS AMENDED TO CLARIFY THAT THE PCB'S ARE COMMITTEE BILLS, NOT COUNCIL BILLS.

NOTICE FINALIZED on 01/28/2010 15:47 by Cunningham.Reid

HB 149

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 149

Florida Institute of Phosphate Research

SPONSOR(S): McKeel

TIED BILLS:

IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Agriculture & Natural Resources Policy Committee		Thompson <i>ST</i>	Reese <i>AR</i>
2) Economic Development Policy Committee			
3) State Universities & Private Colleges Appropriations Committee			
4) General Government Policy Council			
5)			

SUMMARY ANALYSIS

The bill expands the mission of the Florida Institute of Phosphate Research (FIPR), allowing research to be conducted outside of the scope of the phosphate industry, combining FIPR with the University of South Florida (USF) Polytechnic. The bill, in part:

- Provides for a revised name, the Florida Institute of Polytechnic and Phosphate Research (FIPPR), to reflect the affiliation between FIPR and USF Polytechnic.
- Expands the FIPR board of directors and revises the qualifications the Governor is required to consider when appointing the members of the FIPPR board of directors.
- Authorizes the FIPPR to promote the economic development of the state through application and commercialization of research.
- Authorizes the FIPPR to assist the University of South Florida in education, research, commercialization, and business incubation activities.
- Authorizes the FIPPR to establish methods for better and more efficient practices for commercial and industrial activities, including phosphogypsum disposal.
- Authorizes the FIPPR to enter into mutually satisfactory contracts.
- Authorizes the FIPPR to maintain and expand its public library.
- Directs the FIPPR to make available to the public the results of its activities.
- Directs the FIPPR to conduct its operations transparently and in the public interest and to prioritize its research and studies.
- Directs the FIPPR to provide sufficient laboratory facilities and equipment, making practical use of the existing State University System facilities and equipment.
- Directs the FIPPR to secure funding from public, private, foreign, and domestic sources for carrying out the research activities specified in this section.
- Directs the FIPPR to take actions necessary to promote the application and commercialization of its technologies, knowledge, and intellectual property.
- Specifies that expenditures from the Phosphate Research Trust Fund may only be administered for carrying out the phosphate research activities provided for in this section. Funds received by the proposed FIPPR for work products resulting from phosphate research activities are directed to be deposited in the Phosphate Research Trust Fund.

Many of the bill's provisions will have no direct fiscal impacts. Some of the provisions are expected to have an indirect fiscal impact on state and local governments and on the private sector. For details, see the FISCAL COMMENTS section of the analysis.

The effective date of this bill is July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida Institute of Phosphate Research

The United States is the largest producer and consumer of phosphate rock in the world and the leading producer and supplier of phosphate fertilizers in the world, providing approximately 75 percent of the nation's phosphate supply and approximately 25 percent of the world supply. Phosphate companies own or have mineral rights to almost 450,000 acres in Florida. Ninety percent of the phosphate rock mined in the state, is used to make fertilizer. Of the remaining 10 percent, half is used in animal feed supplements. Phosphate is also used in a variety of products, including vitamins, soft drinks, toothpaste, light bulbs, film, bone china, flame resistant fabric, optical glass, and other consumer goods. There is no substitute or synthetic for phosphorus, which is essential for life in all growing things, plants and animals alike.¹

In 1978, the Florida Legislature created the Florida Institute of Phosphate Research (FIPR)² to study phosphate issues and to be a resource to provide phosphate information to the industry and the general public. Current law³ directs the FIPR to conduct, or cause to be conducted, studies that would improve phosphate industry efficiency, reduce its use of water and energy resources, and enhance efforts to reclaim the land that mining and processing affects. The law requires the FIPR to educate and inform Florida citizens about the industry, its effects, and the FIPR's research findings as well as general scientific knowledge concerning the industry.

The FIPR is a state research organization located in Bartow, Florida and is administratively attached to the University of South Florida (USF). USF provides administrative services to the Institute including accounting, payroll, personnel, legal and travel services, and in return, the FIPR pays a fee to USF for these services. However, USF does not participate in oversight of the Institute. This is a function of the FIPR Board of Directors.

The FIPR has a staff of 25 full-time and part-time employees and is governed by a 5-member board of directors appointed by the Governor. The membership of the board is as follows:

¹ Phosphate Fact Sheet – Florida Phosphate Council

² s. 378.101, F.S.

³ Id.

- One member from the faculty of a university within the State University System;
- One member from a major conservation group in Florida;
- One member from state government, and
- Two members from the phosphate mining or processing industry.

Current law⁴ requires the Governor to make these appointments on the basis of their ability to set priorities for phosphate research. The appointees are tasked with giving direction to phosphate research efforts that address problems of the industry in which the public has substantial interest. Members serve 3-year terms and may be reappointed.

The FIPR also serves as a phosphate-related information resource. The FIPR's research concentrates on the following areas: chemical processing of phosphate rock into fertilizer (including studies on the byproduct phosphogypsum), beneficiation or mineral processing to separate clay and sand from the phosphate rock, reclamation of mined lands, mining processes, and public and environmental health (including radiation) issues.⁵ Other FIPR activities include intensive summer workshops for teachers, conferences and seminars, maintaining an extensive library of information on phosphate, providing mini-grants to develop phosphate teaching units, and various other strategic projects and technical advisory committees.⁶

The University of South Florida Polytechnic

The 2008 Legislature designated the Lakeland campus of USF as the "University of South Florida Polytechnic."⁷ The USF Polytechnic is the newest of four campuses in the USF system. According to the USF Polytechnic website, it is the state's only polytechnic and provides upper level undergraduate and graduate students with an opportunity for applied learning and research in a personalized setting: small class sizes, convenient locations, innovative programs and flexible formats.

Merriam-Webster.com defines polytechnic as, "relating to or devoted to instruction in many technical arts or applied sciences." Similarly, the USF Polytechnic model offers degrees and certificates in many different degree programs and certificate programs, providing a multi-disciplinary focus, with real-world application.⁸

Under current law,⁹ USF Polytechnic is a separate organizational and budget entity from USF. USF Polytechnic is required to have a campus board and a campus executive director. The campus board is comprised of four residents of the Lakeland campus service area appointed by the president of USF and one member of the USF board of trustees selected by that board. Members of the campus board serve 4-year terms and may be reappointed for one term. USF Polytechnic is administered by a campus executive officer appointed by the USF president.

Proposed Changes

Generally, the bill expands the mission of the FIPR, allowing research to be conducted in additional areas outside of the scope of the phosphate industry. The bill locates FIPR at the USF Polytechnic and provides for a revised name, the Florida Institute of Polytechnic and Phosphate Research (FIPPR), to reflect said affiliation. The bill amends s. 378.102, F.S., to reflect these name changes in the short title and definition of "Institute."

The bill creates the FIPPR board of directors by expanding the FIPR board of directors to include a member from USF Polytechnic and a member from a statewide or regional economic development group. Subsequently, the bill revises the qualifications the Governor is required to consider when

⁴ Id.

⁵ Florida Senate Interim Report 2005-154, Activities Related to the Closure of Phosphate Mining Operations and the Uses of Phosphate Mining Byproducts and Closed Phosphate Lands, December 2004.

⁶ Florida Senate Interim Report 2009-316, The Florida Institute of Phosphate Research, October, 2008.

⁷ s. 1004.345, F.S.

⁸ <http://www.poly.usf.edu/>

⁹ s. 1004.345, F.S.

appointing the members of the proposed FIPPR board of directors to include the ability to set priorities for commercialization.

The bill authorizes the proposed FIPPR to:

- Promote the economic development of the state through the application and commercialization of research and other work products;
- Assist the University of South Florida in education, research, commercialization, and business incubation activities;
- Conduct or cause to be conducted environmental studies related to radiation and water supply and consumption, or other environmental or health effects of commercial and industrial activities, including phosphate mining and reclamation, as may from time to time be deemed reasonably necessary by the FIPPR for the health, safety, and welfare of the citizens of this state and particularly the citizens of the regions where phosphate mining or processing occurs;
- Conduct or cause to be conducted studies of reclamation alternatives and technologies in commercial and industrial activities, including phosphate mining and processing and wetlands reclamation;
- Conduct or cause to be conducted a thorough and comprehensive study of phosphatic clay and phosphogypsum disposal and utilization as a part of phosphate mining and processing, together with all environmental or related land uses;
- Establish methods for better and more efficient practices for commercial and industrial activities, including phosphate mining and processing, as it may determine most beneficial to the economy, environment, and way of life of the citizens of the state;
- Enter into any mutually satisfactory contract with any firm, institution, corporation, or government agency, both domestic and foreign, as may be reasonably required or desired in carrying out the research, studies, and commercialization activities specified in this section;
- Maintain and expand a public library with special collections related to its research activities;
- Make available to the public the results of its research and commercialization activities so that the research efforts will result in the public being better informed as to the effects of commercial and industrial activities, including phosphate mining and processing;
- Educate the public about the science related to topics and issues that are within its areas of expertise;
- Hold public hearings and consult with representatives of the phosphate industry and other industries related to institute research and all other interested parties, to assign priorities for its research and studies, to make public from time to time its intentions as to future research and study, and to allocate its resources and personnel for such research and studies as it may determine from time to time to be in the public interest;
- Provide suitable and sufficient laboratory facilities and equipment, making practical use of the existing laboratory facilities and equipment of the State University System and other facilities as may be available, for carrying out the research activities specified in this section;
- Secure funding from public, private, foreign, and domestic sources for carrying out the research activities specified in this section; and
- Take actions necessary to promote the application and commercialization of its technologies, knowledge, and intellectual property, providing consulting services, establishing public-private partnerships, and obtaining equity stakes in and fostering the growth of business entities in the development and commercialization of its technologies.

Additionally, the bill specifies that expenditures from the Phosphate Research Trust Fund may only be administered for carrying out the phosphate research activities provided for in this section. Funds received by the proposed FIPPR for work products resulting from phosphate research activities are directed to be deposited in the Phosphate Research Trust Fund.

B. SECTION DIRECTORY:

Section 1. Amends s. 378.101, F.S.; renaming the Florida Institute of Phosphate Research, revising provisions relating to the powers and duties of the institute, authorizing the institute to secure funding from certain sources, requiring the deposit of certain proceeds into the Phosphate Research Trust Fund, revising provisions relating to the appointment and number of the board of directors.

Section 2. Amends s. 378.102, F.S.; conforming terminology.

Section 3. Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments section, parts b), c), and d).

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments section, parts b), c), and d).

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments section parts b), c), and d).

D. FISCAL COMMENTS:

a) The severance taxation of solid minerals, including phosphate, was enacted into law in 1971. The tax rates and the disposition of these revenues have been amended since that time. Currently, the FIPR is funded through the Phosphate Research Trust Fund (Trust Fund), which is established in Section 211.3103, F.S., as part of the distribution of severance tax revenues.

The law¹⁰ establishes the per ton severed tax rate at \$1.945 (9.3 percent of the severance tax revenues) and levies a surcharge of \$1.38 per ton severed until the surcharge revenue reaches a \$60 million threshold. Beginning July 1, of the fiscal year following the date on which the surcharge revenue reaches the \$60 million threshold, the per ton severed tax rate is to be reduced to \$1.51 (6.6 percent of the severance tax revenues). The surcharge revenue is designated for the closure of the Piney Point and Mulberry sites¹¹ and for approved reclamation of nonmandatory lands.

According to the Department of Environmental Protection (DEP), as of November 4, 2009, the surcharge revenues have not reached \$60 million. The DEP suggests that if mining continues at the current rate, the surcharge has a reasonable possibility of hitting \$60 million by June 30, 2010.

¹⁰ s. 211.3103, F.S.

¹¹ Mulberry Phosphates in Polk County and Piney Point in Manatee County are both former phosphate fertilizer chemical processing plants that closed in December 1999. Each site contains a process water problem associated with phosphogypsum stacks. Phosphogypsum is the radioactive byproduct of phosphate production, thus, the water used in the process can be harmful to the environment and costly in the industrial and reclamation process.

According to the Department of Revenue, the total surcharge collected as of October 22, 2009 was \$32,752,059.50. It's anticipated that \$60 million will be reached around October, 2010.

Since fiscal year 2004-05, program expenditures have exceeded the Trust Fund revenues.¹² In order to cover the difference, the Trust Fund's cash balance is being depleted. According to the FIPR, the cash balance in the Trust Fund as of September 1, 2009, was \$9,603,489.56.

The bill directs funds received from specified phosphate research activities provided for in this section to be deposited in the Trust Fund and that all expenditures from the Trust Fund be administered for carrying out said activities.

b) The bill authorizes the FIPPR to expand its mission to include commercial and industrial activity related research. This could create positive fiscal impacts on the private sector and state and local governments.

c) The bill authorizes the FIPPR to enter into contracts in carrying out the research, studies, and commercialization activities specified in this section and to secure funding from public, private, foreign, and domestic sources for such activities. These methods could lead to developments that may create positive fiscal impacts on the private sector and state and local governments.

d) The bill authorizes the FIPPR to provide consulting services, establish public-private partnerships, and to obtain equity stakes in and foster the growth of involved businesses. These practices could lead to developments that may create positive fiscal impacts on the private sector and state and local governments.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

¹² Florida Senate Interim Report 2009-316, The Florida Institute of Phosphate Research, October, 2008.

1 A bill to be entitled
 2 An act relating to the Florida Institute of Phosphate
 3 Research; amending s. 378.101, F.S.; renaming the Florida
 4 Institute of Phosphate Research as the Florida Institute
 5 of Polytechnic and Phosphate Research; revising provisions
 6 relating to the powers and duties of the institute;
 7 authorizing the institute to secure funding from public,
 8 private, foreign, and domestic sources; requiring the
 9 deposit of certain proceeds into the Phosphate Research
 10 Trust Fund; revising provisions relating to the number and
 11 appointment of members to the board of directors; amending
 12 s. 378.102, F.S.; conforming terminology; providing an
 13 effective date.

14

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

16

17 Section 1. Section 378.101, Florida Statutes, is amended
 18 to read:

19 378.101 Florida Institute of Polytechnic and Phosphate
 20 Research.--

21 (1) The ~~There is created a~~ Florida Institute of
 22 Polytechnic and Phosphate Research, an independent state
 23 research agency at the University of South Florida Polytechnic,
 24 ~~which~~ is empowered:

25 (a) To promote the economic development of the state
 26 through application and commercialization of research conducted
 27 or caused to be conducted by the institute.

28 **(b)** To assist the University of South Florida in
 29 education, research, commercialization, and business incubation
 30 activities.

31 **(c)**~~(a)~~ To conduct or cause to be conducted such
 32 environmental studies related to radiation and water supply and
 33 consumption, or other environmental or health effects of
 34 commercial and industrial activities, including phosphate mining
 35 and reclamation, as may from time to time be deemed reasonably
 36 necessary by the institute for the health, safety, and welfare
 37 of the citizens of this state and particularly the citizens of
 38 the regions where phosphate mining or processing occurs.

39 **(d)**~~(b)~~ To conduct or cause to be conducted studies a
 40 ~~thorough and comprehensive study~~ of reclamation alternatives and
 41 technologies in commercial and industrial activities, including
 42 ~~the phosphate mining and or processing and industry, including~~
 43 wetlands reclamation.

44 **(e)**~~(e)~~ To conduct or cause to be conducted a thorough and
 45 comprehensive study of phosphatic clay and phosphogypsum
 46 disposal and utilization as a part of phosphate mining and
 47 processing, together with all environmental or land use related
 48 thereto.

49 **(f)**~~(d)~~ To establish methods for better and more efficient
 50 practices for commercial and industrial activities, including
 51 phosphate ~~recovery~~ mining and processing, ~~in this state as it~~
 52 may determine most beneficial to the economy, environment, and
 53 way of life of the citizens of the state.

54 **(g)**~~(e)~~ To enter into any mutually satisfactory contract
 55 with any firm, institution, corporation, or government ~~federal~~

56 ~~or state~~ agency, both domestic and foreign, as may be reasonably
 57 required or desired in carrying out the research, ~~and studies,~~
 58 and commercialization activities specified in this section
 59 ~~herein authorized.~~

60 (h) To maintain and expand a public library with special
 61 collections related to its research activities.

62 (i) ~~(f)~~ To make available to the public the results of its
 63 research and commercialization activities ~~program~~ so that the
 64 research efforts will result in the public being better informed
 65 as to the effects of commercial and industrial activities,
 66 including phosphate mining and processing ~~in the state.~~

67 (j) To educate the public about the science related to
 68 topics and issues that are within its areas of expertise.

69 (k) ~~(g)~~ To hold public hearings and consult with
 70 representatives of the phosphate industry and other industries
 71 related to institute research and all other interested parties;
 72 to assign priorities for its research and studies; to make
 73 public from time to time its intentions as to future research
 74 and study; and to allocate its resources and personnel for such
 75 research and studies as it may determine from time to time to be
 76 in the public interest.

77 (l) ~~(h)~~ To provide suitable and sufficient laboratory
 78 facilities and equipment, making use insofar as practical of the
 79 existing laboratory facilities and equipment of the State
 80 University System and other facilities as may be available, for
 81 carrying out the research activities specified in this section
 82 ~~and studies herein authorized.~~

83 (m) ~~(i)~~ To administer the Phosphate Research Trust Fund and
 84 to expend funds therefrom for its administration and for
 85 carrying out the phosphate research activities specified
 86 ~~purposes set forth~~ in this section. The Phosphate Research Trust
 87 Fund shall be subject to the service charge imposed pursuant to
 88 chapter 215.

89 (n) To secure funding from public, private, foreign, and
 90 domestic sources for carrying out the research activities
 91 specified in this section.

92 (o) To take actions necessary to promote the application
 93 and commercialization of its technologies, knowledge, and
 94 intellectual property; to provide consulting services; to
 95 establish public-private partnerships; and to obtain equity
 96 stakes in and foster the growth of business entities in the
 97 development and commercialization of its technologies.

98 (2) The institute may develop work products relating to
 99 research that ~~which~~ is subject to trademark, copyright, or
 100 patent protection. Notwithstanding any law to the contrary, the
 101 institute may:

102 (a) Secure patents, copyrights, or trademarks on any of
 103 its work products and enforce its rights in such products. It
 104 shall consider contributions by institute personnel,
 105 contractors, and grantees in the development of such products
 106 and shall enter into written agreements with them establishing
 107 the interests of the respective parties in each patent,
 108 copyright, or trademark it secures.

109 (b) License, lease, or assign, or otherwise give consent
 110 to other persons for the manufacture or use of, work products it

111 develops and receive royalties or other consideration for such
 112 use.

113 (c) Take any action necessary to protect its work products
 114 from improper or unlawful use or infringement.

115 (d) Collect any sums due it for the manufacture or use by
 116 any other person of such work products.

117 (e) Sell its interest in or rights to any work products it
 118 owns.

119 (f) Do all acts necessary to exercise its powers and
 120 perform its duties. Any action taken by the institute in
 121 securing or exploiting such patents, copyrights, or trademarks
 122 shall, within 30 days, be reported in writing to the Department
 123 of State. Any proceeds received by the institute under this
 124 subsection for work products resulting from phosphate research
 125 activities shall be deposited in the Phosphate Research Trust
 126 Fund for use as provided by law.

127 (3)(a) The institute may establish policies necessary to
 128 administer its research activities ~~programs~~ to ensure ~~assure~~
 129 their efficiency and effectiveness and promote the application
 130 and commercialization of its work products, producing the
 131 maximum benefit to the economy, environment, and residents of
 132 this state.

133 (b) Materials that ~~which~~ relate to methods of manufacture
 134 or production, actual or potential trade secrets, patentable or
 135 potentially patentable materials, business transactions, or
 136 proprietary information pertaining to research conducted by or
 137 on behalf of the institute shall be confidential and exempt from
 138 the provisions of s. 119.07(1), except that the institute shall

139 disclose, upon request, the title and description of any
 140 research project, the researchers' names, and the amount and
 141 source of funding provided for such project.

142 (4) (a) The work of the ~~Florida~~ institute of ~~Phosphate~~
 143 ~~Research~~ shall be directed by a seven-member ~~five-member~~ board
 144 of directors appointed by the Governor. The board shall be
 145 composed of two members ~~one member~~ from the faculty or
 146 administration of universities ~~a university~~ within the State
 147 University System, at least one of whom is from the University
 148 of South Florida Polytechnic, one member from a major economic
 149 development group in this state, one member from a major
 150 conservation group in this state, one member from state
 151 government, and two members from the phosphate mining or
 152 processing industry. The Governor shall make these appointments
 153 on the basis of their ability to set priorities for ~~the~~
 154 ~~phosphate~~ research and commercialization and otherwise give
 155 direction to a professional, efficient, and broad ~~phosphate~~
 156 research effort. In setting such priorities, emphasis shall be
 157 given to applied research that ~~which~~ tends to solve real
 158 problems ~~of the industry~~ in which the public has a substantial
 159 interest.

160 (b) Members of the board of directors shall serve 3-year
 161 terms, or serve until successors are appointed. A member of the
 162 board of directors shall be eligible for reappointment.

