

112TH CONGRESS
2D SESSION

S. 2115

To limit the authority of the Administrator of the Environmental Protection Agency with respect to certain numeric nutrient criteria, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 2012

Mr. RUBIO introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To limit the authority of the Administrator of the Environmental Protection Agency with respect to certain numeric nutrient criteria, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “State Waters Partner-
5 ship Act of 2012”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the Environmental Protection Agency has
9 repeatedly described the State of Florida as having

1 some of the most progressive nutrient management
2 strategies in the United States;

3 (2) the Environmental Protection Agency
4 agrees with the State of Florida that the Federal
5 Water Pollution Control Act (33 U.S.C. 1251 et
6 seq.) envisions that States have the primary role in
7 establishing and implementing water quality stand-
8 ards for State water;

9 (3) the Environmental Protection Agency has
10 repeatedly referenced a desire to work cooperatively
11 with States in the development and implementation
12 of numeric nutrient criteria;

13 (4) the Environmental Protection Agency has
14 stated that, upon approval of numeric nutrient cri-
15 teria by the State of Florida, the Administrator will
16 promptly initiate a rulemaking to repeal federally
17 promulgated numeric nutrient criteria;

18 (5) on December 8, 2011, the Florida Environ-
19 mental Regulation Commission adopted numeric nu-
20 trient criteria for fresh water bodies and estuary
21 systems of the State of Florida, which included a
22 firm regulatory schedule for adoption of additional
23 marine criteria; and

24 (6) the Environmental Protection Agency has
25 stated that, if the State of Florida adopts, and the

1 Administrator approves, numeric nutrient criteria
2 for any water for which the Environmental Protec-
3 tion Agency has not yet proposed or promulgated
4 Federal numeric nutrient criteria, the Environ-
5 mental Protection Agency will not propose or pro-
6 mulgate corresponding Federal numeric nutrient cri-
7 teria.

8 **SEC. 3. DEFINITIONS.**

9 In this Act:

10 (1) ADMINISTRATOR.—The term “Adminis-
11 trator” means the Administrator of the Environ-
12 mental Protection Agency.

13 (2) FLORIDA AMENDED RULE.—The term
14 “Florida amended rule” means chapters 62–302 and
15 62–303 of the Florida Administrative Code, as ap-
16 proved for adoption by the Florida Environmental
17 Regulation Commission on December 8, 2011, and
18 submitted on December 9, 2011, to the Florida Leg-
19 islature for ratification.

20 (3) JANUARY 14, 2009, DETERMINATION.—The
21 term “January 14, 2009, determination” means the
22 determination issued by the Administrator on Janu-
23 ary 14, 2009, under section 303(c)(4)(B) of the
24 Federal Water Pollution Control Act (33 U.S.C.

1 1313(c)(4)(B)), regarding numeric nutrient criteria
2 for the State of Florida.

3 (4) NUMERIC NUTRIENT CRITERIA.—The term
4 “numeric nutrient criteria” means specific numerical
5 criteria for any species of nitrogen or phosphorus de-
6 veloped to meet the water quality requirements of
7 section 303 of the Federal Water Pollution Control
8 Act (33 U.S.C. 1313).

9 **SEC. 4. SENSE OF CONGRESS.**

10 It is the sense of Congress that the Administrator
11 should—

12 (1) take into account the effect of numeric nu-
13 trient criteria on the economy, job creation, con-
14 sumers, municipalities, agriculture, small business,
15 and other affected sectors, using State data, infor-
16 mation, and independent studies to ensure account-
17 ability; and

18 (2) not promulgate or enforce any numeric nu-
19 trient criteria that would result in a negative eco-
20 nomic impact of 15 percent or higher on any such
21 sector.

22 **SEC. 5. NUMERIC NUTRIENT CRITERIA.**

23 (a) IN GENERAL.—The Administrator shall not pro-
24 pose, promulgate, or enforce any numeric nutrient criteria
25 for any stream, lake, spring, canal, estuary, or marine

1 water of the State of Florida, until the Administrator
2 makes a final determination in accordance with section
3 303(c) of the Federal Water Pollution Control Act (33
4 U.S.C. 1313(c)) regarding the Florida amended rule.

5 (b) WITHDRAWAL OF REGULATIONS.—If the Admin-
6 istrator determines under section 303(c) of the Federal
7 Water Pollution Control Act (33 U.S.C. 1313(c)) that the
8 Florida amended rule meets the requirements of that Act
9 (33 U.S.C. 1251 et seq.)—

10 (1) the Administrator shall not enforce, and
11 shall withdraw, section 131.43 of title 40, Code of
12 Federal Regulations (or a successor regulation), in
13 its entirety; and

14 (2) shall not propose or promulgate any nu-
15 meric nutrient criteria for any stream, lake, spring,
16 canal, estuary, or marine water of the State of Flor-
17 ida based on the January 14, 2009, determination.

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