

By the Committee on Environmental Preservation and Conservation

592-02848-13

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1 A bill to be entitled

2 An act relating to numeric nutrient criteria; amending
3 s. 403.061, F.S.; authorizing the Department of
4 Environmental Protection to implement ss. 403.088 and
5 403.067, F.S., to control nutrient load in state
6 waters; authorizing the department to implement its
7 adopted nutrient standards; directing the department
8 to remove rule 62-302.531(9), Florida Administrative
9 Code, when the United States Environmental Protection
10 Agency withdraws all federal numeric nutrient criteria
11 rules in the state; subjecting any numeric nutrient
12 rules for estuaries adopted in 2013 to the provisions
13 of rule 62-302.531(9), Florida Administrative Code,
14 and exempting them from ratification under s.
15 120.541(3), F.S.; directing the department to
16 establish estuary specific numeric interpretations of
17 the narrative nutrient criterion for total nitrogen,
18 total phosphorus, and chlorophyll a for any estuary
19 not already subject to department numeric nutrient
20 criteria; directing the department to send a report to
21 the Governor, the Speaker of the House of
22 Representatives, and the President of the Senate by
23 August 1, 2013, concerning the status of establishing
24 numeric nutrient criteria in the state; providing an
25 effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

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29 Section 1. Subsection (43) is added to section 403.061,

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30 Florida Statutes, to read:

31 403.061 Department; powers and duties.—The department shall
32 have the power and the duty to control and prohibit pollution of
33 air and water in accordance with the law and rules adopted and
34 promulgated by it and, for this purpose, to:

35 (43) (a) Implement ss. 403.088 and 403.067 in flowing waters
36 consistent with the attainment and maintenance of:

37 1. The narrative criterion for nutrients and any in-stream
38 numeric interpretation of the narrative water quality criterion
39 for nutrients adopted by the department in streams, canals, and
40 other conveyances; and

41 2. Nutrient water quality standards applicable to
42 downstream waters.

43 (b) The loading of nutrients to downstream waters from a
44 stream, canal, or other conveyance shall be limited to provide
45 for the attainment and maintenance of nutrient water quality
46 standards in the downstream waters.

47 1. If the downstream water does not have a total maximum
48 daily load adopted under s. 403.067 and has not been verified as
49 impaired by nutrient loadings, then the department shall
50 implement its authority in a manner that prevents impairment of
51 the downstream water due to loadings from the upstream water.

52 2. If the downstream water does not have a total maximum
53 daily load adopted under s. 403.067 but has been verified as
54 impaired by nutrient loadings, then the department shall adopt a
55 total maximum daily load under s. 403.067.

56 3. If the downstream water has a total maximum daily load
57 adopted under s. 403.067 that interprets the narrative water
58 quality criterion for nutrients, then allocations shall be set

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59 for upstream water bodies in accordance with s. 403.067(6), and
60 if applicable, the basin management action plan established
61 under s. 403.067(7).

62 (c) Compliance with an allocation calculated under s.
63 403.067(6), or if applicable, the basin management action plan
64 established under s. 403.067(7) for the downstream water shall
65 constitute reasonable assurance that a discharge does not cause
66 or contribute to the violation of the downstream nutrient water
67 quality standards.

68
69 The department shall implement such programs in conjunction with
70 its other powers and duties and shall place special emphasis on
71 reducing and eliminating contamination that presents a threat to
72 humans, animals or plants, or to the environment.

73 Section 2. The Department of Environmental Protection is
74 authorized to implement its adopted nutrient standards for
75 streams, springs, lakes, and estuaries consistent with the
76 document entitled "Implementation of Florida's Numeric Nutrient
77 Standards," which was proposed for adoption by the department in
78 the Florida Administrative Register, Vol. xx, No. xx, pages xxx-
79 xxx. This document shall be subject to the provisions of rule
80 62-302.531(9), Florida Administrative Code, and exempt from
81 ratification under s. 120.541(3), Florida Statutes.

82 Section 3. When the United States Environmental Protection
83 Agency withdraws all federal numeric nutrient criteria rules in
84 the State of Florida, and otherwise ceases all federal nutrient
85 rulemaking in the State of Florida, then rule 62-302.531(9),
86 Florida Administrative Code, shall expire and the Department of
87 Environmental Protection shall remove it from the Florida

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88 Administrative Code pursuant to the provisions of chapter 120,
89 Florida Statutes.

90 Section 4. Any nutrient criteria rules for estuaries
91 adopted by the Department of Environmental Protection in 2013
92 are subject to the provisions of rule 62-302.531(9), Florida
93 Administrative Code, and exempt from ratification under s.
94 120.541(3), Florida Statutes.

95 Section 5. The Department of Environmental Protection shall
96 establish by rule or final order the estuary specific numeric
97 interpretations of the narrative nutrient criterion for total
98 nitrogen, total phosphorus, and chlorophyll a for any estuaries
99 not already subject to the department's numeric nutrient
100 criteria, and establish chlorophyll a interpretations of the
101 narrative nutrient criterion for non-estuarine coastal waters by
102 December 1, 2014, subject to the provisions of chapter 120,
103 Florida Statutes. The water quality standard pursuant to s.
104 403.061(11), Florida Statutes, for total nitrogen, total
105 phosphorus, and chlorophyll a in estuaries, and chlorophyll a in
106 non-estuarine coastal waters, shall be the current conditions of
107 those unimpaired waters, accounting for climactic and hydrologic
108 cycles, until such time as a numeric interpretation of the
109 narrative water quality criterion for nutrients is established
110 by rule or final order. The Department of Environmental
111 Protection shall send a report to the Governor, the Speaker of
112 the House of Representatives, and the President of the Senate by
113 August 1, 2013, conveying the status of establishing numeric
114 interpretations of the narrative nutrient criterion pursuant to
115 this section and including the department's calculation of the
116 numeric values that represent the current conditions of those

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117 unimpaired waters as stated herein for those estuaries and non-
118 estuarine coastal waters without numeric interpretations of the
119 narrative nutrient criterion established by rule or final order
120 as of the date of the report.

121 Section 6. This act shall take effect upon becoming a law.