163 (c) A vacancy occurring other than by expiration of a term
 164 shall be filled by appropriate appointment for the remainder of
 165 the unexpired term in the same manner as the original
 166 appointment. However, no single vacancy in the board of

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167 | directors shall impair the right of the remaining members to
 168 | exercise the powers of the board of directors.

169 | (d) The members of the board of directors shall select a
 170 | chair.

171 | (e) The policies and decisions of the board shall be
 172 | implemented through an executive director chosen by the board on
 173 | the basis of professional competence, both scientific and
 174 | administrative.

175 | (f) The board shall adopt rules necessary to carry out the
 176 | duties and responsibilities of the institute.

177 | Section 2. Subsection (1) and paragraph (b) of subsection
 178 | (2) of section 378.102, Florida Statutes, are amended to read:

179 | 378.102 Florida Institute of Polytechnic and Phosphate
 180 | Research; procurement of research services.--

181 | (1) SHORT TITLE.--This section may be cited as the
 182 | "Florida Institute of Polytechnic and Phosphate Research
 183 | Competitive Negotiation Act."

184 | (2) DEFINITIONS.--As used in this section, the term:

185 | (b) "Institute" means the Florida Institute of Polytechnic
 186 | and Phosphate Research.

187 | Section 3. This act shall take effect July 1, 2010.

Amendment No.

COUNCIL/COMMITTEE 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 Council/Committee hearing bill: Agriculture & Natural Resources
2 Policy Committee
3 Representative McKeel offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:
7 Section 1. Section 378.101, Florida Statutes, is
8 renumbered as section 1004.346, Florida Statutes, and amended to
9 read:

10 (Substantial rewording of section. See
11 s. 378.101, F.S., for present text.)

12 1004.346 Florida Institute on Phosphate Research and
13 Industrial Activities.-

14 (1) INSTITUTE CREATION.-The Florida Institute on Phosphate
15 Research and Industrial Activities is established within the
16 University of South Florida Polytechnic.

17 (2) PHOSPHATE RESEARCH ACTIVITIES BOARD.-The Phosphate
18 Research Activities Board shall ensure that funds appropriated
19 to the university from the Phosphate Research Trust Fund are

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20 expended exclusively for the purpose of carrying out the
21 phosphate-related activities specified in this section.

22 (a) The board shall consist of seven members. The Governor
23 shall appoint two persons representing the phosphate mining or
24 processing industry and one member representing a major
25 environmental conservation group in the state. The Board of
26 Trustees of the University of South Florida Polytechnic shall
27 appoint four persons with experience in research administration,
28 finance, or commercialization activities.

29 (b) Members of the board shall be appointed for terms up
30 to 3-years and shall serve at the pleasure of the entity that
31 appoints them. A board member may continue to serve until a
32 successor is appointed, but not more than 180 days beyond the
33 expiration of his or her term. A board member is eligible for
34 reappointment to subsequent terms.

35 (c) Board members shall annually elect a chair from among
36 their membership.

37 (d) Board members shall serve without compensation but are
38 entitled to reimbursement for per diem and travel expenses as
39 provided in s. 112.061.

40 (3) INSTITUTE EXECUTIVE DIRECTOR.—An executive director,
41 who shall be designated by and serve at the pleasure of the
42 Campus Executive Officer of the University of South Florida
43 Polytechnic or his or her designee, shall be responsible for the
44 daily administration of the institute, including the expenditure
45 of funds from all sources.

46 (4) INSTITUTE DUTIES AND AUTHORIZED ACTIVITIES.—

47 (a) The institute shall:

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48 1. Conduct or contract for studies on the environmental
49 and health effects of phosphate mining and reclamation.

50 2. Conduct or contract for studies of reclamation
51 alternatives and technologies in phosphate mining and processing
52 and wetlands reclamation.

53 3. Conduct or contract for a comprehensive study of
54 phosphatic clay and phosphogypsum disposal and utilization as a
55 part of phosphate mining and processing.

56 4. Provide the public with access to the results of its
57 activities and maintain a public library related to the
58 institute's activities, which may contain special collections.

59 (b) The institute may:

60 1. Research and develop methods for better and more
61 efficient practices for commercial and industrial activities,
62 including, but not limited to, mitigating the health and
63 environmental effects of such activities as well as developing
64 and evaluating reclamation alternatives and technologies.

65 2. Secure funding from grants and other available sources
66 for carrying out the activities authorized or required under
67 this section.

68 3. Enter into contracts with any firm, institution,
69 corporation, or federal, state, local, or foreign governmental
70 agency to carry out the activities authorized or required under
71 this section.

72 4. Promote the application and commercialization of the
73 institute's technologies, knowledge, and intellectual property
74 in accordance with university policies and procedures.

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75 5. Educate the public about the science related to topics
76 and issues that are within the institute's scope of expertise.

77 6. Hold public hearings.

78 7. Establish public-private partnerships.

79 8. Provide consulting services.

80 Section 2. Subsection (4) of section 211.31, Florida
81 Statutes, is amended to read:

82 211.31 Levy of tax on severance of certain solid minerals;
83 rate, basis, and distribution of tax.—

84 (4) The expenses of administering this part and ss.
85 378.021, 378.031, and 1004.346 ~~378.101~~ shall be borne by the
86 Land Reclamation Trust Fund, the Nonmandatory Land Reclamation
87 Trust Fund, and the Phosphate Research Trust Fund.

88 Section 3. All powers, duties, functions, records,
89 personnel, property, and unexpended balances of appropriations,
90 allocations, and other funds of the Florida Institute of
91 Phosphate Research are transferred by a type two transfer
92 pursuant to section 20.06(2), Florida Statutes, to the Florida
93 Institute on Phosphate Research and Industrial Activities within
94 the University of South Florida Polytechnic.

95 Section 4. Section 378.102, Florida Statutes, is repealed.

96 Section 5. This act shall take effect upon becoming a law.

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T I T L E A M E N D M E N T

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Remove the entire title and insert:

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A bill to be entitled

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 149 (2010)

Amendment No.

103 An act relating to the Florida Institute on Phosphate
104 Research and Industrial Activities; renumbering and
105 amending s. 378.101, F.S.; establishing the Florida
106 Institute on Phosphate Research and Industrial Activities
107 within the University of South Florida Polytechnic;
108 creating the Phosphate Research Activities Board;
109 providing for board duties, membership, and terms;
110 providing for the administration of the institute;
111 requiring the institute to conduct and contract for
112 specified studies and to provide public access to certain
113 information; authorizing the institute to conduct
114 phosphate-related activities, secure funding, and enter
115 into agreements with public, private, foreign, and
116 domestic entities; amending s. 211.31, F.S.; conforming a
117 cross-reference; providing for a type two transfer of the
118 Florida Institute of Phosphate Research to the University
119 of South Florida Polytechnic; repealing s. 378.102, F.S.,
120 relating to the Florida Institute of Phosphate Research,
121 to conform to changes made by the act; providing an
122 effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 199
SPONSOR(S): Weinstein
TIED BILLS:

Household Moving Services

IDEN./SIM. BILLS: SB 320

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Agriculture & Natural Resources Policy Committee</u>	_____	Thompson <i>JT</i>	Reese <i>JR</i>
2) <u>Military & Local Affairs Policy Committee</u>	_____	_____	_____
3) <u>Natural Resources Appropriations Committee</u>	_____	_____	_____
4) <u>General Government Policy Council</u>	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

Current Florida law¹ does not preempt local ordinances or regulations that regulate movers of household goods or moving brokers. Consequently, if a mover's principal place of business is located in a county or municipality that requires a mover to be licensed or registered, he or she is required to obtain such registration in addition to registering with the state through the Florida Department of Agriculture and Consumer Services (DACS).

The bill preempts the regulation of movers of household goods and moving brokers to the state. The bill grandfathers local ordinances or regulations that were originally enacted before January 1, 2009, or subsequent amendments to such ordinances or regulations and requires related fees and taxes to be reasonable and not to exceed the cost of administering such regulations. The bill authorizes local ordinances to only require registration and bonding of a mover and moving broker when the principal place of business is located within that jurisdiction. The bill clarifies that the preemption does not apply to a local government's authority to levy a local business tax, pursuant to ch. 205, F.S.

Also, the bill:

- Revises the existing definition of the term "storage" by narrowing it to mean the temporary warehousing of a shipper's goods while under the care, custody, and control of a mover;
- Changes the registration requirement for movers and moving brokers from an annual to a biennial registration and requires the annual registration fee to be calculated at the current rate of \$300 per year;
- Allows a mover to refuse to transport certain items and exclude liability for certain household goods under specified situations;
- Requires annual calculations of the registration fee; and
- Authorizes the DACS to extend the expiration date of registration for a period of up to 12 months in order to establish staggered expiration dates.

The preemption of county and municipal ordinances or regulations that might include the levy of fees and taxes by local governments, and the limitations placed on fees and taxes associated with ordinances and regulations not preempted could result in an indeterminate loss of current as well as potential revenue to local governments. The DACS indicates the bill will not have a fiscal impact on the agency. Due to the preemption of local ordinances and regulation, the household moving industry may experience a decrease in costs by removing the potential for local government fees.

This bill's effective date is July 1, 2010.

¹ s. 507.13, F.S.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

An intrastate mover is defined as any person who engages in the transportation or shipment of household goods for compensation.² During the 2002 Regular Session, the Legislature enacted laws³ regulating the intrastate moving industry in Florida. The law requires any mover wishing to do business in the state to register annually with the Department of Agriculture and Consumer Services (DACS). To obtain a registration certificate, the mover must file an application, pay a registration fee in the amount of \$300, and meet statutory qualifications.

The law requires a mover to maintain cargo liability insurance coverage in the amount of \$10,000 per shipment and limits the mover's liability to not less than 60 cents per pound of cargo. Minimum limits of motor vehicle coverage are also specified in the amounts of \$50,000, \$100,000, and \$300,000 per occurrence, based on gross weight categories.⁴

Chapter 507, F.S., provides for contract, delivery and storage requirements and provides specific prohibited acts that may result in administrative, civil or criminal penalties. Such violations may also be considered unfair or deceptive acts or practices or unfair methods of competition in violation of the Florida Deceptive and Unfair Trade Practices Act.⁵

If the DACS finds a mover in violation of any provisions of the law, rules or orders, the DACS is authorized do one or more of the following:

- Issue a notice of noncompliance under s. 120.695, F.S.;
- Impose an administrative fine not to exceed \$5,000 for each act or omission;
- Direct the person to cease and desist specified activities;
- Refuse to register, revoke, or suspend a registration; or
- Place the registrant on probation for a period of time, subject to such conditions as the department may specify.⁶

² s. 507.01(9), F.S.

³ Ch. 2002-53, Laws of Florida

⁴ s. 507.04(2)(a)-(c), F.S.

⁵ Ch. 501, Part II, F.S.

⁶ s. 507.09(1)(a)-(e), F.S.

During the 2006 regular session, the Legislature amended Chapter 507, F.S., to:

- Change the title of the chapter from “Intrastate Moving Law” to “Household Moving Services”.
- Expand and clarify certain existing definitions and to add definitions for the terms “household move”, “moving broker”, and “moving container”.
- Require moving brokers to register with the DACS and post specific financial security. A mover that operates two or fewer vehicles may, and moving brokers must, post a performance bond or certificate of deposit in the amount of \$25,000 in lieu of the cargo legal liability coverage.
- Specify that making certain false statements is a violation, regardless of whether the statements are material.
- Require movers’ vehicle display signage to have a minimum letter height of 1.5 inches.
- Authorize additional insurance valuation coverage requirements for coverage of a consumer’s goods.
- Require the mover to disclose the cost and rate of the coverage in writing at the time the estimate and contract for services is executed.
- Provide that the DACS may suspend registration and seek civil penalties for failure to carry valid liability insurance.
- Prohibit certain limits of liability for a mover’s loss of or damage to a shipper’s goods.
- Require disclosure of liability limitations to the consumer.
- Provide that any liability may be enforced either by an administrative action or by filing an action in a court of competent jurisdiction.
- Provide that a county or municipality may not issue an occupational license unless the mover or broker has a current registration with the DACS.
- Amend the definition of “self-contained storage unit” in Chapter 83, F.S., as any unit not less than 200 cubic feet.

Current Florida law⁷ does not preempt local ordinances or regulations that regulate transactions relating to movers of household goods or moving brokers. Any mover whose principal place of business is located in a county or municipality that requires local licensing or registration is required to obtain such registration in addition to registering with the state. In addition, Florida law allows for local taxes, fees, and bonding related to movers and moving brokers.

Proposed Changes

The bill revises the existing definition of the term “storage” by narrowing it to mean the temporary warehousing of a shipper’s goods while under the care, custody, and control of a mover.

The bill changes the registration requirement for movers and moving brokers from an annual to a biennial renewal and requires the registration fee for such businesses to continue to be calculated at an annual rate of \$300 per year. Also, based upon this change, and to stagger registration expiration dates, the bill authorizes the DACS to extend by one year, the expiration date of a registration.

The bill allows movers to exclude liability for household goods packed by the shipper if the exclusion is declared and the shipper declines, in writing, to allow the mover to open and inspect the box or crate in which the goods were packed by the shipper. Movers also are authorized to refuse to transport or ship any of the goods if the mover notifies the shipper and the shipper acknowledges the refusal in writing.

Finally, the bill preempts the regulation of movers of household goods and moving brokers to the state. Broward, Miami-Dade, Palm Beach, and Pinellas Counties currently have ordinances regulating household moving. The bill grandfathers local ordinances or regulations that were originally enacted before January 1, 2009, or subsequent amendments to such ordinances or regulations and requires related fees and taxes to be reasonable and not to exceed the cost of administering such regulations. The bill authorizes local ordinances to only require registration and bonding of a mover and moving broker when the principal place of business is located within that jurisdiction. The bill clarifies that the preemption does not apply to a local government’s authority to levy a local business tax, pursuant to ch. 205, F.S.

⁷ s. 507.13, F.S.

B. SECTION DIRECTORY:

Section 1. Amends s. 507.01, F.S.; changing the definition of the term "storage".

Section 2. Amends s. 507.03, F.S.; providing for biennial renewal of mover and moving broker registrations, authorizing the DACS to extend registration expiration dates one year, requiring the calculation of biennial registration fees based on an annual rate of \$300 per year, deleting the provision requiring certain movers and moving brokers to pay for local and state registration fees.

Section 3. Amends s. 507.04, F.S.; allowing a mover to exclude liability for certain goods packed by the shipper.

Section 4. Amends s. 507.06, F.S.; allowing a mover to refuse the transport or shipment of household goods under certain conditions.

Section 5. Amends s. 507.07, F.S.; conforming to the change from an annual to a biennial registration requirement.

Section 6. Amends s. 507.13, F.S.; preempting local moving ordinances and regulations except those originally adopted prior to January 1, 2009, providing for local registration and bonding, exempting local business taxes.

Section 7. Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments section.

2. Expenditures:

See Fiscal Comments section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill grandfathers local ordinances and regulations of movers and moving brokers enacted before January 1, 2009, and limits fees and taxes to reasonable ones not exceeding the cost of administering the regulation or ordinance. This provision may reduce existing local revenues.

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

In its statement of support for the bill, the household moving industry states that, "*By preempting local moving ordinances, you remove an unnecessary and duplicative financial and administrative burden from reputable movers.*"

D. FISCAL COMMENTS:

The bill changes the registration requirement for movers and moving brokers from an annual to a biennial renewal but provides for the registration fee to be calculated at the current annual rate of \$300 per year. Changing the registration requirement from an annual to a biennial renewal requires movers and moving brokers to pay \$600 every other year.

The bill authorizes the DACS to stagger registration expiration dates to implement the biennial registration requirement. Staggering registration expiration dates should prevent the DACS from receiving an influx of registration renewals, allowing for more efficient processing of renewals.

According to the DACS, the preemption as framed in the bill does not expand the duties or responsibilities of the agency.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill deletes language in s. 507.13, F.S., stating that as authorized in s. 507.03(4), F.S., counties and municipalities may require, levy, or collect any registration fee or tax. It amends s. 507.03(4), F.S., to delete the following:

Any mover or moving broker whose principal place of business is located in a county or municipality that requires, by local ordinance, a local license or registration to engage in the business of moving and storage of household goods must obtain the license or registration from the county or municipality. A mover or broker that obtains a local license or registration must also pay the state registration fee under subsection (3).

The bill adds language to s. 507.07, F.S., stating:

“This chapter does not preempt ordinances or regulations enacted by a county before January 1, 2009, or subsequent amendments to such ordinances or regulations. However, fees required by such ordinances or regulations must be reasonable and may not exceed the cost of administering the ordinances or regulations.”

Due to these changes, the mandates provision may apply because the bill arguably reduces the authority of cities and counties to raise total aggregate revenue over February 1, 1989, levels. The amount of the reduction is indeterminate; therefore it is not known whether the bill is exempt due to having an insignificant fiscal impact.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

It is the contention of the household moving industry that, *“local regulation confuses and misleads consumers who need a single set of laws and point of contact, not multiple license numbers, puzzling disclosures that appear to conflict with state law, and consumer affairs departments that have been shown to be inconsistent in their complaint policies.”*⁸

⁸ 2008 Florida Movers and Warehousemen’s Association (FMWA) Fact Packet; The Facts: 2.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to household moving services; amending s.
 3 507.01, F.S.; revising the term "storage"; amending s.
 4 507.03, F.S.; providing for the biennial renewal of mover
 5 and moving broker registrations; authorizing the
 6 Department of Agriculture and Consumer Services to extend
 7 registration expiration dates to establish staggered
 8 dates; requiring the calculation of biennial registration
 9 fees based on an annual rate; deleting a provision
 10 requiring certain movers and moving brokers to obtain a
 11 local license or registration and pay the state
 12 registration fee; amending s. 507.04, F.S.; authorizing a
 13 mover to exclude liability for household goods packed by
 14 the shipper under certain circumstances; amending s.
 15 507.06, F.S.; authorizing a mover to refuse to transport
 16 or ship household goods under certain circumstances;
 17 amending s. 507.07, F.S.; prohibiting a mover or moving
 18 broker from conducting business without being registered
 19 with the department; providing penalties; amending s.
 20 507.13, F.S.; preempting local ordinances and regulations
 21 except in certain counties; restricting the levy or
 22 collection of local registration fees and taxes of movers
 23 and moving brokers; authorizing certain counties to
 24 require registration and bonding of movers and moving
 25 brokers; specifying that local business taxes are not
 26 preempted; providing an effective date.

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

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Section 1. Subsection (13) of section 507.01, Florida Statutes, is amended to read:

507.01 Definitions.--As used in this chapter, the term:

(13) "Storage" means the temporary warehousing of a shipper's goods while under the care, custody, and control of the mover.

Section 2. Subsections (1), (3), and (4) of section 507.03, Florida Statutes, are amended to read:

507.03 Registration.--

(1) Each mover and moving broker must ~~annually~~ register with the department, providing its legal business and trade name, mailing address, and business locations; the full names, addresses, and telephone numbers of its owners or corporate officers and directors and the Florida agent of the corporation; a statement whether it is a domestic or foreign corporation, its state and date of incorporation, its charter number, and, if a foreign corporation, the date it registered with the Department of State; the date on which the mover or broker registered its fictitious name if the mover or broker is operating under a fictitious or trade name; the name of all other corporations, business entities, and trade names through which each owner of the mover or broker operated, was known, or did business as a mover or moving broker within the preceding 5 years; and proof of the insurance or alternative coverages required under s. 507.04.

(3) Registration fees shall be calculated at the rate of \$300 per year per mover or moving broker. All amounts collected

57 shall be deposited by the Chief Financial Officer to the credit
 58 of the General Inspection Trust Fund of the department for the
 59 sole purpose of administration of this chapter.

60 (4) A registration must be renewed biennially on or before
 61 its expiration date. In order to establish staggered expiration
 62 dates, the department may extend the expiration date of a
 63 registration for a period not to exceed 12 months. ~~Any mover or~~
 64 ~~moving broker whose principal place of business is located in a~~
 65 ~~county or municipality that requires, by local ordinance, a~~
 66 ~~local license or registration to engage in the business of~~
 67 ~~moving and storage of household goods must obtain the license or~~
 68 ~~registration from the county or municipality. A mover or broker~~
 69 ~~that obtains a local license or registration must also pay the~~
 70 ~~state registration fee under subsection (3).~~

71 Section 3. Subsection (4) of section 507.04, Florida
 72 Statutes, is amended to read:

73 507.04 Required insurance coverages; liability
 74 limitations; valuation coverage.--

75 (4) LIABILITY LIMITATIONS; VALUATION RATES.--

76 (a) A mover may not limit its liability for the loss or
 77 damage of household goods to a valuation rate that is less than
 78 60 cents per pound per article. A provision of a contract for
 79 moving services is void if the provision limits a mover's
 80 liability to a valuation rate that is less than the minimum rate
 81 allowed under this subsection.

82 (b) A mover may exclude liability for any household goods
 83 packed by the shipper if the exclusion is declared, and the
 84 shipper declines, in writing, to allow the mover to open and

85 inspect the box or crate in which the goods were packed by the
 86 shipper.

