

2013 Numeric Nutrient Criteria Legislative Language

Section 1. 403.061, F.S. Department; powers and duties

The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it and, for this purpose, to:

...

(43)(a) Implement sections 403.088 and 403.067 in flowing waters consistent with the attainment and maintenance of:

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

2. Nutrient water quality standards applicable to downstream waters.

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

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

2. If the downstream water does not have a total maximum daily load adopted under s.403.067 But has been verified as impaired by nutrient loadings, then the Department shall adopt a total maximum daily load under s. 403.067.

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

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

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

Section 2. The department is authorized to implement its adopted nutrient standards for streams, springs, lakes, and estuaries consistent with the document entitled "Implementation of Florida's Numeric Nutrient Standards," which was proposed for adoption by the department in the Florida Administrative Register, Vol. xx, No. ss, pages xxx-xxx. This document shall be subject to the provisions of 62-302.531(9), Florida Administrative Code, and exempt from ratification under s. 120.541(2), F.S.

Section 3. When the United States Environmental Protection Agency withdraws all federal numeric nutrient criteria rules in the State of Florida, and otherwise ceases all federal nutrient rulemaking in the State of Florida, then section 62-302.531 (9), Florida Administrative Code, shall expire and the department shall remove it from the Florida Administrative Code pursuant to the provisions of Chapter 120, F.S.

Section 4. Any nutrient criteria rules for estuaries adopted by the Department in 2013 are subject to the provisions of 62-302.531(9), Florida Administrative Code, and exempt from ratification under s. 120.541(3), F.S.

Section 5. The Department shall establish by rule or final order the estuary specific numeric interpretations of the narrative nutrient criterion for total nitrogen, total phosphorus, and chlorophyll *a* for any estuaries not already subject to Department numeric nutrient criteria, and establish chlorophyll *a* interpretations of the narrative nutrient criterion for non-estuarine, coastal waters by December 1, 2014, subject to the provisions of Chapter 120, F.S. The water quality standard pursuant to 403.061(11)

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F.S. for total nitrogen, total phosphorus, and chlorophyll *a* in estuaries, and chlorophyll *a* in non-estuarine, coastal waters, shall be the current conditions of those unimpaired waters, accounting for climactic and hydrologic cycles, until such time as a numeric interpretation of the narrative water quality criterion for nutrients is established by rule of final order. The Department shall send a report to the Governor, the Speaker of the House of Representatives, and the President of the Senate by August 1, 2013, conveying the status of establishing numeric interpretations of the narrative nutrient criterion pursuant to this Section and include the Department's calculation of current conditions of those unimpaired waters as stated herein for those estuaries and non-estuarine coastal waters without numeric interpretations of the narrative nutrient criterion established by rule or final order as of the date of the report.