

Numeric Nutrient Criteria Update

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Lake Worth Lagoon Initiative:

Water Resources Working Group Meeting

South Florida Water Management District Headquarters

West Palm Beach, Florida

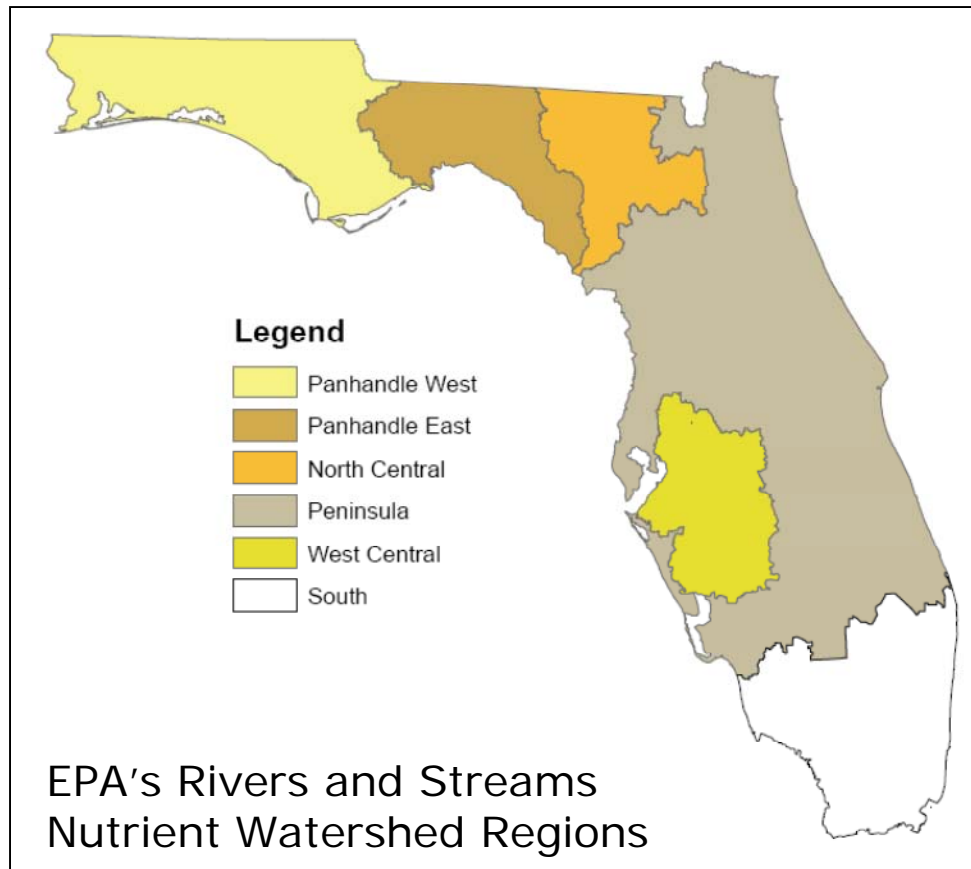
February 10, 2012

3 Components of Numeric Nutrient Criteria (NNC) Rules for Presentation Today



- **Current EPA rule:**
 - Freshwater Lakes, Springs, Rivers Streams, and Downstream Protection Values
- **Future EPA Rulemaking:**
 - All Estuaries, Offshore Waters, Downstream Protection Values and South Florida Canals
- **Current DEP rulemaking:**
 - Freshwaters Lakes, Springs, Rivers and Streams, and some Estuaries:
 - Narrative rule for some waters
 - Current TMDLs become NNC

EPA's Current NNC Rule



- Lakes (final criteria December 2010; covers entire state)
- 5 Rivers + Streams* regions (final criteria December 2010)
- 15 months to begin implementation (~~March 2012~~, now June 2012)

* Downstream Protection Values component in rule that takes into account lakes

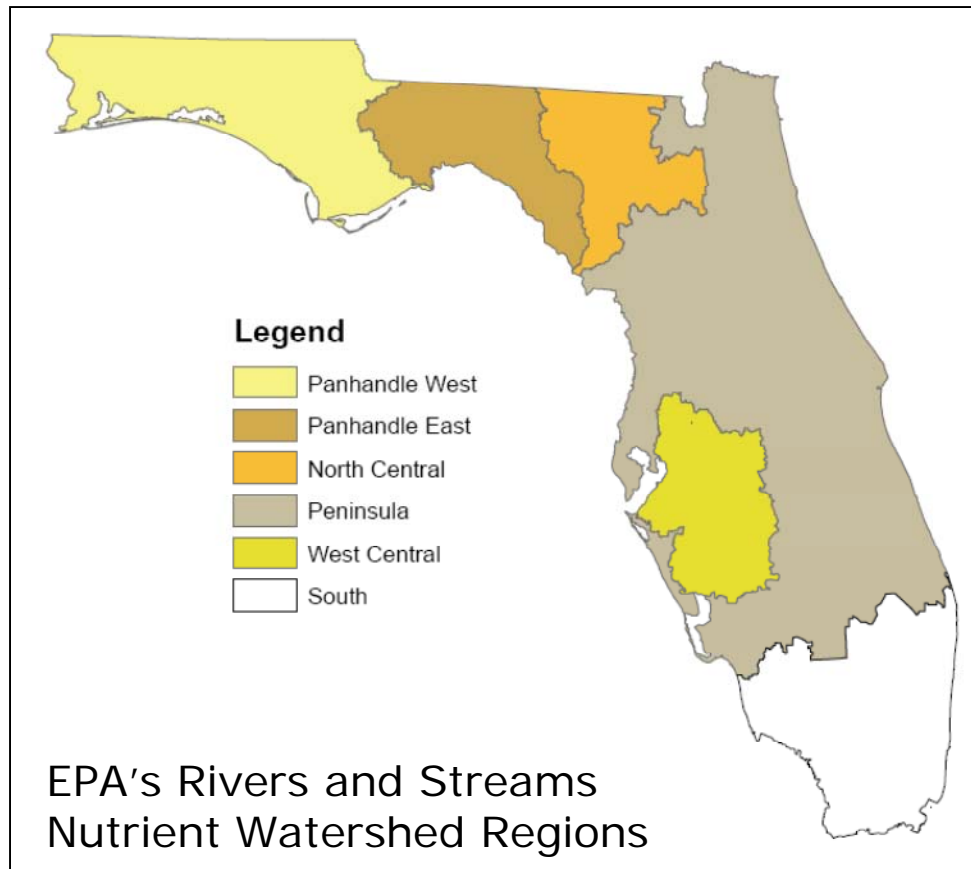
(http://water.epa.gov/lawsregs/rulesregs/florida_index.cfm)