87 (c) If a mover limits its liability for a shipper's goods,
 88 the mover must disclose the limitation, including the valuation
 89 rate, to the shipper in writing at the time that the estimate
 90 and contract for services are executed and before any moving or
 91 accessorial services are provided. The disclosure must also
 92 inform the shipper of the opportunity to purchase valuation
 93 coverage if the mover offers that coverage under subsection (5).

94 Section 4. Section 507.06, Florida Statutes, is amended to
 95 read:

96 507.06 Transportation or shipment, delivery, and storage
 97 of household goods.--

98 (1) A mover, before transporting or shipping a shipper's
 99 household goods, may refuse to transport or ship any of the
 100 goods, if the mover notifies the shipper and the shipper
 101 acknowledges the refusal in writing.

102 (2)~~(1)~~ A mover must relinquish household goods to a
 103 shipper and must place the goods inside a shipper's dwelling or,
 104 if directed by the shipper, inside a storehouse or warehouse
 105 that is owned or rented by the shipper or the shipper's agent,
 106 unless the shipper has not tendered payment in the amount
 107 specified in a written contract or estimate signed and dated by
 108 the shipper. A mover may not refuse to relinquish prescription
 109 medicines and goods for use by children, including children's
 110 furniture, clothing, or toys, under any circumstances.

111 (3)~~(2)~~ A mover may not refuse to relinquish household
 112 goods to a shipper or fail to place the goods inside a shipper's

113 dwelling or, if directed by the shipper, inside a storehouse or
 114 warehouse that is owned or rented by the shipper or the
 115 shipper's agent, based on the mover's refusal to accept an
 116 acceptable form of payment.

117 (4)~~(3)~~ A mover that lawfully fails to relinquish a
 118 shipper's household goods may place the goods in storage until
 119 payment is tendered; however, the mover must notify the shipper
 120 of the location where the goods are stored and the amount due
 121 within 5 days after receipt of a written request for that
 122 information from the shipper, which request must include the
 123 address where the shipper may receive the notice. A mover may
 124 not require a prospective shipper to waive any rights or
 125 requirements under this section.

126 Section 5. Subsection (1) of section 507.07, Florida
 127 Statutes, is amended to read:

128 507.07 Violations.--It is a violation of this chapter to:

129 (1) Conduct business as a mover or moving broker, or
 130 advertise to engage in the business of moving or offering to
 131 move, without ~~first~~ being registered ~~annually~~ with the
 132 department.

133 Section 6. Subsection (1) of section 507.13, Florida
 134 Statutes, is amended to read:

135 507.13 Local regulation.--

136 (1) (a) Except as provided in paragraphs (b) and (c), this
 137 chapter preempts ~~does not preempt~~ local ordinances or
 138 regulations of a county or municipality which regulate
 139 transactions relating to movers of household goods or moving
 140 brokers.

141 (b) This chapter does not preempt ordinances or
 142 regulations enacted by a county before January 1, 2009, or
 143 subsequent amendments to such ordinances or regulations.
 144 ~~However, the As provided in s. 507.03(4), counties and~~
 145 ~~municipalities may require, levy, or collect any registration~~
 146 fees required by such ordinances or regulations must be
 147 reasonable and may not exceed the cost of administering the
 148 ordinances or regulations. ~~fee or tax or require~~ The
 149 registration or bonding ~~in any manner~~ of any mover or moving
 150 broker may only be required by such ordinances or regulations if
 151 the mover's or moving broker's principal place of business is
 152 located within the county's jurisdiction.

153 (c) This section does not preempt a local government's
 154 authority to levy a local business tax pursuant to chapter 205.

155 Section 7. This act shall take effect July 1, 2010.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. **HB 199**

COUNCIL/COMMITTEE 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 Council/Committee hearing bill: Agriculture & Natural Resources
2 Policy Committee
3 Representative(s) Weinstein offered the following:
4

5 **Amendment**

6 Delete lines 141 - 154 and insert:

7 (b) This chapter does not preempt ordinances or regulations
8 originally enacted by a county before January 1, 2010, or
9 subsequent amendments to such ordinances or regulations.
10 However, registration fees required by such ordinances or
11 regulations must be reasonable and may not exceed the cost of
12 administering the ordinance or regulation. Such ordinances may
13 only apply to the mover or moving broker whose principal place
14 of business is located within that jurisdiction.

15 (c) This section does not preempt a local government's
16 authority to levy a local business tax pursuant to chapter 205.
17 ~~As provided in s. 507.03(4), counties and municipalities may~~
18 ~~require, levy, or collect any registration fee or tax or~~
19 ~~require the registration or bonding in any manner of any mover~~
20 ~~or moving broker.~~

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 233

Vessel Safety

SPONSOR(S): Kiar

TIED BILLS:

IDEN./SIM. BILLS: SB 100

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Agriculture & Natural Resources Policy Committee		Deslatte <i>JD</i>	Reese <i>AR</i>
2)	Public Safety & Domestic Security Policy Committee			
3)	General Government Policy Council			
4)				
5)				

SUMMARY ANALYSIS

The bill increases the minimum age for a person operating a personal watercraft on the waters of the state from 14 to 16 years. The bill makes it unlawful for the owner of, or any person having charge or control over a personal watercraft, to authorize or knowingly permit the watercraft to be operated by a person under 16 years of age or by a person who does not hold a boating safety identification card in compliance with current law.

The bill makes it unlawful for the owner of, or any person having charge or control over any leased, hired, or rented personal watercraft to authorize or knowingly permit the watercraft to be operated by anyone who has not received instruction in the safe handling of personal watercraft in compliance with current law, and rules established by the Fish and Wildlife Conservation Commission (FWCC).

The bill requires anyone receiving instruction in the safe handling of personal watercraft pursuant to a program established by rule of the FWCC to provide the owner of, or person having charge or control over, a leased, hired or rented personal watercraft, or a livery with a written statement attesting to the same. The requirement provides for the instruction to be pursuant to rules of the FWCC or any other program established by rule of the FWCC.

The bill requires that any person delivering information on safe operation of personal watercraft must enroll in, attend, and successfully complete, at his or her own expense, a boating safety course approved by the National Association of State Boating Law Administrators (NASBLA) and the FWCC.

The bill does not have a fiscal impact on state or local governments. There may be a fiscal impact on the private sector, although it is not anticipated to be significant. Livery personnel who have not attended a boating safety course would be required to do so before providing pre-rental or pre-ride instruction. Courses which meet this requirement cost an average of \$22 per student

The bill has an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

According to the latest data from the FWCC, from 2004 through 2008, a total of 38 operators of personal watercraft who were 14 to less than 16 years of age were involved in reportable boating accidents, eight (8) of which were rented personal watercraft.

Currently, s. 327.395, F.S., states that any person 21 years of age or younger may not operate a vessel powered by a motor of 10 horsepower or greater unless such person has in his or her possession aboard the vessel photographic identification and a boater safety identification card issued by the FWCC¹. Exceptions that would exempt operators 21 years of age or younger from the boating education requirement include:

- If licensed by the United States Coast Guard (USCG) to serve as master on a vessel;
- If operating a vessel on a private lake or pond;
- If accompanied by a person who is attendant to the operation of the vessel and is exempt from this requirement;
- If accompanied by a person who is attendant to the operation of the vessel, is 18 years of age or older, and who holds a valid boating safety identification card; or
- If a non-resident that has proof of successful completion of a boating safety course that meets or exceeds the requirements of the FWCC.

The FWCC's rule 68D-36.104, F.A.C., specifies that boating safety courses offered by the FWCC pursuant to s. 327.395, F.S., must maintain current approval by the National Association of State Boating Law Administrators (NASBLA). The NASBLA² is a professional association representing the recreational boating authorities of all 50 states and the U.S. territories. The NASBLA's objectives are to foster partnerships among and between the states, the USCG and others, to craft model boating laws, to maintain national education and training standards, and to advocate the needs of the state boating programs before the U.S. Congress and federal agencies.

¹ As of January 1, 2010, the age requirement will change to a person born on or after January 1, 1988, as passed by the Legislature in the 2009 session.

² NASBLA website, <http://www.nasbla.org>

According to the FWCC, its participation with the NASBLA is aimed at maintaining national consistency and reciprocity agreements with regard to boating education, and the FWCC uses NASBLA rules as guidelines for developing rules. The Executive Director can adopt NASBLA rules by reference, but the FWCC is the final decider regarding approval of boating course content.

Florida law currently allows individuals 14 years of age or greater to operate a personal watercraft on waters of the state provided they meet the boating safety education requirements specified in s. 327.395, F.S. Section 327.39, F.S., makes it a misdemeanor of the second degree, punishable as provided in ss. 775.082 or 775.083, F.S., for any person having charge or control over a personal watercraft to knowingly let a person younger than fourteen years operate that personal watercraft.

Currently, s. 327.54, F.S., provides for regulation of livery vessels. A livery vessel is defined by s. 327.02(18), F.S., to mean any vessel leased, rented, or chartered to another for consideration. A livery may not knowingly lease, hire, or rent a vessel to any person whenever:

- The number of persons intending to use the vessel exceeds the number considered to constitute a maximum safety load for the vessel;
- The horsepower of the motor exceeds the capacity of the vessel;
- The vessel does not contain the required safety equipment;
- The vessel is not seaworthy;
- The vessel is equipped with a motor of 10 horsepower or greater, unless the livery provides pre-rental or pre-ride instruction that includes, but is not limited to, the operational characteristics of the vessel to be rented, safe vessel operation and vessel right-of-way rules, the responsibility of the vessel operator for the safe and proper operation of the vessel, and the local characteristics of the waterway where the vessel will be operated.

Any person delivering this information on behalf of the livery must have successfully completed a boater safety course approved by the NASBLA and the state. The FWCC is the state's primary agent for this course approval; however, the FWCC may appoint liveries, marinas or other persons to administer the boating safety course.

Section 327.54, F.S., provides that a livery may not knowingly lease, hire, or rent a personal watercraft to any person who has not received instruction in safe handling of personal watercraft pursuant to the FWCC's rules. The person obtaining a personal watercraft from a livery must provide the livery with a written statement attesting to his or her compliance with FWCC's rules. A livery may not lease, hire, or rent a personal watercraft to any person who is less than 18 years of age.

Rule 68D-36.107 of the Florida Administrative Code (F.A.C.) provides additional requirements for liveries renting or leasing personal watercraft. The rule establishes minimum instructional requirements that persons renting or leasing personal watercraft must provide to all individuals intending to operate the personal watercraft. These requirements include:

- Operator responsibility and ethics;
- Navigation rules;
- Navigation aids, buoys and waterway markers;
- Awareness to changes in weather and water conditions;
- Water skiing and other activities specific to personal watercraft;
- Boating accident causes, prevention, and legal requirements of the operator;
- Propulsion, steering and stopping characteristics of personal watercraft; and
- Awareness of other vessels and dangers of reckless operations, manatees, and environmental concerns.

Finally, the rule specifies that a livery may not lease or rent a personal watercraft to any person unless, prior to rental, a safe operation instructional tape is shown to the potential renter, or safe operation literature is provided and reviewed with each prospective operator. That livery must also provide an on-the-water demonstration and observe each person who will operate the personal watercraft to verify the prospective operators' ability to safely handle the personal watercraft. Any person delivering this

information on behalf of the livery must have successfully completed a boater safety course approved by the NASBLA and the state.

Effect of Proposed Changes

The bill increases the minimum age for any person operating a personal watercraft on the waters of the state from 14 to 16 years. The bill also makes it unlawful for the owner of any personal watercraft, or any person having charge over or control of a personal watercraft, to authorize or knowingly permit the watercraft to be operated by a person under 16 years of age or by a person 21 years of age or younger who does not hold a boating safety identification card to operate a personal watercraft in compliance with s. 327.395, F.S.

The bill amends current law making it unlawful for the owner of, or any person having charge or control over any leased, hired, or rented personal watercraft to authorize or knowingly permit the watercraft to be operated by anyone who has not received instruction in the safe handling of personal watercraft in compliance with rules of the FWCC. The instruction must be in compliance with s. 327.54, F.S.

The bill requires anyone receiving instruction in the safe handling of personal watercraft pursuant to a program established by rule of the FWCC to provide the owner of, or person having charge or control over, a leased, hired or rented personal watercraft, or a livery with a written statement attesting to the same. The requirement provides for the instruction to be pursuant to rule 68D-36.107, F.A.C. or any other program established by rule of the FWCC.

The bill provides that a livery may not knowingly lease, hire, or rent a personal watercraft to any person who has not received instruction in the safe handling of personal watercraft pursuant to rule 68D-36.107, F.A.C. or any other rule established by the commission pursuant to chapter 120.

The bill requires that any persons delivering the required instruction in the safe handling of personal watercraft enroll in, attend, and successfully complete a boating safety course that meets the minimum standards established by the FWCC and the National Association of State Boating Law Administrators (NASBLA).

B. SECTION DIRECTORY:

Section 1. Amends s. 327.39, F.S., revising certain requirements for operating personal watercraft.

Section 2. Amends s. 327.54, F.S., revising the requirements relating to the boating safety course required for leasing or renting a personal watercraft from a livery.

Section 3. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

According to the FWCC analysis, fiscal impacts to the private sector are not anticipated to be significant. Livery personnel who have not successfully completed a boating safety course would be required to do so before providing pre-rental or pre-ride instruction. Courses which meet this requirement cost an average of \$22 per student

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to vessel safety; amending s. 327.39,
 3 F.S.; revising certain requirements for operating personal
 4 watercraft; amending s. 327.54, F.S.; revising the
 5 requirements relating to the boating safety course
 6 required for leasing or renting a personal watercraft from
 7 a livery; providing an effective date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

10
 11 Section 1. Subsections (5) and (6) of section 327.39,
 12 Florida Statutes, are amended to read:

13 327.39 Personal watercraft regulated.--

14 (5) No person under the age of 16 ~~14~~ shall operate any
 15 personal watercraft on the waters of this state.

16 (6)(a) It is unlawful for the owner of any personal
 17 watercraft or any person having charge over or control of a
 18 personal watercraft to authorize or knowingly permit the same to
 19 be operated by a person under 16 ~~14~~ years of age in violation of
 20 this section or by a person who does not hold a boating safety
 21 identification card in compliance with s. 327.395(1).

22 (b)1. It is unlawful for the owner of any leased, hired,
 23 or rented personal watercraft, or any person having charge over
 24 or control of a leased, hired, or rented personal watercraft, to
 25 authorize or knowingly permit the watercraft to be operated by
 26 any person who has not received instruction in the safe handling
 27 of personal watercraft, in compliance with s. 327.54 and rules
 28 established by the commission.

29 2. Any person receiving instruction in the safe handling
 30 of personal watercraft pursuant to s. 327.54 and any ~~a~~ program
 31 established by rule of the commission must provide the owner of,
 32 or person having charge of or control over, a leased, hired, or
 33 rented personal watercraft with a written statement attesting to
 34 the same.

35 3. The commission shall have the authority to establish
 36 rules pursuant to chapter 120 prescribing the instruction to be
 37 given, which shall take into account the nature and operational
 38 characteristics of personal watercraft and general principles
 39 and regulations pertaining to boating safety.

40 (c) Any person who violates this subsection commits a
 41 misdemeanor of the second degree, punishable as provided in s.
 42 775.082 or s. 775.083.

43 Section 2. Subsection (4) of section 327.54, Florida
 44 Statutes, is amended to read:

45 327.54 Liveries; safety regulations; penalty.--

46 (4)(a) A livery may not knowingly lease, hire, or rent a
 47 personal watercraft to any person who is under 18 years of age.

48 (b) A livery may not knowingly lease, hire, or rent a
 49 personal watercraft to any person who has not received
 50 instruction in the safe handling of personal watercraft pursuant
 51 to rule 68D-36.107, Florida Administrative Code, or any other
 52 rule, ~~in compliance with rules~~ established by the commission
 53 pursuant to chapter 120.

54 (c) Any person receiving instruction in the safe handling
 55 of personal watercraft pursuant to rule 68D-36.107, Florida
 56 Administrative Code, or any other ~~a~~ program established by rule

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57 | of the commission, must provide the livery with a written
58 | statement attesting to the same.

59 |

60 | Any person delivering the information specified in this
61 | subsection must enroll in, attend, and successfully complete, at
62 | his or her own expense, a boating safety course approved by the
63 | National Association of State Boating Law Administrators and the
64 | commission.

65 | Section 3. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB ANR 10-02 Relating to pollutant discharge prevention and control
SPONSOR(S): Agriculture & Natural Resources Policy Committee
TIED BILLS: SB 1412 IDEN./SIM. BILLS: None

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: Orig. Comm.: Agriculture & Natural Resources Policy Committee, Blalock AFB, Reese AP. Rows 2-6 are empty.

SUMMARY ANALYSIS

Section 376.17, F.S., requires that the Department of Environmental Protection (DEP) include in its recommendations to each regular session of the Legislature specific recommendations relating to the operation of the Pollutant Discharge Prevention and Control Act (the Act).

The Preapproved Advanced Cleanup Program was established by the Legislature to allow DEP to enter into service contracts with responsible parties in advance of the site's priority ranking if the responsible party agrees to enter into a cost sharing arrangement for the purpose of financing site-rehabilitation of contaminated property.

This bill does not appear to have a significant fiscal impact on state or local government.

This bill has an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Reports to the Legislature Regarding the Operation of the Pollutant Discharge Prevention and Control Act

Background

In 1970, the Florida Legislature created the Pollutant Discharge Prevention and Control Act (the Act). The Act largely parallels provisions of the federal Clean Water Act that prohibit coastal and ocean discharges of pollutants and provides that any person discharging a pollutant into Florida waters is responsible for the immediate cleanup of the substance. Section 376.041, F.S., generally prohibits the discharge of pollutants into or upon any coastal waters, estuaries, tidal flats, beaches, and lands adjoining the seacoast of the state. The term "discharge" as defined in s. 376.031, F.S., includes, but is not limited to, any spilling, leaking, seeping, pouring, emitting, emptying, or dumping that occurs within the territorial limits of the state or outside the territorial limits of the state and affects lands and waters within the territorial limits of the state. Penalties for discharging oil or other pollutants may be as much as \$50,000 per day. Violators are liable for cleanup costs, and can be required to compensate the state for any damage done to the state's natural resources.

Effect of the Bill

Section 376.17, F.S., requires that the Department of Environmental Protection (DEP) include in its recommendations to each regular session of the Legislature specific recommendations relating to the operation of the Act. The DEP has made recommendations in the past as the Act was evolving, but no longer provides annual reports and this section is no longer being enforced as the need for recommendations or revisions has diminished. This section of statute is outdated, ineffective, and no longer being enforced.¹

¹ According to the Department of Environmental Protection, the Pollutant Discharge Prevention and Control Act has been implemented successfully through the years with minimal need for amendments. Three years ago DEP proposed an amendment related to the natural resource damage assessment program in section 376.121, but have not had to propose any other adjustments through the years.

Report on the Progress of the Preapproved Advanced Cleanup Program

Background

Section 376.30713, F.S., authorizes the Department of Environmental Protection (DEP) to enter into service contracts for the purpose of financing site-rehabilitation of contaminated property. Recognizing that "the inability to conduct site rehabilitation in advance of a site's priority ranking may substantially impede or prohibit property transactions or the proper completion of public works projects," the Legislature established the Preapproved Advanced Cleanup Program (PACP).² Under the PACP, responsible parties may apply for cleanup funding in advance of the site's priority ranking if the responsible party is willing to enter into a cost sharing arrangement.³ Subsection (5) of the PACP required the DEP to submit a report by December 31, 1998, to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the progress and level of activity under the provisions of this section. As December 31, 1998 has passed, this subsection is outdated and ineffective.

Effect of the Bill

This bill is deleting section 376.30713(5), F.S.

B. SECTION DIRECTORY:

Section 1: Amends s. 376.011, F.S., to revise a cross-reference.

Section 2: Repeals s. 376.17, F.S., relating to reports to the legislature.

Section 3: Deletes section 376.30713(5), F.S., relating to the preapproved advanced cleanup reporting requirement.

Section 4: Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

² Section 376.30713(1)(a), F.S.

³ Section 376.30713(1)(c)-(d), F.S.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to the pollutant discharge prevention and removal; amending s. 376.011, F.S.; clarifying a reference; repealing s. 376.17, F.S., relating to reports to the Legislature, to eliminate a requirement that the Department of Environmental Protection include in its recommendations to each regular session of the Legislature specific recommendations relating to the operation of the Pollutant Discharge Prevention and Control Act; amending s. 376.30713, F.S.; removing obsolete language requiring the Department of Environmental Protection to submit a report relating to preapproved advanced cleanup of petroleum contamination sites to the Governor and the Legislature; providing an effective date.

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

Section 1. Section 376.011, Florida Statutes, is amended to read:

376.011 Pollutant Discharge Prevention and Control Act; short title.—Sections 376.011-376.21 ~~376.011-376.17, 376.19-376.21~~ shall be known as the "Pollutant Discharge Prevention and Control Act."

Section 2. Section 376.17, Florida Statutes, is repealed.

Section 3. Subsection (6) of section 376.30713, Florida Statutes, is renumbered as subsection (5), and present subsection (5) of that section is amended to read:

376.30713 Preapproved advanced cleanup.—

29 ~~(5) By December 31, 1998, the department shall submit a~~
 30 ~~report to the Governor, the President of the Senate, and the~~
 31 ~~Speaker of the House of Representatives on the progress and~~
 32 ~~level of activity under the provisions of this section. The~~
 33 ~~report shall include the following information:~~

34 ~~(a) A list of sites under a preapproved advanced cleanup~~
 35 ~~contract, to be identified by the facility number.~~

36 ~~(b) The total number of preapproved advanced cleanup~~
 37 ~~applications submitted to the department.~~

38 ~~(c) The priority ranking scores of each participating~~
 39 ~~site.~~

40 ~~(d) The total amount of contract work authorized and~~
 41 ~~conducted for each site and the percentage and amount of cost~~
 42 ~~share.~~

43 ~~(e) The total revenues received under the provisions of~~
 44 ~~this section.~~

45 ~~(f) The annual costs of administering the provisions of~~
 46 ~~this section.~~

47 ~~(g) The recommended annual budget for the provisions of~~
 48 ~~this section.~~

49 Section 4. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB ANR 10-04 Relating to an aquaculture plan
SPONSOR(S): Agriculture & Natural Resources Policy Committee
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Agriculture & Natural Resources Policy Committee		Deslatte <i>JD</i>	Reese <i>RR</i>
1)				
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

The bill repeals subsection (8) of s. 379.2523, F.S., which requires the Fish and Wildlife Conservation Commission (FWCC) to provide assistance to the Department of Agriculture and Consumer Services (DACCS) in the development of an aquaculture plan for the state.

The bill has no fiscal impact.

The bill has an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Aquaculture is defined as the cultivation of aquatic organisms¹. Aquaculture products are defined as aquatic organisms and any product derived from aquatic organisms that are owned and propagated, grown, or produced under controlled conditions². In Florida, commercial aquaculture consists mainly of the following:

- Tropical ornamental fish and invertebrates
- Marine ornamental species and live rock
- Molluscs, including clams, oysters, scallops, and mussels
- Marine and freshwater crustaceans
- Alligators
- Food fish, including catfish, tilapia, and sturgeon
- Gamefish fingerlings, including largemouth bass, bream, and catfish
- Triploid grass carp, turtles, snails, and frogs

The Florida Legislature enacted the Florida Aquaculture Policy Act (Chapter 597, F.S.) for the purpose of enhancing the growth of aquaculture while protecting the environment. Under the Act, DACS is responsible for coordinating research and development and providing assistance to persons in the industry. In 1999, the Division of Aquaculture was created to help meet the objectives of the Act.

DACS finalized the Florida Aquaculture Plan in consultation with industry, research institutions, and federal, state, and local agencies. It is considered the blueprint for developing aquaculture in the state, and is intended to assure effective and nonduplicative efforts to expand aquaculture development and prioritize research and funding needs. The Plan provides an analysis of industry status and identifies technical, production, economic, and market related challenges that must be solved to insure continued growth and expansion. The Act also directs DACS to annually revise the Florida Aquaculture Plan.

FWCC has constitutional and statutory authority powers over terrestrial, freshwater, and marine fish and wildlife. For commercial aquaculture, the FWC "maintains lists of prohibited and conditional restricted nonnative aquatic species, prohibits the commercial sale of products derived from certain game fish, issues a Special Activity License for broodstock collection, and operates marine and freshwater hatcheries for fish and shellfish stock enhancement." Under s. 379.2523 (8), F.S., the FWC is directed to assist DACS in the development of a state Aquaculture Plan.

¹ Section 597.0015, F.S.

² *Id*

The Aquaculture Interagency Coordinating Council (AICC) was created by the Aquaculture Policy Act to encourage the development of Florida aquaculture by establishing positive interagency cooperation. The AICC consists of several state agencies including DACS, FWCC, the Department of Environmental Protection, the Department of Community Affairs, and the Office of Trade, Tourism and Economic Development. The AICC also consists of several universities that have regulatory, research, extension, or economic development responsibilities affecting commercial aquaculturalists. The AICC is a forum for the discussion of governmental aquaculture regulations and the formulation of policy alternatives to facilitate aquaculture development.

Effect of Proposed Changes

The bill repeals subsection (8) of s. 379.2523, F.S., which requires the FWCC to provide assistance to the DACS in the development of an aquaculture plan for the state. Since a state plan has been developed, this subsection is no longer necessary.

B. SECTION DIRECTORY:

Section 1. Repeals subsection (8) of s. 379.2523, F.S.

Section 2. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to FWCC's analysis, the repeal of s. 379.2523 (8), F.S., will be beneficial because the statute will be simplified. FWCC and DACS will continue to cooperate and coordinate efforts under statutory direction and through the AICC.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

PCB ANR 10-04

ORIGINAL

2010

1 A bill to be entitled
 2 An act relating to aquaculture; amending s. 379.2523,
 3 F.S.; eliminating a requirement that the Fish and Wildlife
 4 Conservation Commission provide assistance to the
 5 Department of Agriculture and Consumer Services in the
 6 development of an aquaculture plan for the state;
 7 providing an effective date.

8

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

10

11 Section 1. Subsection (8) of section 379.2523, Florida
 12 Statutes, is amended to read:

13 379.2523 Aquaculture definitions; marine aquaculture
 14 products, producers, and facilities.-

15 ~~(8) The Fish and Wildlife Conservation Commission shall~~
 16 ~~provide assistance to the Department of Agriculture and Consumer~~
 17 ~~Services in the development of an aquaculture plan for the~~
 18 ~~state.~~

19 Section 2. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB ANR 10-05 Relating to South Florida tropical fruit plan

SPONSOR(S): Agriculture & Natural Resources Policy Committee

TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Agriculture & Natural Resources Policy Committee		Thompson <i>JT</i>	Reese <i>RR</i>
1)				
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

Currently, s. 603.204, F.S., requires the Commissioner of the Department of Agriculture and Consumer Services (DACS) in consultation with the Tropical Fruit Advisory Council, to submit the South Florida Tropical Fruit Plan (plan) 90 days prior to the 1991 legislative session to the President of the Senate, the Speaker of the House of Representatives, and the chairs of the appropriate Senate and House committees.

The law requires the plan to identify problems and constraints relating to the tropical fruit industry, and develop solutions and growth planning mechanisms for the tropical fruit industry. In support of the development of said solutions and mechanisms, the plan provides for the following reporting requirements:

- Revisions and updates to be submitted biennially,
- Progress reports and budget requests to be submitted annually,
- Educational or research recommendations to the University of Florida Institute of Food and Agricultural Sciences, and
- Regulation or marketing recommendations to DACS.

According to DACS, the reporting requirements of the plan are outdated and no longer being carried out. However, recent prolonged subfreezing temperatures threatening crops and tropical vegetation in South Florida have revived a need for the problem solving mechanisms provided for under the plan.

The bill amends s. 603.204, F.S., deleting all reporting requirements.

There is no direct fiscal impact.

The bill has an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

During the 1990 regular session, the Legislature enacted Part II, Chapter 603, "The Florida Tropical Fruit Policy Act"¹ (act) to help develop the production and utilization of the tropical fruit industry. The act provides for legislative intent; creates the Tropical Fruit Advisory Council² within the Department of Agriculture and Consumer Services (DACS); and requires the Commissioner of Agriculture, in consultation with the Tropical Fruit Advisory Council, to submit to the legislature, the South Florida Tropical Fruit Plan.³

Current Situation

Currently, the South Florida Tropical Fruit Plan requires the Commissioner of Agriculture, in consultation with the Tropical Fruit Advisory Council, to submit the plan 90 days prior to the 1991 Legislative Session to the President of the Senate, the Speaker of the House of Representatives, and the chairs of the appropriate Senate and House committees. Subsequent revisions and updates of the plan are directed to be submitted biennially while progress reports and budget requests are to be submitted annually.

The mission of the South Florida Tropical Fruit Plan is to identify problems and constraints of the tropical fruit industry, propose possible solutions to such problems, and develop planning mechanisms for orderly growth of the industry.⁴ These solutions and mechanisms include, but are not limited to, the submittal of:

- Educational or research recommendations to the University of Florida Institute of Food and Agricultural Sciences, and
- Regulation or marketing recommendations to DACS.

According to DACS, the last official progress report was submitted in 2001 and there have been no updates of the biennial plan. In 2007, it was recommended by DACS that the Tropical Fruit Advisory Council be repealed due to its inactive status. The Council has not met since then and there have

¹ Ch. 1990-277, Laws of Florida

² s. 603.203, F.S.

³ s. 603.204, F.S.

⁴ s. 603.204(1), F.S.

been no expenses related to the Council. The Legislature proposed a repeal of the South Florida Tropical Fruit Plan in 2008⁵ and 2009.⁶ All three proposals were not successful.

Proposed Changes

The bill amends s. 603.204, F.S., deleting the following reporting requirements:

- Submittal of the plan 90 days prior to the 1991 Legislative Session to the President of the Senate, the Speaker of the House of Representatives, and the chairs of the appropriate Senate and House committees;
- Submittal of revisions and updates to the plan biennially;
- Submittal of progress reports and budget requests annually; and
- Submittal of recommendations relating to regulation or marketing to DACS.

According to DACS, the reporting requirements of the plan are outdated and no longer being carried out. However, recent prolonged subfreezing temperatures threatening crops and tropical vegetation in South Florida have revived a need for the problem solving mechanisms provided for under the plan. Therefore, by removing only the reporting requirement, the mechanisms for identifying and solving problems and constraints of the tropical fruit industry and the associated benefits are allowed to remain.

B. SECTION DIRECTORY:

Section 1. Amends s. 603.204, F.S.; deleting the reporting requirements of the South Florida Tropical Fruit Plan.

Section 2. Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

⁵ SB 884

⁶ CS,CS,SB 2160

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

The recent subfreezing temperatures experienced in January of 2010 severely threatened South Florida crops and tropical vegetation. Florida Agriculture Commissioner Charles Bronson requested and received from the Governor a state of emergency to assist farmers dealing with crop damage from the freeze. Consequently, the tropical fruit industry and DACS have expressed a renewed interest in the Florida Tropical Fruit Policy Act and the primary responsibility of the Tropical Fruit Advisory Council - the South Florida Tropical Fruit Plan - which contains mechanisms for identifying and solving problems and constraints of the tropical fruit industry such as severe weather damage.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the South Florida Tropical Fruit Plan;
 3 amending s. 603.204, F.S.; revising provisions relating to
 4 the plan; eliminating a requirement for the Commissioner
 5 of Agriculture, in consultation with the Tropical Fruit
 6 Advisory Council, to submit plans, reports, and budget
 7 requests relating to the tropical fruit industry to the
 8 Legislature; providing an effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Section 603.204, Florida Statutes, is amended
 13 to read:

14 603.204 South Florida Tropical Fruit Plan.—

15 ~~(1)~~ The Commissioner of Agriculture, in consultation with
 16 the Tropical Fruit Advisory Council, shall develop and update,
 17 ~~at least 90 days prior to the 1991 legislative session, submit~~
 18 ~~to the President of the Senate, the Speaker of the House of~~
 19 ~~Representatives, and the chairs of appropriate Senate and House~~
 20 ~~of Representatives committees~~, a South Florida Tropical Fruit
 21 Plan, which shall identify problems and constraints of the
 22 tropical fruit industry, propose possible solutions to such
 23 problems, and develop planning mechanisms for orderly growth of
 24 the industry, including:

25 (1)(a) Criteria for tropical fruit research, service, and
 26 management priorities.

27 (2)(b) ~~Additional~~ Proposed legislation that ~~which~~ may be
 28 required.

29 (3)~~(e)~~ Plans relating to other tropical fruit programs and
 30 related disciplines in the State University System.

31 (4)~~(d)~~ Potential tropical fruit products in terms of
 32 market and needs for development.

33 (5)~~(e)~~ Evaluation of production and fresh fruit policy
 34 alternatives, including, but not limited to, setting minimum
 35 grades and standards, promotion and advertising, development of
 36 production and marketing strategies, and setting minimum
 37 standards on types and quality of nursery plants.

38 (6)~~(f)~~ Evaluation of policy alternatives for processed
 39 tropical fruit products, including, but not limited to, setting
 40 minimum quality standards and development of production and
 41 marketing strategies.

42 (7)~~(g)~~ Research and service priorities for further
 43 development of the tropical fruit industry.

44 (8)~~(h)~~ Identification of state agencies and public and
 45 private institutions concerned with research, education,
 46 extension, services, planning, promotion, and marketing
 47 functions related to tropical fruit development, and delineation
 48 of contributions and responsibilities. The recommendations in
 49 the ~~South Florida Tropical Fruit~~ plan relating to education or
 50 research shall be submitted to the Institute of Food and
 51 Agricultural Sciences. ~~The recommendations relating to~~
 52 ~~regulation or marketing shall be submitted to the Department of~~
 53 ~~Agriculture and Consumer Services.~~

54 (9)~~(i)~~ Business planning, investment potential, financial
 55 risks, and economics of production and use ~~utilization~~.

56 ~~(2) A revision and update of the South Florida Tropical~~

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Redraft - A

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57 | ~~Fruit Plan shall be submitted biennially, and a progress report~~
58 | ~~and budget request shall be submitted annually, to the officials~~
59 | ~~specified in subsection (1).~~

60 | Section 2. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB ANR 10-06 Relating to interagency agreement
SPONSOR(S): Agriculture & Natural Resources Policy Committee
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Agriculture & Natural Resources Policy Committee		Kliner <i>W</i>	Reese <i>AR</i>
1)				
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

Pursuant to subsection (4) of s. 373.046, F.S., the secretary of the Department of Environmental Protection (DEP) is required to submit a report to the President of the Senate and the Speaker of the House of Representatives regarding the efficiency of the procedures and the division of responsibilities between the DEP and the five water management districts, as well as the progress toward the execution of interagency agreements and the integration of permitting with sovereignty lands approval. The report also will consider the feasibility of improving the protection of the environment through comprehensive criteria for protection of natural systems. As the report was due by December 10, 1993, reference to this report is obsolete and is removed from Florida Statutes.

The bill has no fiscal impact.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The state regulates and permits activities that affect wetlands primarily through the Environmental Resource Permit (ERP) program. The program is implemented jointly by the Department of Environmental Protection (DEP) and four of the five water management districts.¹ Operating Agreements between the DEP and the water management districts (the Districts) outline specific responsibilities to each agency for any given application. Under those agreements, the DEP generally reviews and takes actions on applications involving:

- Solid waste, hazardous waste, domestic waste, and industrial waste facilities;
- Mining;
- Power plants, transmission and communication cables and lines, natural gas and petroleum exploration, production, and distribution lines and facilities;
- Docking facilities and attendant structures and dredging that are not part of a larger plan of residential or commercial development;
- Navigational dredging conducted by governmental entities, except when part of a larger project that a District has the responsibility to permit;
- Systems serving only one single-family dwelling unit or residential unit not part of a larger common plan of development;
- Systems located in whole or in part seaward of the coastal construction control line;
- Seaports; and
- Smaller, separate water-related activities not part of a larger plan of development (such as boat ramps, mooring buoys, and artificial reefs)

The Districts are responsible for reviewing and taking action on all other applications, mostly commercial and residential development, including ERPs, the drilling of water wells and consumptive use permits.

Subsection (4) of s.373.046, F.S., authorizes the Districts and the DEP to modify the division of responsibilities and to enter into further interagency agreements by rulemaking, including incorporation by reference, pursuant to chapter 120, F.S., to provide for greater efficiency and to avoid duplication in

¹ The Northwest Florida Water Management District, which has implemented rules for stormwater permitting only, effective October 1, 2007, plans to be permitting its own ERPs this year.

the administration of part IV of chapter 373, F.S. (The Management and Storage of Surface Waters), by designating certain activities which will be regulated by either the Districts or the DEP. In developing the interagency agreements, the Districts and the DEP should take into consideration the technical and fiscal ability of each water management district to implement all or some of the provisions of part IV of this chapter 373, F.S.

Pursuant to this subsection, by December 10, 1993, the secretary of the DEP shall submit a report to the President of the Senate and the Speaker of the House of Representatives regarding the efficiency of the procedures and the division of responsibilities contemplated by this subsection and regarding progress toward the execution of further interagency agreements and the integration of permitting with sovereignty lands approval. The report also will consider the feasibility of improving the protection of the environment through comprehensive criteria for protection of natural systems.

Effect of Proposed Changes

Reference to the report due December 10, 1993, is removed from Florida Statutes.

B. SECTION DIRECTORY:

Section 1. amends subsection (4) of section 373.046, F.S., removing reference to a report that was due in 1993.

Section 2. provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None

D. FISCAL COMMENTS: None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other: None noted

B. RULE-MAKING AUTHORITY: None

C. DRAFTING ISSUES OR OTHER COMMENTS: None

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to interagency agreements for the
 3 management of state water resources; amending s. 373.046,
 4 F.S.; removing obsolete language requiring the Secretary
 5 of Environmental Protection to submit a report relating to
 6 certain interagency agreements and environmental
 7 protection measures to the Legislature by a specified
 8 date; providing an effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Subsection (4) of section 373.046, Florida
 13 Statutes, is amended to read:

14 373.046 Interagency agreements.—

15 (4) The Legislature recognizes and affirms the division of
 16 responsibilities between the department and the water management
 17 districts as set forth in ss. III. and X. of each of the
 18 operating agreements codified as rules 17-101.040(12)(a)3., 4.,
 19 and 5., Florida Administrative Code. Section IV.A.2.a. of each
 20 operating agreement regarding individual permit oversight is
 21 rescinded. The department shall be responsible for permitting
 22 those activities under part IV of this chapter which, because of
 23 their complexity and magnitude, need to be economically and
 24 efficiently evaluated at the state level, including, but not
 25 limited to, mining, hazardous waste management facilities and
 26 solid waste management facilities that do not qualify for a
 27 general permit under chapter 403. With regard to
 28 postcertification information submittals for activities

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29 | authorized under chapters 341 and 403 siting act certifications,
 30 | the department, after consultation with the appropriate water
 31 | management district and other agencies having applicable
 32 | regulatory jurisdiction, shall be responsible for determining
 33 | the permittee's compliance with conditions of certification
 34 | which were based upon the nonprocedural requirements of part IV
 35 | of this chapter. The Legislature authorizes the water management
 36 | districts and the department to modify the division of
 37 | responsibilities referenced in this section and enter into
 38 | further interagency agreements by rulemaking, including
 39 | incorporation by reference, pursuant to chapter 120, to provide
 40 | for greater efficiency and to avoid duplication in the
 41 | administration of part IV of this chapter by designating certain
 42 | activities which will be regulated by either the water
 43 | management districts or the department. In developing such
 44 | interagency agreements, the water management districts and the
 45 | department should take into consideration the technical and
 46 | fiscal ability of each water management district to implement
 47 | all or some of the provisions of part IV of this chapter.
 48 | Nothing herein rescinds or restricts the authority of the
 49 | districts to regulate silviculture and agriculture pursuant to
 50 | part IV of this chapter or s. 403.927. ~~By December 10, 1993, the~~
 51 | ~~secretary of the department shall submit a report to the~~
 52 | ~~President of the Senate and the Speaker of the House of~~
 53 | ~~Representatives regarding the efficiency of the procedures and~~
 54 | ~~the division of responsibilities contemplated by this subsection~~
 55 | ~~and regarding progress toward the execution of further~~
 56 | ~~interagency agreements and the integration of permitting with~~

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57 | ~~sovereignty lands approval. The report also will consider the~~
58 | ~~feasibility of improving the protection of the environment~~
59 | ~~through comprehensive criteria for protection of natural~~
60 | ~~systems.~~

61 | Section 2. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB ANR 10-07 Relating to trust fund review

SPONSOR(S): Agriculture & Natural Resources Policy Committee

TIED BILLS: IDEN./SIM. BILLS:

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Agriculture & Natural Resources Policy Committee		Kliner <i>W</i>	Reese <i>DR</i>
1)				
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

The Water Protection and Sustainability Program (s. 403.890, F.S.) was established in 2005 to support water-related programs such as Total Maximum Daily Loads, Surface Water Improvement Management and Disadvantaged Small Community Wastewater Grants. When available, the program also included funding for alternative water supply development projects such as desalination, reuse and reservoirs.

Subsection (4) of s. 403.890, F.S., contains obsolete language relating to the Legislature, prior to the end of the 2008 Regular Session, reviewing the distribution of funds under the Water Protection and Sustainability Program to determine if revisions to the funding formula are required. Reference to this Legislative review and reference to the discretion to conduct interim studies on this issue are removed from Florida Statutes by this bill.

The bill has no fiscal impact.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The Water Protection and Sustainability Program (s. 403.890, F.S.) was established in 2005 to support water-related programs such as Total Maximum Daily Loads, Surface Water Improvement Management and Disadvantaged Small Community Wastewater Grants. When available, the program also included funding for alternative water supply development projects such as desalination, reuse and reservoirs. Subsection (4) of this section provides a distribution schedule from the Water Protection and Sustainability Program Trust Fund to various governmental entities for certain fiscal years.

Subsection (4) of s. 403.890, F.S., contains obsolete language relating to the Legislature, prior to the end of the 2008 Regular Session, reviewing the distribution of funds under the Water Protection and Sustainability Program to determine if revisions to the funding formula are required. In addition, at the discretion of the President of the Senate and the Speaker of the House of Representatives, the appropriate substantive committees of the Legislature may conduct an interim project to review the Water Protection and Sustainability Program and the funding formula and make written recommendations to the Legislature proposing necessary changes, if any.

Effect of Proposed Changes

Reference to this Legislative review and reference to the discretion to conduct interim studies on this issue are removed from Florida Statutes.

B. SECTION DIRECTORY:

Section 1. amends subsection (4) of s. 403.890, F.S., to remove obsolete language.

Section 2. provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None

2. Expenditures: None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None

2. Expenditures: None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS: None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other: None noted.

B. RULE-MAKING AUTHORITY: None

C. DRAFTING ISSUES OR OTHER COMMENTS: None

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the Water Protection and Sustainability
 3 Program; amending s. 403.890, F.S.; removing obsolete
 4 language requiring the Legislature to review the
 5 distribution of funds under the Water Protection and
 6 Sustainability Program; deleting provisions for an interim
 7 project relating to the program and its funding formula;
 8 providing an effective date.

9

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

11

12 Section 1. Subsection (4) of section 403.890, Florida
 13 Statutes, is amended to read:

14 403.890 Water Protection and Sustainability Program;
 15 intent; goals; purposes.—

16 (4) For fiscal year 2005–2006, funds deposited or
 17 appropriated into the Water Protection and Sustainability
 18 Program Trust Fund shall be distributed as follows:

19 (a) One hundred million dollars to the Department of
 20 Environmental Protection for the implementation of an
 21 alternative water supply program as provided in s. 373.1961.

22 (b) Funds remaining after the distribution provided for in
 23 subsection (1) shall be distributed as follows:

24 1. Fifty percent for the implementation of best management
 25 practices and capital project expenditures necessary for the
 26 implementation of the goals of the total maximum daily load
 27 program established in s. 403.067. Of these funds, 85 percent
 28 shall be transferred to the credit of the Department of

29 Environmental Protection Water Quality Assurance Trust Fund to
 30 address water quality impacts associated with nonagricultural
 31 nonpoint sources. Fifteen percent of these funds shall be
 32 transferred to the Department of Agriculture and Consumer
 33 Services General Inspection Trust Fund to address water quality
 34 impacts associated with agricultural nonpoint sources. These
 35 funds shall be used for research, development, demonstration,
 36 and implementation of suitable best management practices or
 37 other measures used to achieve water quality standards in
 38 surface waters and water segments identified pursuant to s.
 39 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss.
 40 1251 et seq. Implementation of best management practices and
 41 other measures may include cost-share grants, technical
 42 assistance, implementation tracking, and conservation leases or
 43 other agreements for water quality improvement. The Department
 44 of Environmental Protection and the Department of Agriculture
 45 and Consumer Services may adopt rules governing the distribution
 46 of funds for implementation of best management practices. These
 47 funds shall not be used to abrogate the financial responsibility
 48 of those point and nonpoint sources that have contributed to the
 49 degradation of water or land areas. Increased priority shall be
 50 given by the department and the water management district
 51 governing boards to those projects that have secured a cost-
 52 sharing agreement allocating responsibility for the cleanup of
 53 point and nonpoint sources.

54 2. Twenty-five percent for the purposes of funding
 55 projects pursuant to ss. 373.451-373.459 or surface water
 56 restoration activities in water-management-district-designated

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57 | priority water bodies. The Secretary of Environmental Protection
 58 | shall ensure that each water management district receives the
 59 | following percentage of funds annually:

60 | a. Thirty-five percent to the South Florida Water
 61 | Management District;

62 | b. Twenty-five percent to the Southwest Florida Water
 63 | Management District;

64 | c. Twenty-five percent to the St. Johns River Water
 65 | Management District;

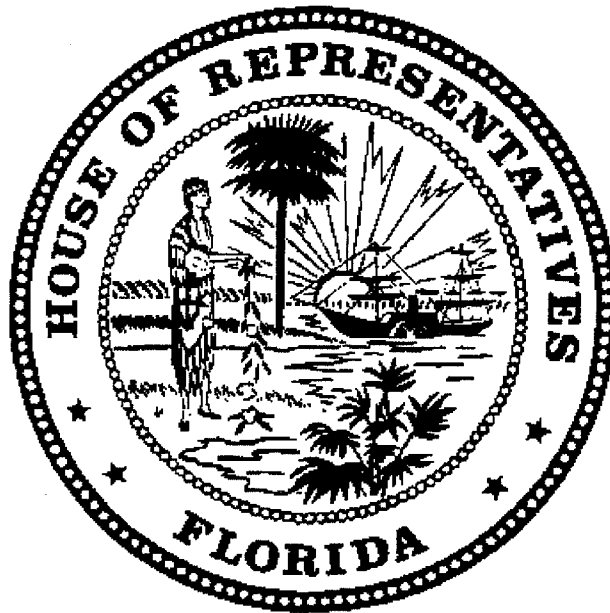
66 | d. Seven and one-half percent to the Suwannee River Water
 67 | Management District; and

68 | e. Seven and one-half percent to the Northwest Florida
 69 | Water Management District.

70 | 3. Twenty-five percent to the Department of Environmental
 71 | Protection for the Disadvantaged Small Community Wastewater
 72 | Grant Program as provided in s. 403.1838.

73 |
 74 | ~~Prior to the end of the 2008 Regular Session, the Legislature~~
 75 | ~~must review the distribution of funds under the Water Protection~~
 76 | ~~and Sustainability Program to determine if revisions to the~~
 77 | ~~funding formula are required. At the discretion of the President~~
 78 | ~~of the Senate and the Speaker of the House of Representatives,~~
 79 | ~~the appropriate substantive committees of the Legislature may~~
 80 | ~~conduct an interim project to review the Water Protection and~~
 81 | ~~Sustainability Program and the funding formula and make written~~
 82 | ~~recommendations to the Legislature proposing necessary changes,~~
 83 | ~~if any.~~

84 | Section 2. This act shall take effect July 1, 2010.



Agriculture and Natural Resources Policy Committee

**Meeting Packet
Addendum A
February 3, 2010
3:30 pm - 6:00 pm
102 Reed Hall**

**Larry Cretul
Speaker**

**Trudi Williams
Chair**



Numeric Nutrient Criteria



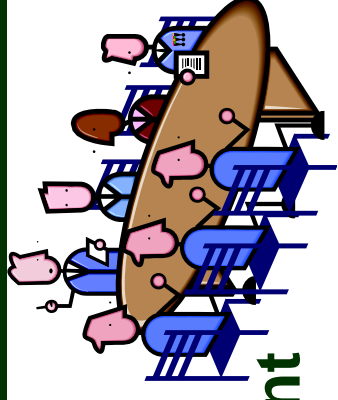
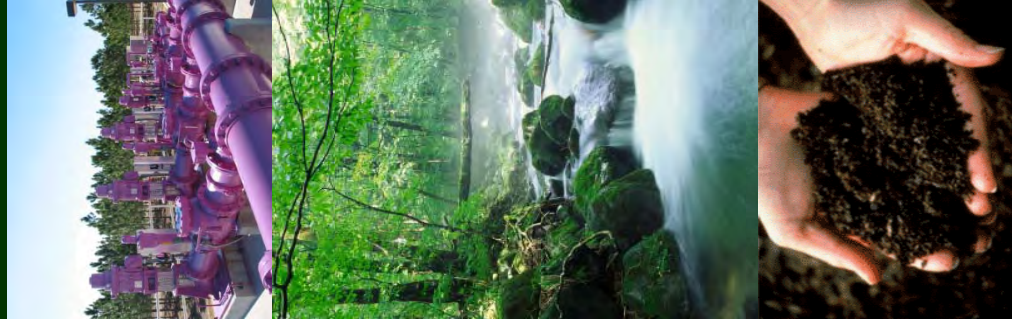
Presentation to the Agricultural and Natural Resources Policy Committee

February 3, 2010

David Richardson, PE
Assistant General Manager
Gainesville Regional Utilities



FWEA Utility Council Board of Directors



- **Jim Oskowis, PE, President**
- **Paul Steinbrecher, PE, Vice President**
- **Chris Helfrich, PE, Secretary/Treasurer**
- **Brian Wheeler, PE, NACWA Representative**
- **Ray Hanson, PE, Past President**
- **David Richardson, PE, Director At Large**
- **Richard Griswold, PE, Director At Large**
- **Ted McKim, PE, Director At Large**



FWEAUC Membership

AECOM
Black & Veatch
Brevard County
Broward County Water Services
Brown and Caldwell
Carollo Engineers
CDM Inc.
CH2M Hill
City of Altamonte Springs
City of Atlantic Beach
City of Boca Raton
City of Boynton Beach
City of Casselberry
City of Clearwater
City of Cocoa Beach
City of Fort Lauderdale
City of Holly Hill
City of Hollywood
City of Key West
City of Margate
City of Ocala

City of Orlando
City of Palm Coast
City of Plantation
City of Sanford
City of Sarasota
City of St. Cloud
City of St. Petersburg
City of Tallahassee
City of Tampa
City of Vero Beach
City of West Palm Beach
Clay County Utility Authority
Collier County Utilities
Destin Water Users Inc.
East Central Regional Board
EMA, Inc.
Fort Pierce Utilities Authority
Gainesville Regional Utilities
Greeley and Hansen LLC.
Hazen and Sawyer, P.C.
HDR Engineering Inc.

Hernando County Utilities
Hillsborough County Water Resource Svcs.
Hubbell, Roth & Clark, Inc.
JEA
Lewis, Longman & Walker, P.A.
Martin Co Utilities & Solid Waste Dept.
Miami-Dade Water & Sewer
MWH Global
Okaloosa County Utilities
Orange County Utilities
Palm Beach County Water Utilities
PBS&J
Pinellas County Utilities
Premier Chemical Inc.
Reedy Creek Improvements District Utilities
Severn Trent
South Central Regional Wastewater System
Tetra Tech Inc.
Toho Water Authority
Woodard & Curran

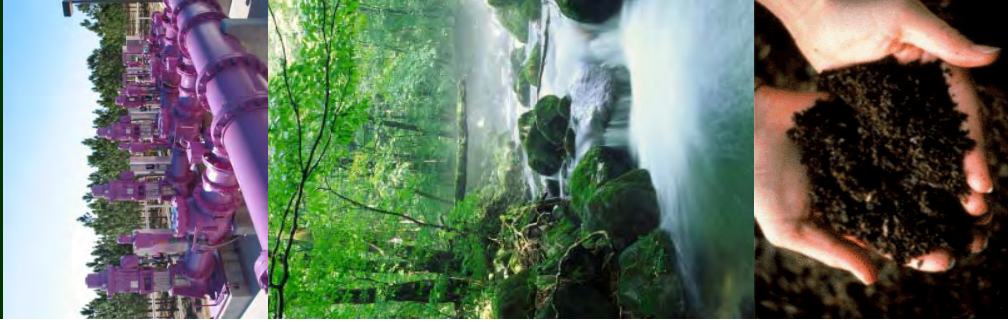
➤ **62 Members**

➤ **44 Utility**

➤ **18 Subscribers**

➤ **~8 million Floridians served daily**

FWEA Utility Council Mission Statement



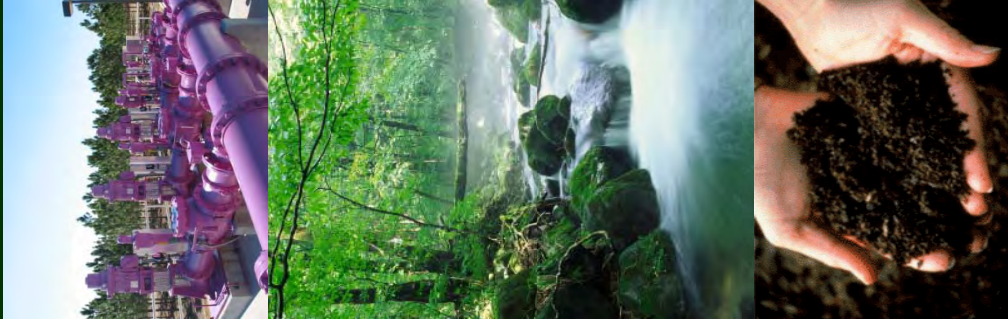
- **Strive for the reduction and elimination of water pollution in Florida;**
- **Assist its members to achieve sound public health and environmental goals in an efficient and cost effective manner; and**
- **Actively support the adoption and implementation of scientifically based wastewater legislation, regulation and policy at federal, state, regional and local levels.**





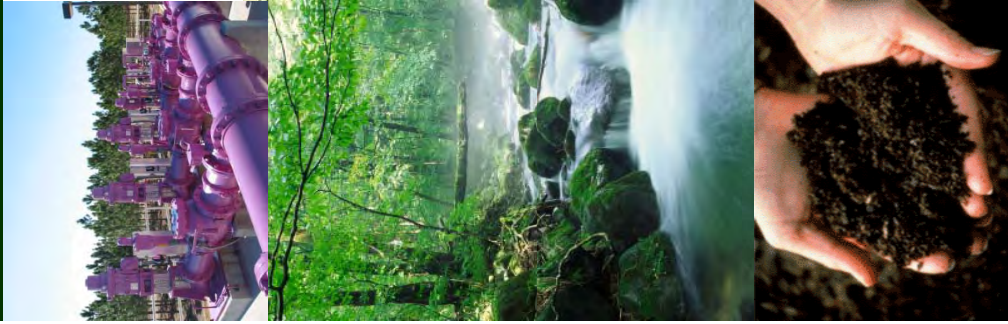
Since the FWEAUC last briefed this issue...

- FWEAUC representatives addressed this committee in November 2009
- Expressed concern that EPA's proposed numeric nutrient criteria rule would **lack an adequate scientific basis & cause significant negative economic and policy consequences**
- EPA's proposed numeric nutrient criteria unfortunately confirmed that these predictions were well-founded





Numeric Nutrient Criteria



	TN (mg/L)	TP (mg/L)
Panhandle	0.824	0.043
Bone Valley	1.798	0.739
Peninsula	1.205	0.107
North Central	1.479	0.359

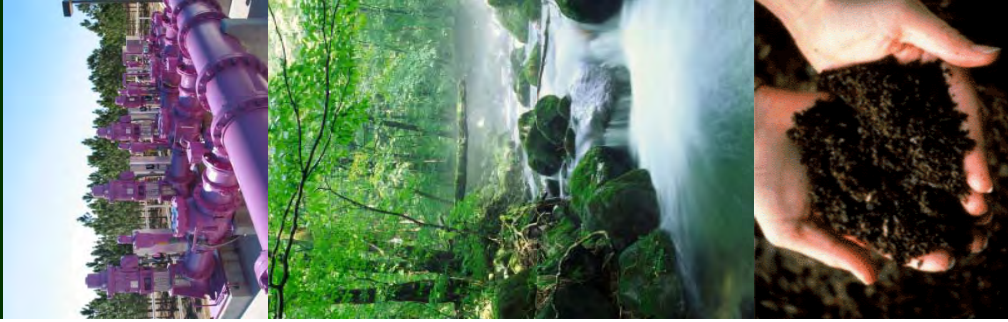
- EPA's regional numbers will in many instances be *reduced further* based on the perceived nutrient sensitivity of downstream waters.
 - Example: For a stream flowing into Pensacola Bay, the initial regional criterion for upstream waters is **0.824 mg/L-TN**, but EPA's downstream waters formula may reduce that stream criterion down to **0.43 to 0.48 mg/L-TN**.





FWEAUC Concerns

- Scientifically defensible?
 - EPA Proposed Rule, page 80: “...EPA analyzed stressor-response relationships in Florida streams based on available data, but...did not find sufficient scientific support for their use in the derivation of numeric nutrient criteria for Florida streams. More specifically, *EPA was not able to demonstrate a sufficiently strong correlation between the biological response indicators...and TN or TP concentrations.*”
....
 - Despite admitted shortcomings of the proposed criteria, EPA plans to overlay a downstream waters formula that will make the **already** roughly derived criteria even more restrictive.





FWEAUC Concerns

- Technologically achievable?

Pollutant	Secondary Limits	AWT Limits	Proposed Regional Numeric Nutrient Limits*
cBOD5,mg/L	20-30	5	-
TSS, mg/L	20-30	5	-
TN, mg/L	No limit	3	0.82-1.80
TP, mg/L	No limit	1	0.043-0.739

*Downstream protective values for TN are as low as 0.27 mg/L. It is unknown what downstream protective values EPA will propose for TP.



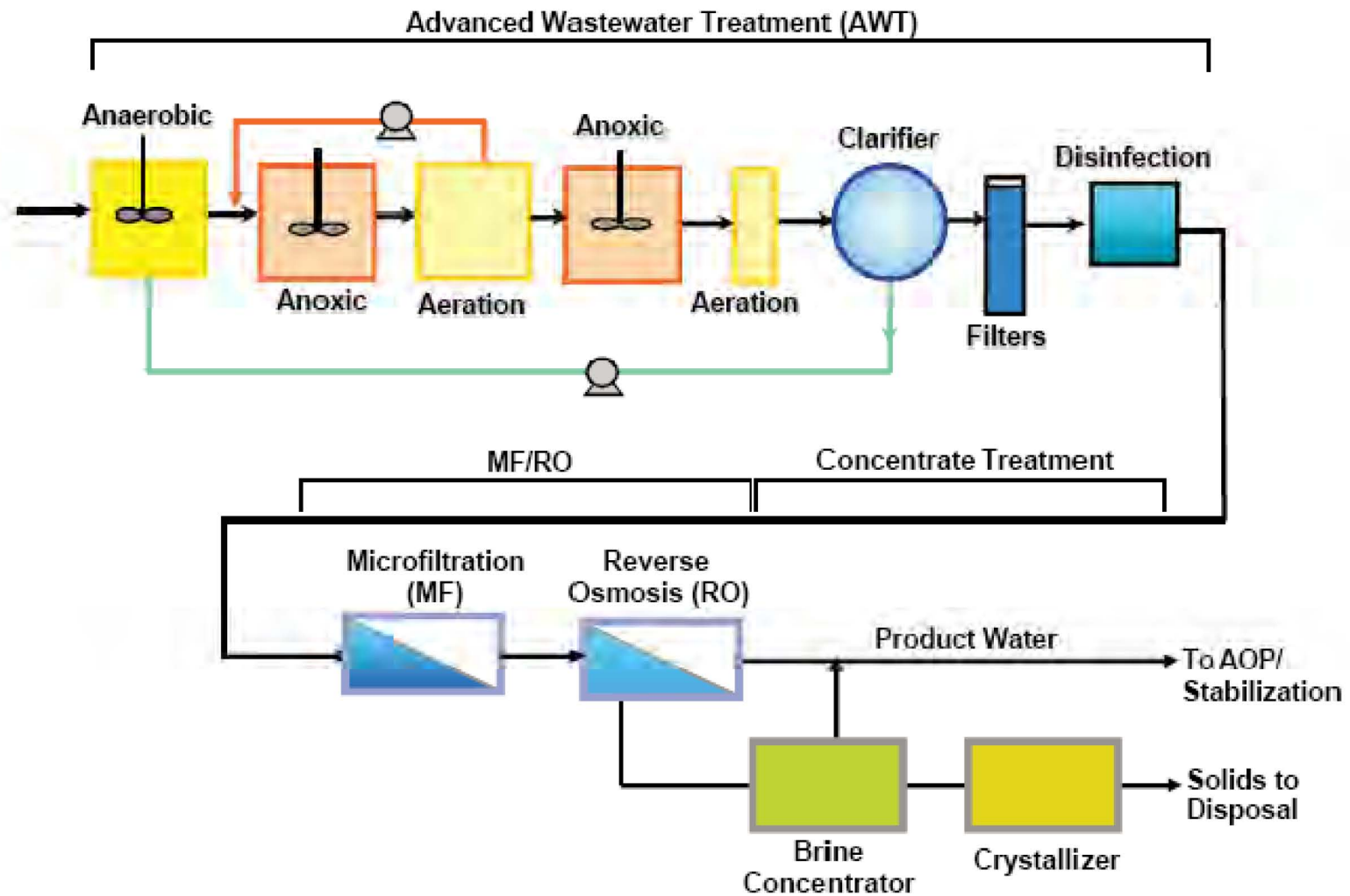


Figure 1. Schematic illustration of the type of processes likely required for Florida wastewater plants to comply with the proposed numeric nutrient criteria.

- **Justifiable cost?**
 - Approximately doubles the typical residential water/sewer bill for most utilities
 - Cost of this will be born by our citizens and businesses for dubious environmental benefit
 - Disproportionately impact low-income citizens
 - Diverts public resources

Estimated Capital Costs and Increases in Sewer Rates for Eight Florida Utilities and an Average Florida Case to Construct Facilities to Meet Proposed Numeric Nutrient Limits

	Capital Cost	Monthly (Annual) Sewer Rate Increase per Household
STATE OF FLORIDA²	\$24,400,000,000-\$50,700,000,000	\$ 62.2 (\$740)
Bay County	\$42,000,000	\$ 57 (\$685)
Broward County	\$425,000,000	\$ 66 (\$793)
Destin Water	\$34,000,000	\$ 48 (\$581)
Escambia County	\$275,000,000	\$ 49 (\$591)
Hollywood	\$370,000,000	\$ 82 (\$996)
Jacksonville	\$2,000,000,000	\$ 67 (\$815)
Point Buena Vista ³	\$2,000,000	\$ 257 (\$3,094)
Cross City ³	\$5,800,000	\$ 28 (\$336)
South Walton ³	\$16,000,000	\$ 12 (\$147)

Notes:

1. The low end of the range provides the probable opinion of cost assuming only plants with surface water discharges will be required to meet numeric nutrient limits while the high end of the range assume that all plants will need to meet numeric nutrient limits.
2. Estimated average costs for the State of Florida include annual O&M expenses, and are shown for comparative purposes.
3. Assumes 2.5 persons per connection and 150 gpcd.



FWEAUC Concerns

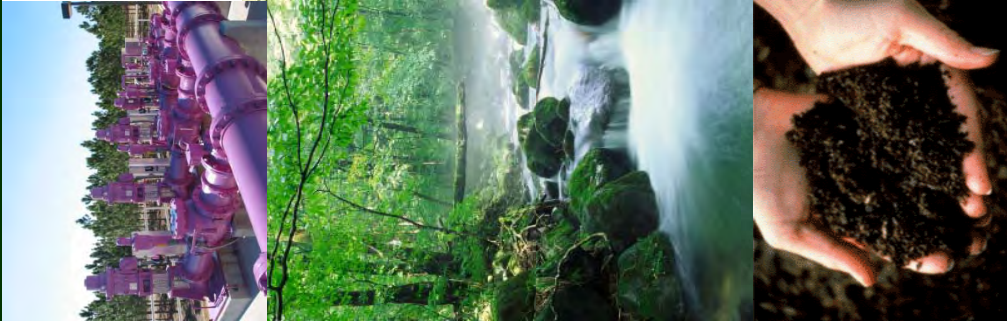
- **Significant Policy Consequences**
 - Render moot existing nutrient TMDLs & projects designed to achieve scientifically vetted nutrient targets
 - Undermine the reuse of reclaimed water
 - Two-Tier NPDES Permitting Program (federal & state standards)
- **Bottom line: EPA's overly aggressive deadline has resulted in scientifically indefensible proposed numeric nutrient criteria for Florida streams that will significantly impact Florida cities, the economy, and the general public.**





FWEAUC Position

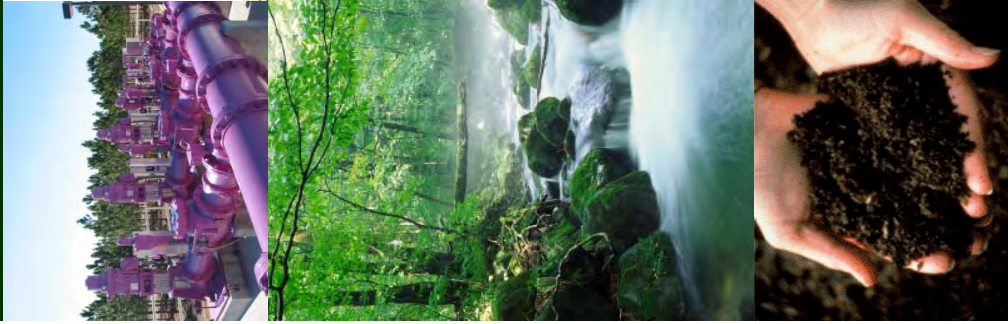
- **FWEA Utility Council supports science-based nutrient criteria that protect state water ecosystems and protect utility ratepayers from the economic burdens of unsound regulatory policy.**
- **FWEA Utility Council intends to work towards....**
 - Ensuring that nutrient criteria are scientifically defensible
 - Ensuring that needed nutrient reductions are tailored to individual water bodies, as currently happens under the existing narrative standard
 - Continuing to implement and improve Florida's progressive and sophisticated water quality standards programs





FWEAUC Intentions

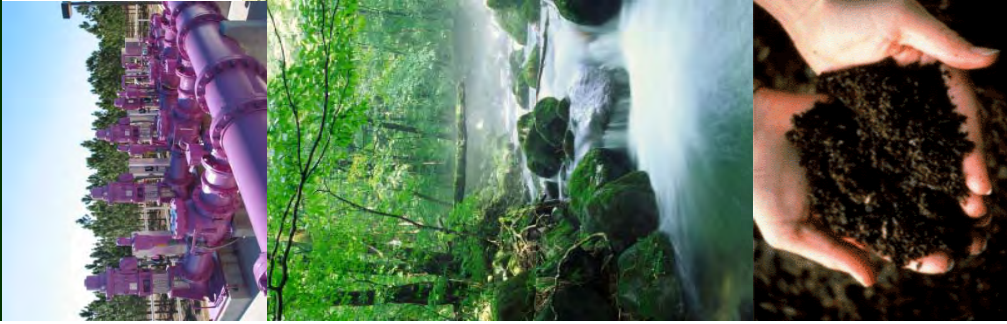
- **Challenge EPA's disruption of Florida's program**
- **Participate in rulemaking process with other interests to...**
 - Reduce unreasonableness in default standards
 - Improve provisions for implementation flexibility
 - Ensure that State developed SSACs/TMDLs have precedence over the default tabulated standard
- **Work constructively with DEP, Legislators, and other governmental entities**





Next Steps

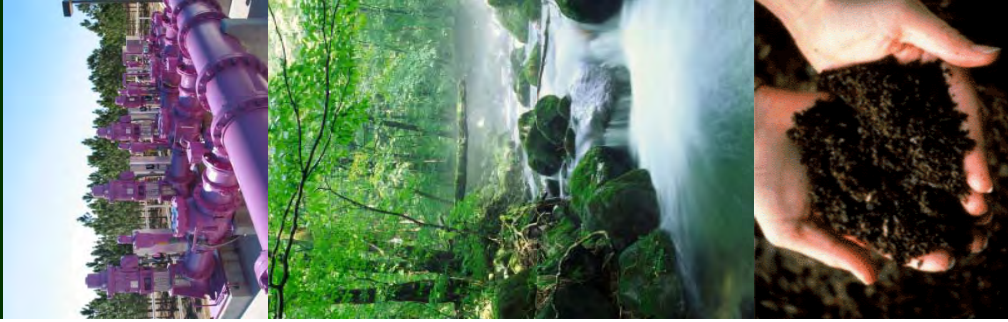
- ***The State of Florida's response to EPA's imposition of federal numeric nutrient standards will greatly shape the future of water quality policy in Florida and throughout the nation.***

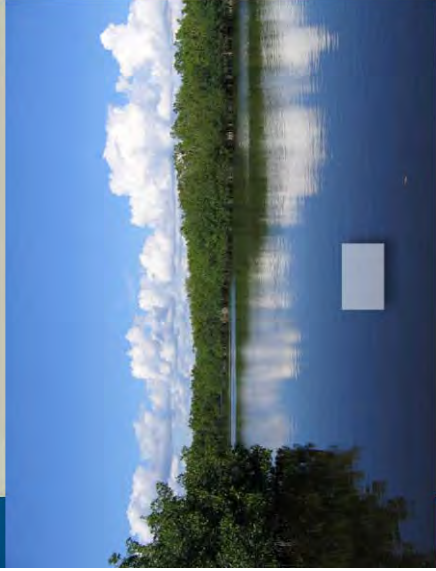




Next Steps

- We request that the Florida Legislature, FDEP, and all other governmental entities work with Stakeholders to request that EPA:
 - Recognize existing nutrient TMDLs and scientifically vetted nutrient targets
 - Ensure any new numeric nutrient standards are water body specific and account for the numerous parameters that drive biological response indicators, not just establish rudimentary TN and TP standards





EPA Numeric Nutrient Criteria Rule

February 3, 2010

CELEBRATING 33 YEARS OF SERVICE,
COMMITMENT AND EXCELLENCE.

■ ■ ■ ■ ■
de la Parte & Gilbert, P.A.
ATTORNEYS AT LAW

Background

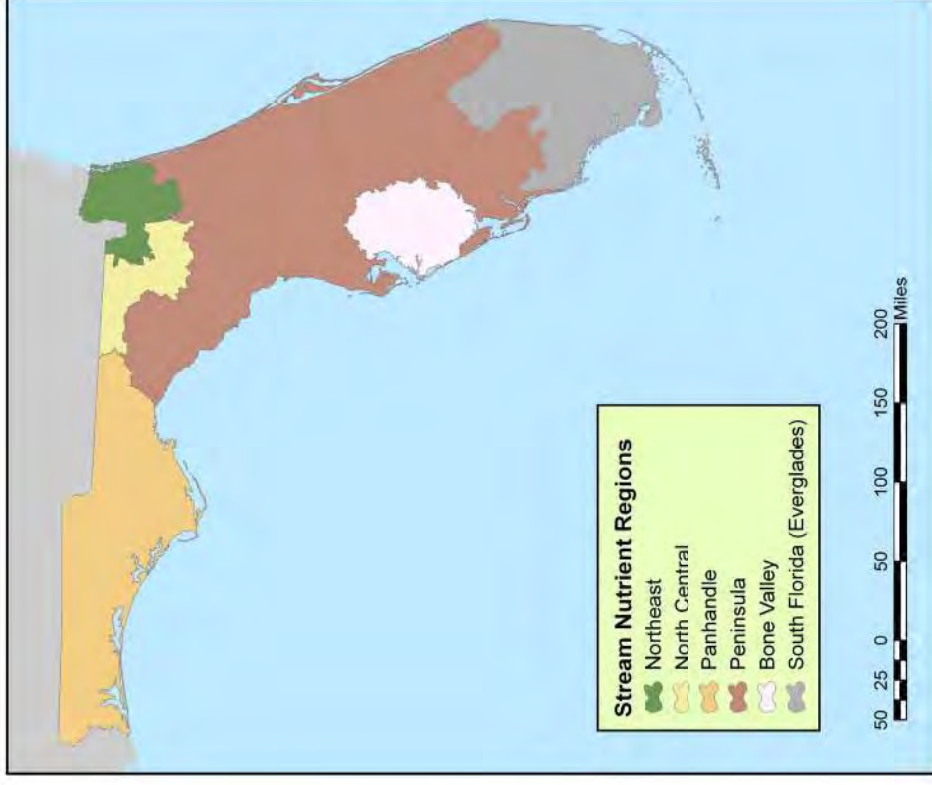
- EPA has determined Florida's existing narrative nutrient water quality standard does not meet the requirements of the Clean Water Act.
- EPA has decided numeric nutrient standards are required for Florida's lakes, streams, canals, wetlands, estuaries and coastal waters.
- EPA has established firm deadlines for establishment of numeric nutrient standards.
- EPA has committed to adopt its own numeric nutrient standards should DEP fail to adopt its own standards by the specified deadlines.
- All NPDES, ERP and similar permits will meet new standards upon renewal or modification through revised effluent limits.

River and Stream Nutrient Regions



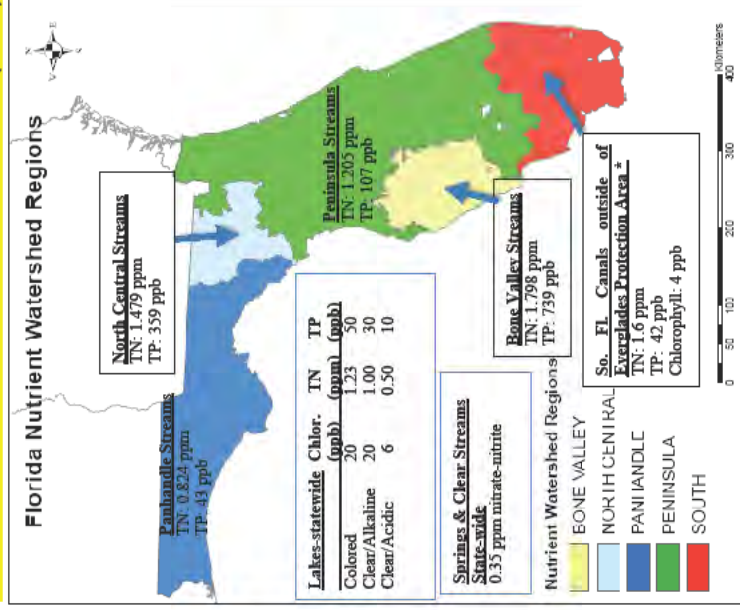
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Proposed Criteria by Watershed Region

EPA'S PROPOSED STATE-WIDE NUTRIENT CRITERIA (1-15-10)



Criteria are to be met as an annual geometric mean not to be exceeded more than once every 3 years and must also be met as a long-term average. (Note: ppm=mg/L) * "...with the exception of canals within the Everglades Protection Area (EvPA) where the TP criterion of 0.010 mg/L currently applies."

Source: Jim Alves, Hopping, Green and Sams

EPA Florida Lake and Reservoir Nutrient Criteria



de la Parte & Gilbert, PA.
ATTORNEYS AT LAW

Long Term Average Lake Color and Alkalinity	Chl <i>a</i> µg/L	TP (mg/L)	TN (mg/L)
Colored Lakes >40 PCU	20	0.050	1.23
Clear Lakes, Alkaline ≤ 40 PCU and > 50 mg/L CaCO ₃	20	0.030	1.00
Clear Lakes, Acidic ≤ 40 PCU and ≤ 50 mg/L CaCO ₃	6	0.010	0.500

EPA Florida River and Stream Nutrient Criteria

Nutrient Watershed Regions	Instream Protection Value (IPV) Criteria	
	TN (mg/L)*	TP (mg/L)*
Panhandle	0.824	0.043
Bone Valley	1.798	0.739
Peninsula	1.205	0.107
North Central	1.479	0.359

* Concentration values are based on annual geometric mean not to be surpassed more than once in a three-year period. In addition, the long-term average of annual geometric mean values shall not surpass the listed concentration values. (Duration = annual; Frequency = not to be surpassed more than once in a three-year period or as a long-term average).

EPA South Florida Canal Criteria

	Chlorophyll <i>a</i> (µg/L)	Total Phosphorus (TP) (mg/L)	Total Nitrogen (TN) (mg/L)
Canals	4.0	0.042	1.6

- Concentration values are based on annual geometric mean not to be surpassed more than once in a three-year period. In addition, the long-term average of annual geometric mean values shall not surpass the listed concentration values. (Duration = annual; Frequency = not to be surpassed more than once in a three-year period or as a long-term average).
- Applies to all canals within the Florida Department of Environmental Protection's South Florida bioregion, with the exception of canals within the Everglades Protection Area where the TP criterion of 0.010 mg/L currently applies.

Rivers and Streams/Canal Comparison

Nutrient Watershed Region	TP mg/L	TN mg/L	Chla µg/L
Panhandle	0.043	0.824	n/a
Bone Valley	0.739	1.798	n/a
Peninsula	0.107	1.205	n/a
North Central	0.359	1.479	n/a
South Florida	0.042	1.60	4.0

 Rivers and streams
  Canals

EPA Watershed Criteria

- In addition to the instream protection values (IPV) proposed for Rivers and Streams, the EPA has also developed a methodology for computing downstream protection values (DPVs).
- The equation EPA is proposing to protect downstream waters will reduce TP concentrations in streams to a level sufficient to ensure compliance with the Lake TP criteria. The equation takes into account percentage contribution by the stream to lake volume and residence time in the lake.
- The downstream numbers are much more stringent than the IPV identified in the table above.

Sample Watershed IPV and DPVs

Tampa Bay Watershed

Protective TN Load for the Estuary: 1,289,671 kg y

River/Stream Reach Category- Percent Delivered to Estuary	TN IPV (mg/L)	TN DPV (mg/L)
Less than 50%	1.798	1.11
50.1 - 60.0%	1.798	0.93
60.1 - 70.0%	1.798	0.80
70.1 - 80.0%	1.798	0.70
80.1 - 90.0%	1.798	0.62
90.1 - 100.0%	1.798	0.56

*The EPA has not calculated protective TP loads for Florida's estuaries of DPVs for TP.

Sample Watershed IPV and DPVs

St. Johns River Watershed

Protective TN Load for the Estuary: 4,954,662 kg y

River/Stream Reach Category- Percent Delivered to Estuary	TN IPV (mg/L)	TN DPV (mg/L)
Less than 50%	1.205	1.41
50.1 - 60.0%	1.205	1.17
60.1 - 70.0%	1.205	1.00
70.1 - 80.0%	1.205	0.88
80.1 - 90.0%	1.205	0.78
90.1 - 100.0%	1.205	0.70

*The EPA has not calculated protective TP loads for Florida's estuaries of DPVs for TP.

Costs to Meet Numeric Nutrient Limits

- Example: An existing 10 mgd water reclamation plant meeting advanced secondary water quality standards for public access reuse will be required to upgrade the biological portion of the plant to meet advanced wastewater treatment (AWT) limits, and then additional tertiary physical-chemical treatment processes such as MF/RO must be added.
 - Based on a study of 50 biological nutrient removal (BNR) upgrade projects the expected cost to upgrade a 10-mgd plant:
 - from secondary to AWT standards is about \$82 million
 - Adding MF/RO treatment to an existing reclamation plant is between \$54 to \$81 million, depending on the concentrate disposal method
 - Thus, the total capital cost to upgrade a 10-mgd water reclamation facility not already meeting AWT limits could be in the range of \$140 to \$160 million, and operating costs would increase by at least \$1 per thousand gallons treated (about \$3.6 million per year) *not including concentrate disposal costs*.

Estimated Costs Associated with Proposed Numeric Nutrient Limits

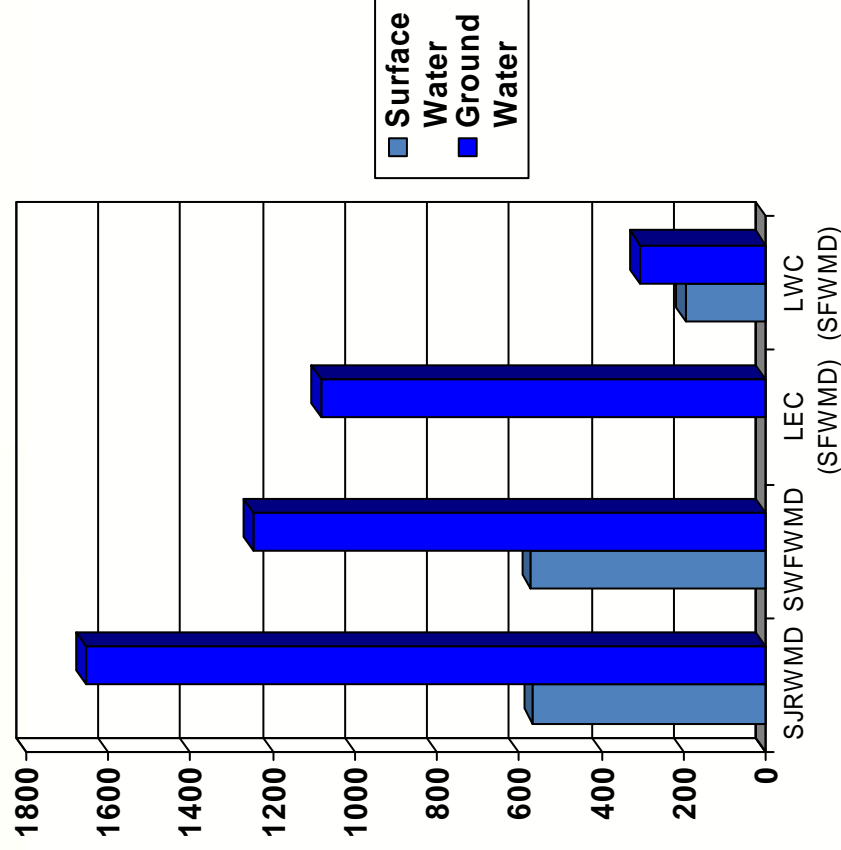
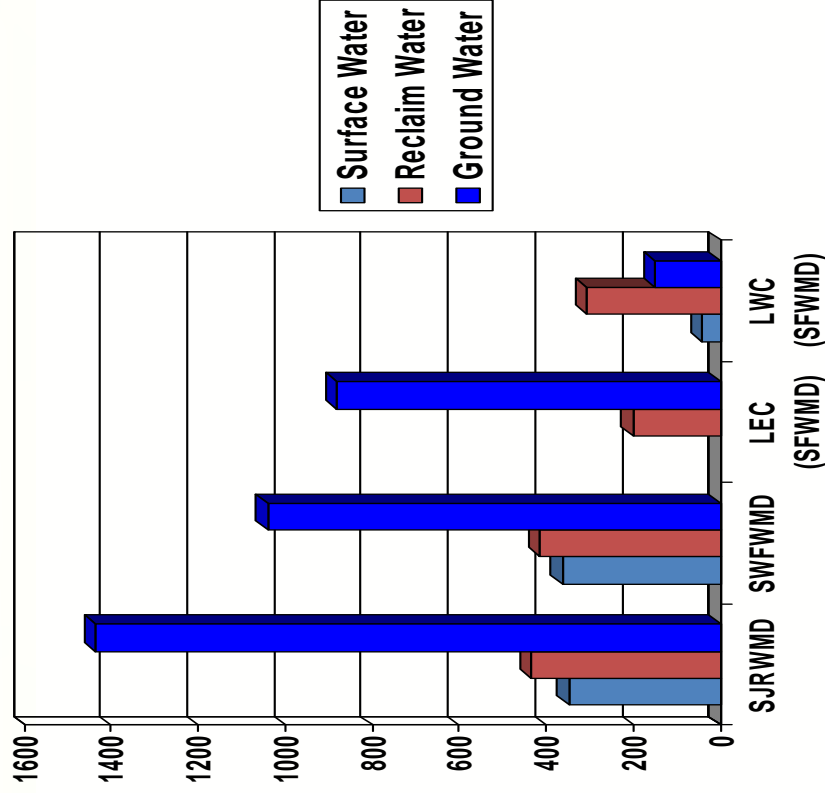
- Justifiable Cost?
 - Approximately doubles the typical residential water/sewer bill for most utilities
 - Cost of this will be born by our citizens and businesses for dubious environmental benefit
 - Disproportionately impact low-income citizens
 - Diverts public resources

Estimated Capital Costs and Increases in Sewer Rates to Construct Facilities to Meet Proposed Numeric Nutrient Limits		
	Capital Cost	Monthly (Annual) Sewer Rate Increase per Household
State of Florida	\$24.4 – 50.7 million	\$62 (\$740)
Bay County	\$42 million	\$57 (\$685)
Broward County	\$425 million	\$66 (\$793)
Destin Water	\$34 million	\$48 (\$581)
Escambia County	\$275 million	\$49 (\$591)
Hollywood	\$370 million	\$82 (\$996)
Jacksonville	\$2 billion	\$67 (\$815)
Point Buena Vista	\$2 million	\$257 (\$3,094)
Cross City	\$5.8 million	\$28 (\$336)
South Walton	\$16 million	\$12 (\$147)

Notes:

1. The low end of the “State of Florida Average” range provides the probable opinion of cost assuming only plants with surface water discharges will be required to meet numeric nutrient limits while the high end of the range assumes that all plants will need to meet the limits. The estimated average costs for the State of Florida include annual O&M expenses and are shown for comparative purposes.

2025 Regional Supply Projections With and Without Reclaim



•Note, SFWMD typically did not distinguish between ground water and surface water. Instead, both were treated as traditional water sources with the exception of 42 mgd of surface water in the LWC that was distinguished as an AWS. Additionally, the traditional water supply in the LWC reflects only the public supply, not regional supply.

Effects of the Numeric Nutrient Rule on Water Supply

- In the three major water management districts, reclaimed water is a leading alternative water supply source.
- If reclaim water becomes infeasible,
 - SJRWMD will have to develop 433.07 mgd;
 - SWFWMD will have to develop 413.4 mgd;
 - SFWMD (LEC) will have to develop 201 mgd; and
 - SFWMD (LWC) will have to develop 307 mgdof water supply sources to make up for the loss of reclaimed water supply. This is a total of **1,354.47 mgd** in these four regions alone.

EPA Numeric Nutrient Criteria - General Effect

- Will significantly impact wastewater treatment plants, reuse systems and certain potable water treatment plants by requiring nutrient effluent standards beyond the ability of current conventional treatment technology.
- Imposes unnecessary additional costs associated with the treatment of wastewater to levels even more stringent than drinking water.
- Could create unintended impacts on the water use permitting system because the conditions for issuance prohibit direct or indirect water quality harm to waters or violations of water quality standards.
- Will require expensive best management practices to control non-point sources.
- Could impede natural system restoration or mitigation.
- Could result in an as much as 75% of Florida's streams, lakes and coastal waters being declared impaired or in noncompliance.
- Could impede growth.

EPA Numeric Nutrient Criteria - So Fla Effect

- Will establish numeric nutrient standards for canals, which would have been omitted under latest DEP rule because of lack of data.
- Will make it difficult, if not impossible, for South Florida utilities to terminate ocean discharges by specified statutory deadline.
- Will impede operation of Central and Southern Florida Flood Control Project and related water control and drainage works.
- Will interfere with timely and cost-effective implementation of Everglades Restoration.
- Could limit water users' ability to withdraw surface water or groundwater from Biscayne aquifer, if withdrawal has effect of concentrating nutrients by reducing water volume in canals.
- Could create enforcement problems because EPA rule does not apply to canals, lakes, and wetlands on tribal lands.

QUESTIONS?

- Contact Information:
Edward P. de la Parte
813-229-2775
edelaparte@dgfirm.com



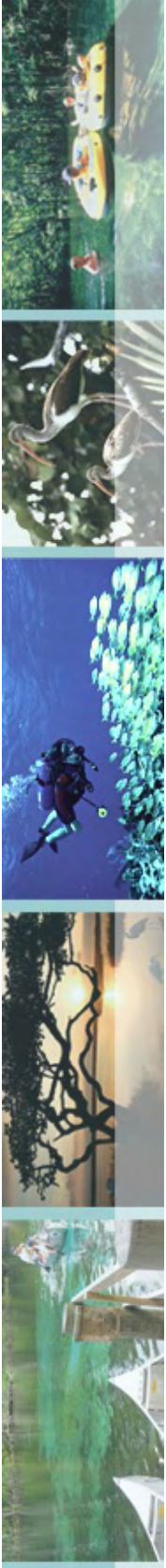
*Florida Department of
Environmental Protection*

Overview of EPA's Proposed Numeric Nutrient Criteria for Lakes and Flowing Waters

*Florida Department of Environmental
Protection, Michael Sole, Secretary*

*Prepared for: House Agriculture & Natural Resources Policy
Committee, February 3, 2010*

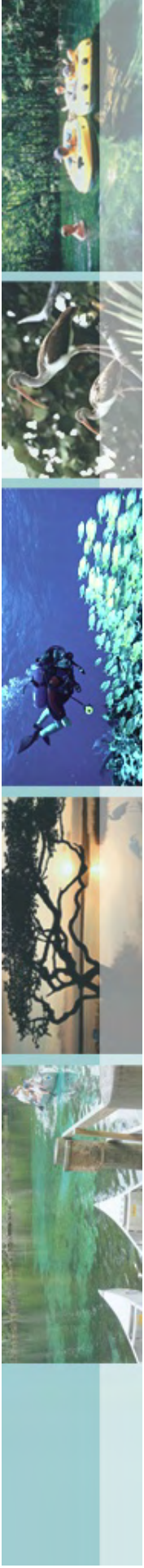
Chair: Representative Trudi Williams



Background

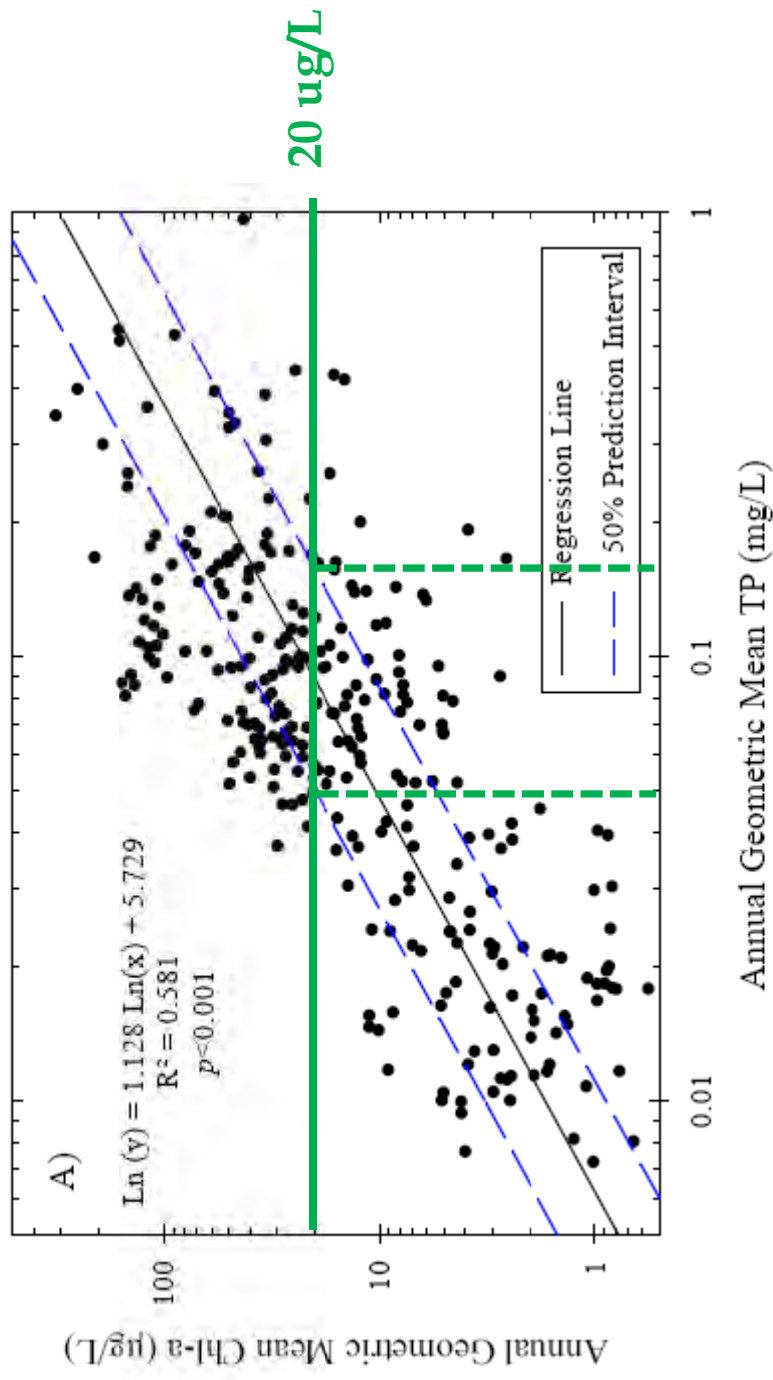
- Proposal includes:
 - Lake, stream, and canal criteria for the protection of aquatic life in each waterbody
 - Additional stream criteria for the protection of aquatic life in downstream waterbodies
 - In any given waterbody, the more stringent criteria applies
- Contains provisions for the establishment of restoration uses
- Proposed with an associated 60 day comment period
- Scheduled for finalization Oct 15, 2010

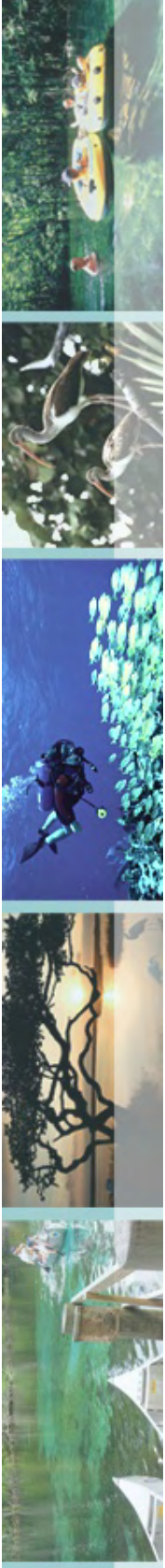




Lake: In-stream Protection Values

Derivation of Criteria Values that Prevent Excess Phytoplankton





Lakes: In-stream Protection Values

Establish chlorophyll *a* threshold to prevent excess algae in the form of phytoplankton.

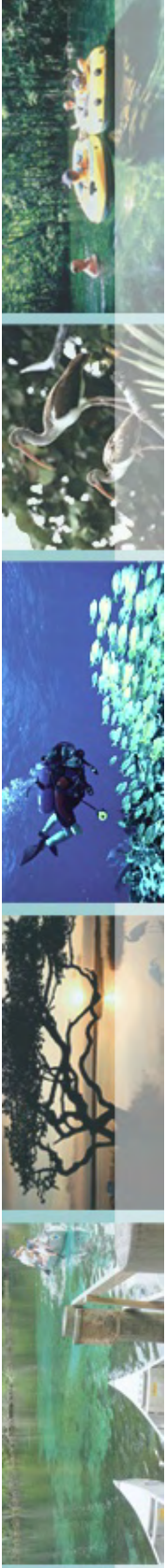
A	B	C	D	E	F
Long Term Average Lake Color and Alkalinity	Chlorophyll <i>a</i> ^f (µg/L) ^a	Baseline Criteria ^b		Modified Criteria (within these bounds) ^c	
		TP (mg/L) ^a	TN (mg/L) ^a	TP (mg/L) ^a	TN (mg/L) ^a
Colored Lakes > 40 PCU	20	0.050	1.23	0.050-0.157	1.23-2.25
Clear Lakes, Alkaline ≤ 40 PCU ^d and > 50 mg/L CaCO ₃ ^e	20	0.030	1.00	0.030-0.087	1.00-1.81
Clear Lakes, Acidic ≤ 40 PCU ^d and ≤ 50 mg/L CaCO ₃ ^e	6	0.010	0.500	0.010-0.030	0.500-0.900

Criteria may be modified within these bounds if chlorophyll *a* is attained.

May not be modified above applicable stream criteria in outflow from lake.

^a Concentration values are based on annual geometric mean not to be surpassed more than once in a three-year period. In addition, the long-term average of annual geometric mean values shall not surpass the listed concentration values. (Duration = annual; Frequency = not to be surpassed more than once in a three-year period or as a long-term average).





Spring/Clear Stream: In-Stream Protection Value

(3) *Criteria for springs, spring runs, and clear streams.* The applicable nitrate-nitrite criterion is 0.35 mg/L as an annual geometric mean not to be surpassed more than once in a three-year period, nor surpassed as a long-term average of annual geometric mean values. In addition to this nitrate-nitrite criterion, criteria identified in paragraph (c)(2) of this section are applicable to clear streams.

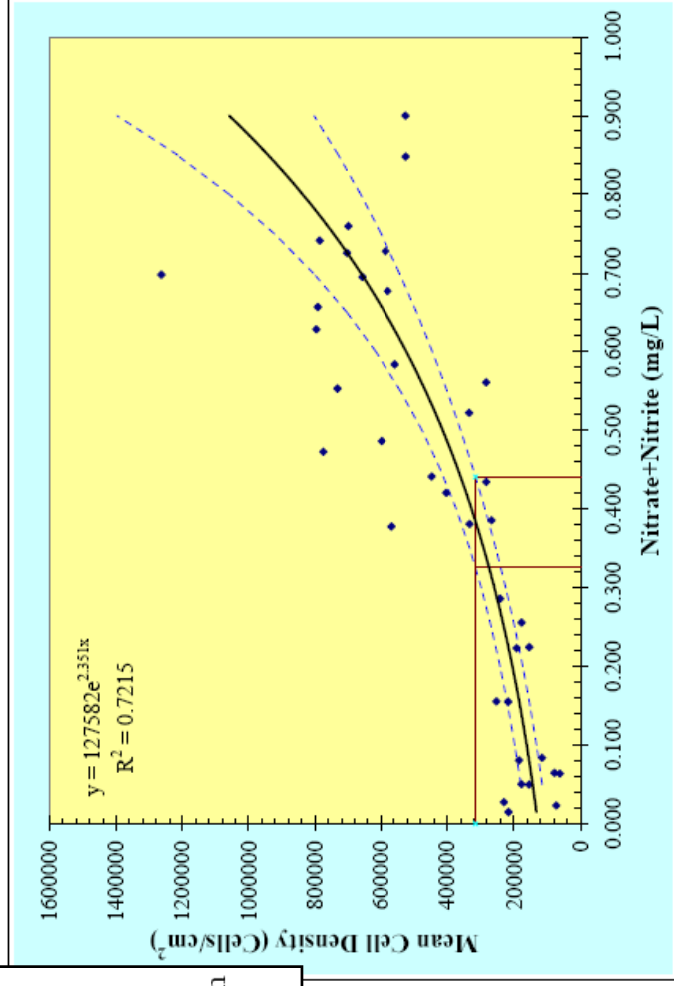
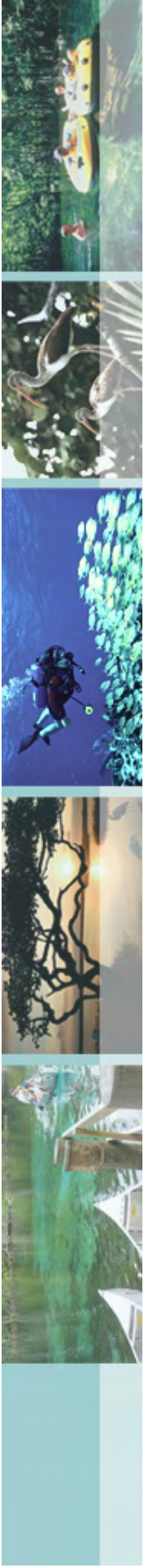


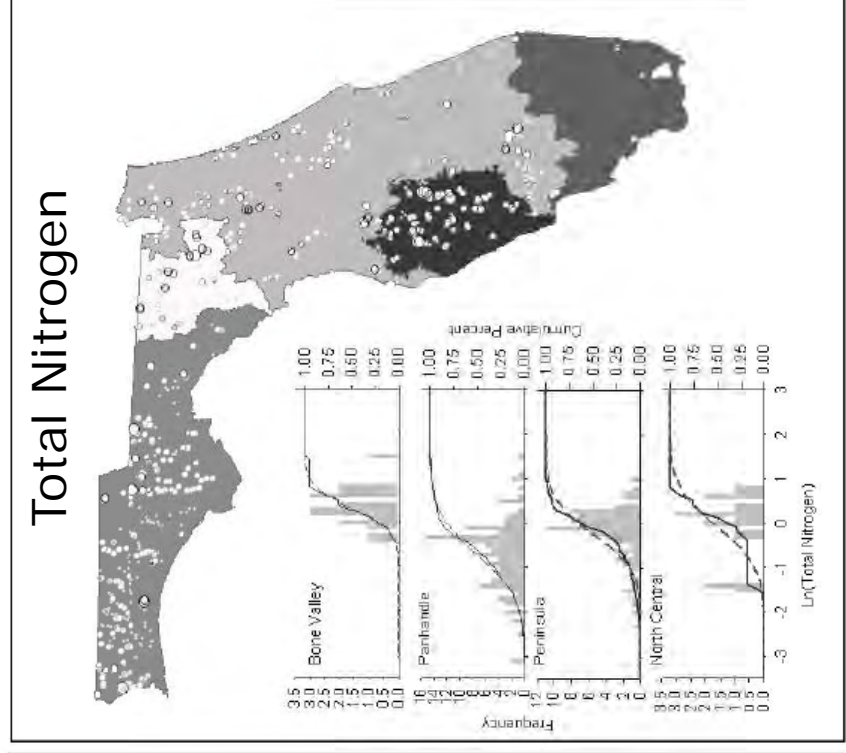
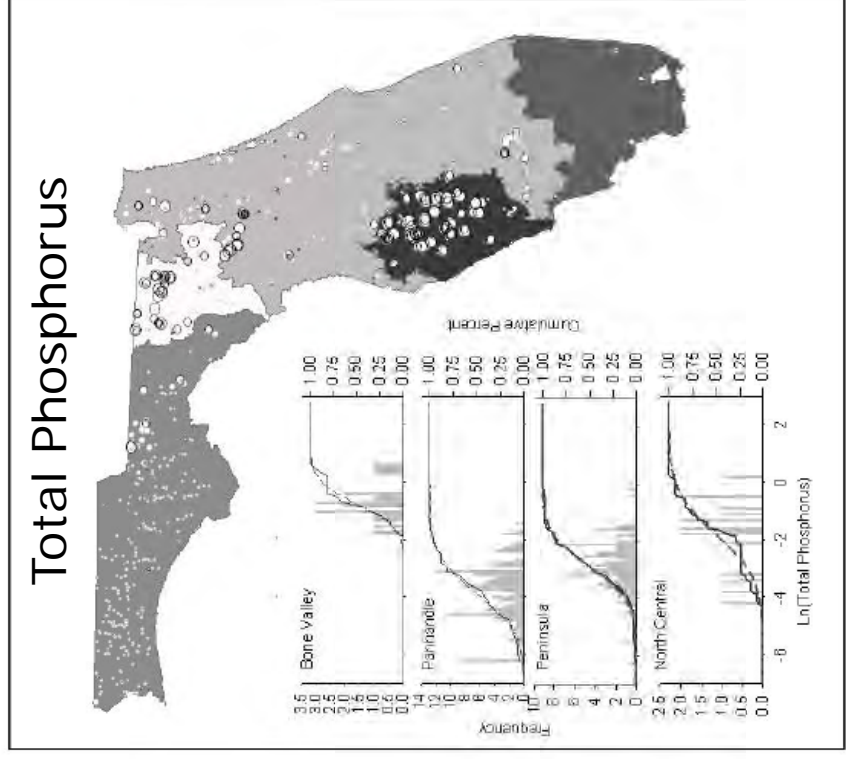
Figure 3-10. An example of the full-range confidence interval procedure to develop a nitrate plus nitrite criterion. The full confidence interval procedure resulted in a protective threshold of 0.33 mg/L. The upper half of confidence interval method yielded a protective threshold of 0.38 mg/L. The average of these complementary methods resulted in the final protective threshold of 0.35 mg/L.

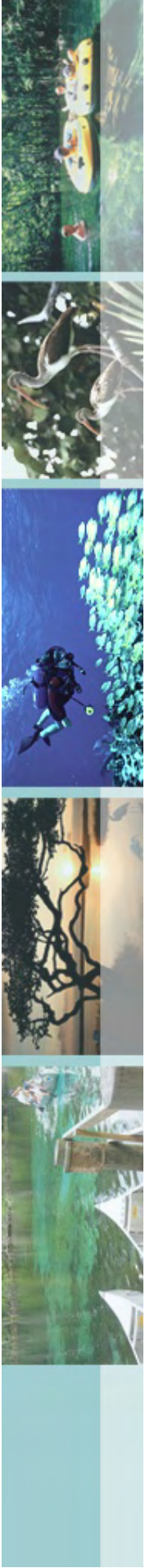




Streams: In-stream Protection Values

75th Percentile Concentration of all Biologically Healthy Sites





Canals: In-stream Protection Values

75th Percentile Concentration of all Sites not Listed as Impaired

Total Phosphorus,
Total Nitrogen, and
Chlorophyll *a*

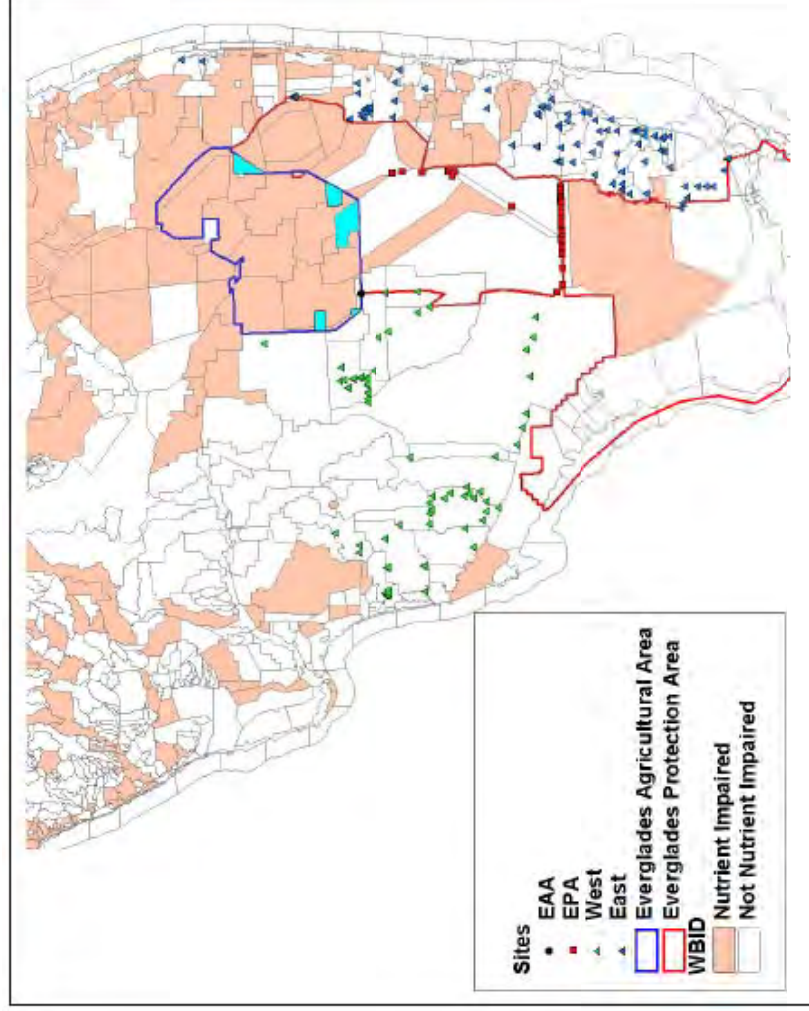
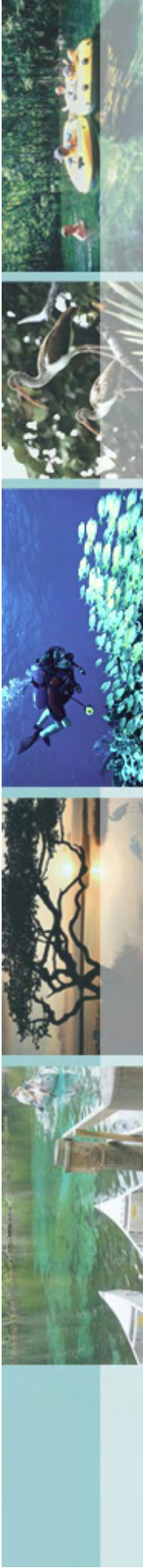


Figure 4-5. Sites located within WBIDs not listed as nutrient-impaired.





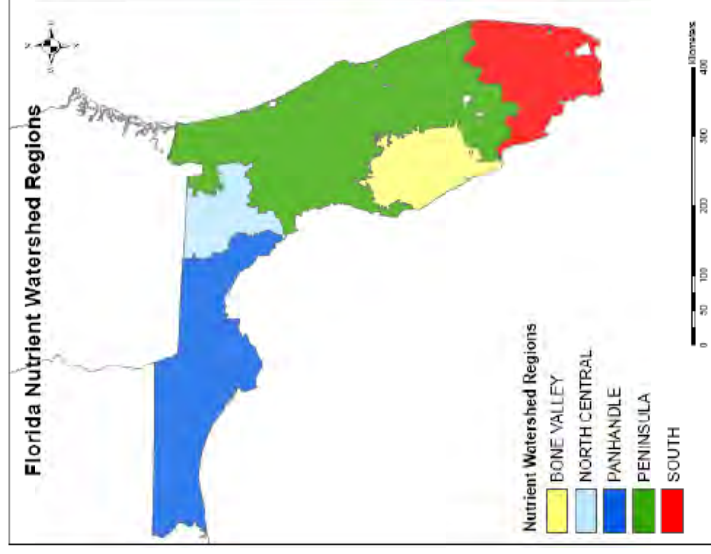
Flowing Waters: In-stream Protection Values

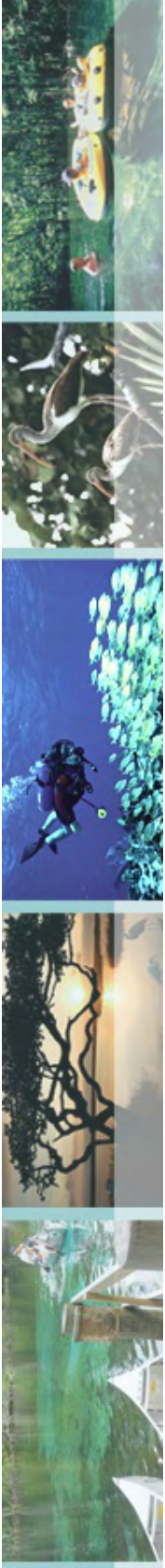
Nutrient Watershed Region	Instream Protection Value Criteria	
	TN (mg/L) ^a	TP (mg/L) ^a
Panhandle ^b	0.824	0.043
Bone Valley ^c	1.798	0.739
Peninsula ^d	1.205	0.107
North Central ^e	1.479	0.359

^a Concentration values are based on annual geometric mean not to be surpassed more than once in a three-year period. In addition, the long-term average of annual geometric mean values shall not surpass the listed concentration values. (Duration = annual; Frequency = not to be surpassed more than once in a three-year period or as a long-term average).

South Nutrient Watershed Region		
Chlorophyll <i>a</i> (µg/L) ^a	Total Phosphorus (TP) (mg/L) ^{a, b}	Total Nitrogen (TN) (mg/L) ^a
Canals	4.0	1.6
	0.042	1.6

^b Applies to all canals within the Florida Department of Environmental Protection's South Florida bioregion, with the exception of canals within the Everglades Protection Area (EvPA) where the TP criterion of 0.010 mg/L currently applies.





Streams: Downstream Protection Values

Protection of Downstream Lakes

$$[\text{TP}]_s = \frac{1}{c_f} [\text{TP}]_L (1 + \sqrt{\tau_w})$$

where

$[\text{TP}]_s$ is the total phosphorus (TP) downstream lake protection value, mg/L

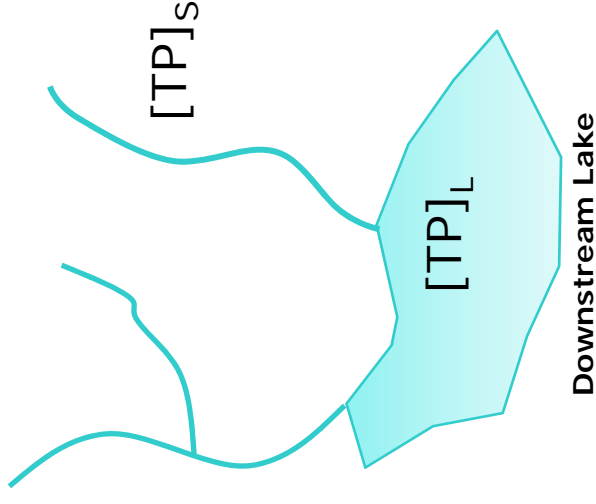
$[\text{TP}]_L$ is applicable TP lake criterion, mg/L

c_f is the fraction of inflow due to all streamflow, $0 \leq c_f \leq 1$

τ_w is lake's hydraulic retention time (water volume divided by annual flow rate)

The term $(1 + \sqrt{\tau_w})$ expresses the net phosphorus loss from the water column (e.g., via settling of sediment-sorbed phosphorus) as a function of the lake's retention time.

(B) The preset values for c_f and τ_w , respectively, are 0.5 and 0.2. The State may

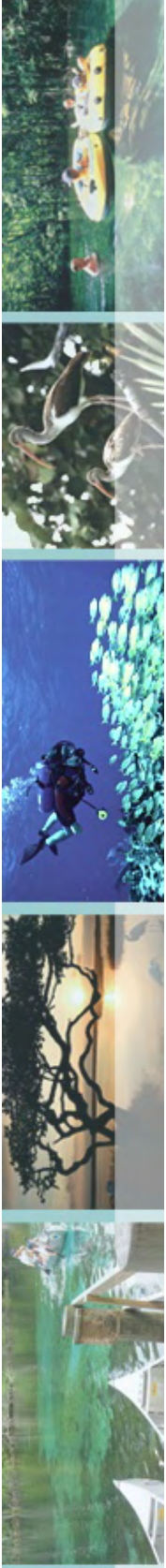


Using Default Values

Colored Lakes: $[\text{TP}]_s = 0.12 \text{ mg/L}$

Clear/Acidic Lakes: $[\text{TP}]_s = 0.073 \text{ mg/L}$





Streams: Downstream Protection Values

Protection of Downstream Estuaries

$$\bar{C}_i = kL_{est} \frac{1}{\bar{Q}_W F_i}$$

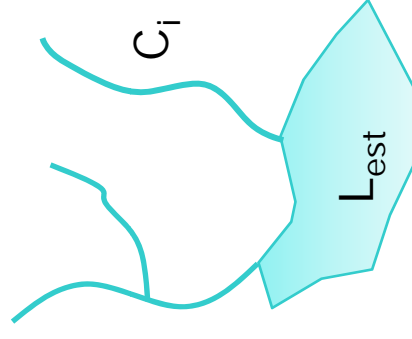
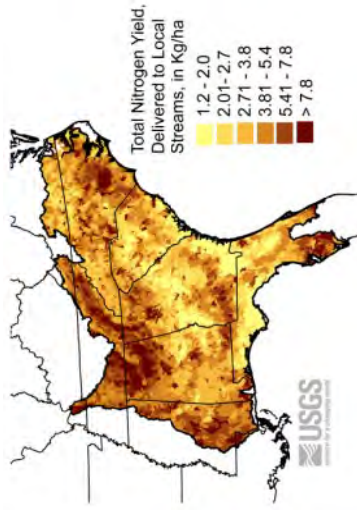
and where the terms are defined as follows for a specific or (i^{th}) stream reach:

- \bar{C}_i maximum flow-averaged nutrient concentration for a specific (the i^{th}) stream reach consistent with downstream use protection (i.e., the DPV)
- k fraction of all loading to the estuary that comes from the stream network resolved by SPARROW

L_{est} protective loading rate for the estuary, from all sources

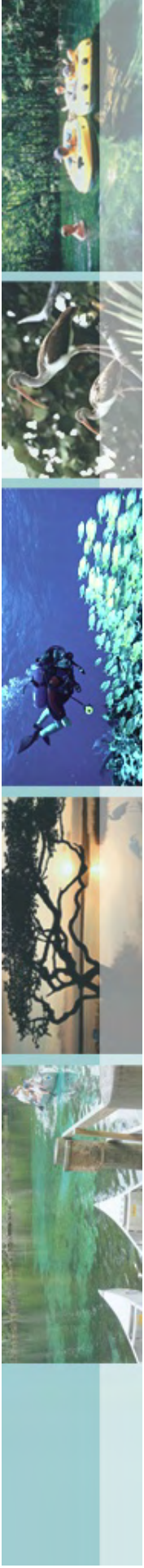
\bar{Q}_W combined average freshwater discharged into the estuary from the portion of the watershed resolved by the SPARROW stream network

F_i fraction of the flux at the downstream node of the specific (i^{th}) reach that is transported through the stream network and ultimately delivered to estuarine receiving waters (i.e. Fraction Delivered).



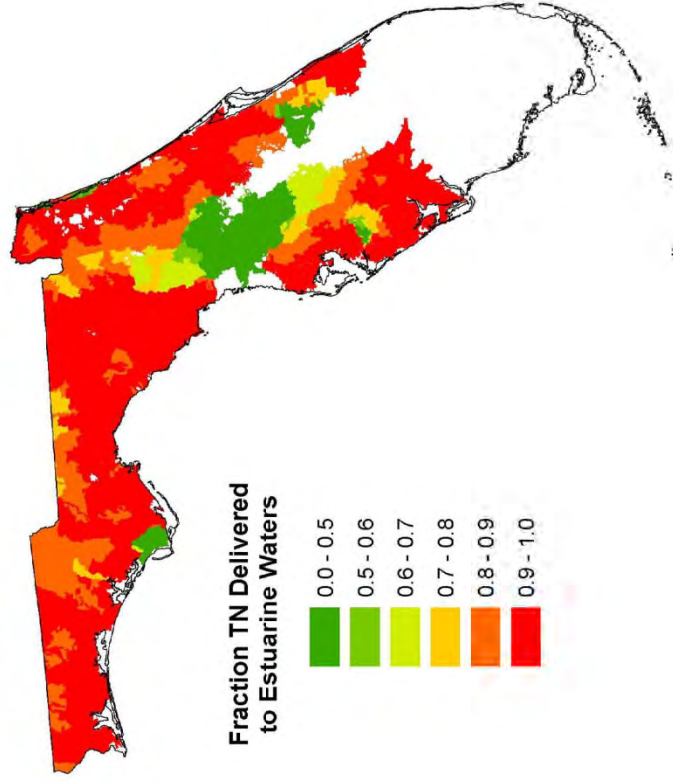
Downstream Estuary





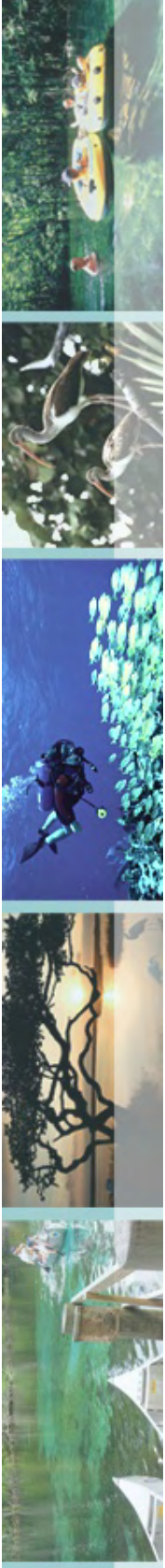
Streams: Downstream Protection Values

Protection of Downstream Estuaries



Estuary Drainage Area	TN Criteria at > 90% Delivered
Perdido Bay	0.30 mg/L
Pensacola Bay	0.43
Choctawhatchee Bay	0.43
St. Andrews Bay	0.24
Apalachicola Bay	0.46
Apalachee Bay	0.53
Suwannee River	0.55
Waccasassa Coastal	0.40
Tampa Bay	0.56
Sarasota Bay	0.54
Charlotte Harbor	0.95
Indian River	0.69
St. Johns River	0.70
Nassau Coastal	0.30
St. Mary's River	0.34





Other Applicable Provisions

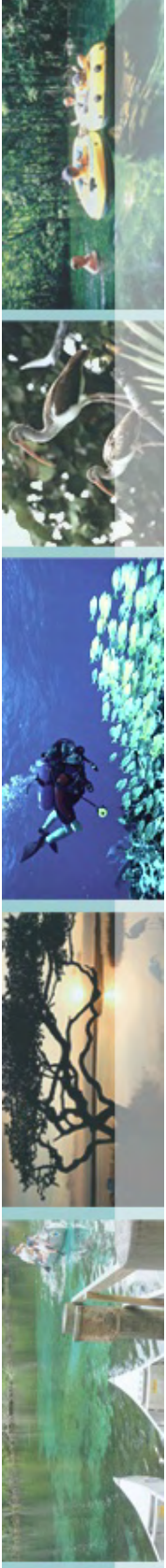
- Allowances for Site Specific Criteria adoption

(1) Upon request from the State, the Regional Administrator may determine that site-specific alternative criteria shall apply to specific surface waters in lieu of the criteria established in paragraph (c). Any such determination shall be made consistent with §131.11.

- Allowances for Mixing Zones

(i) For all waters with mixing zone regulations or implementation procedures, the criteria apply at the appropriate locations within or at the boundary of the mixing zones; otherwise the criteria apply throughout the water body including at the point of discharge into the water body.



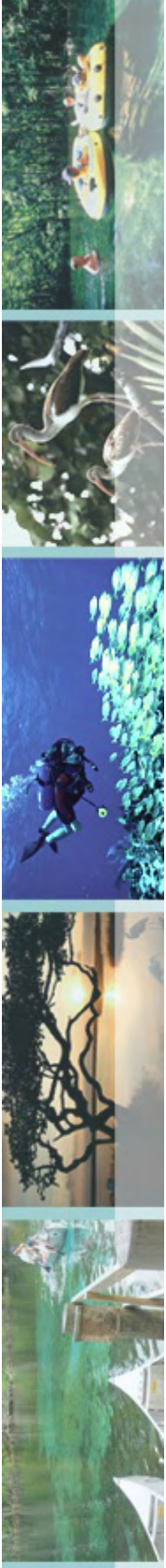


Initial Assessment Conclusion

- **EPA proposed criteria do not reflect a true relationship between nutrient enrichment and the biological health of Florida’s surface waters**

Ramifications demand the criteria be based on what is necessary to protect Florida’s surface waters

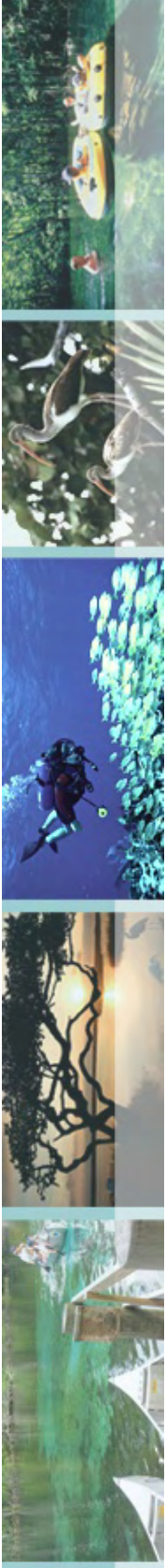




Ramifications

- On average 80% of Florida's **most pristine rivers/streams** will be deemed impaired based on downstream protection values
 - Requires remediation actions that are not necessary
 - Demands development of site specific alternative criteria to correct flaws in criteria methodology
 - Potential to cause harm to economically important biological resources (i.e. oyster beds)
- Conventional municipal wastewater technology (EPA, 2008) cannot achieve EPA proposed criteria
- Existing technology for agriculture cannot achieve EPA proposed criteria
- Compliance will force an investment of billions of dollars without environmental benefit





Questions?

- More information may be found on the department's website at:
- <http://www.dep.state.fl.us/water/wqssp/nutrients/index.htm>