EPA's Current Rule: The Economics

- National Research Council's Economic Study
 - 1st meeting held Jul. 25-26, 2011 in Orlando, FL
- Cost estimates vary due, in part, to assumptions:
 - For example, level of treatment that would be required to meet NNC (especially if "end of pipe criteria" or not)
- Panel set Feb. 28, 2012 deadline for initial draft recommendations:
 - Panel is not coming up with their own numbers
 - EPA's rule due out for implementation on June 4, 2012

(<http://www8.nationalacademies.org/cp/projectview.aspx?key=49374>)

EPA's Future NNC Rulemaking



- Estuaries and Coastal Waters statewide *
- South Florida Canals
- Both Water Types:
 - EPA Scientific Advisory Board Review complete
 - Proposed Rule due ~~November 2011~~, now March 2012
 - Final Rule due **August 2012**, **November 2012**

* Marine Waters may have a Downstream Protection Values component in rule

EPA's Future NNC Rulemaking: Scientific Advisory Board (SAB) Peer Review

- Presented final document to EPA (July 2011) on review of NNC for marine waters and SF Canals
- Majority of document focused on technical review of marine methodologies (pros and cons):
 - Time to complete rulemaking was a concern
- "SAB was not convinced by the available data that nutrient criteria based on instream protection values were meaningful for man-made and managed canals."



DEP's Current Rulemaking: 2011 Activities

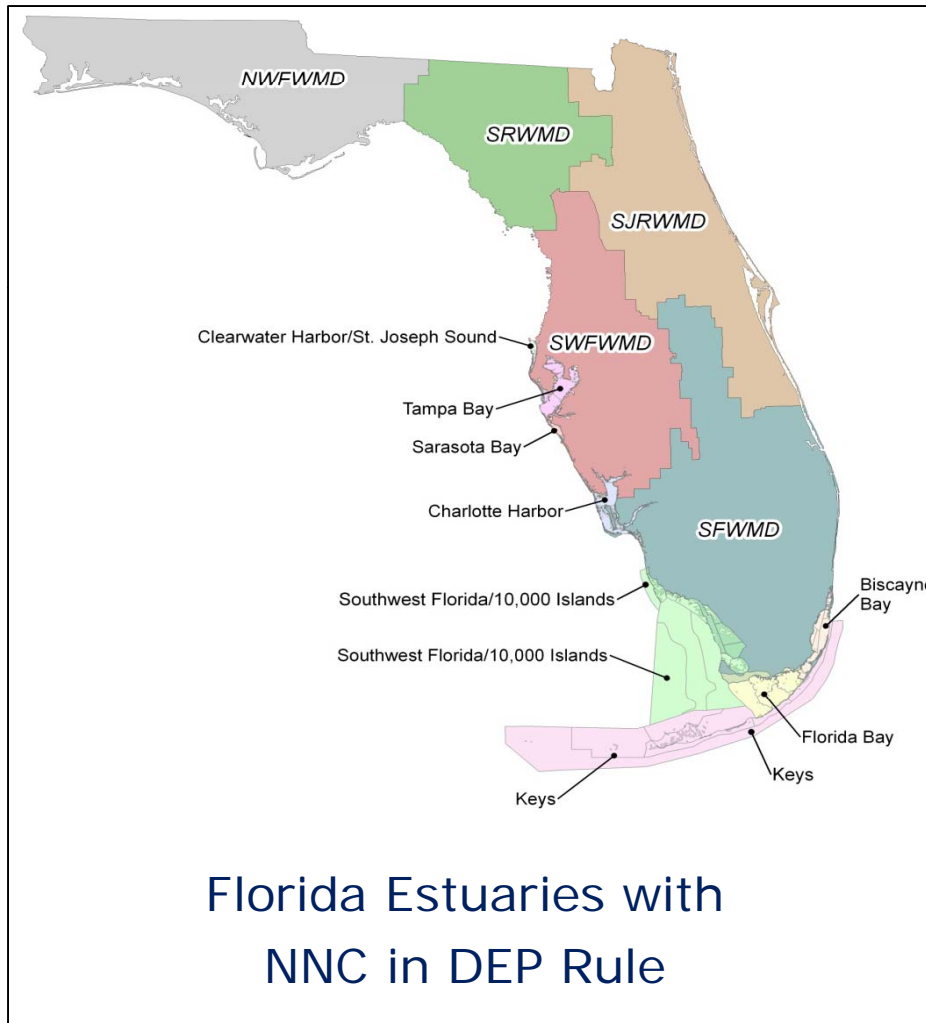
- March 2011: EPA sent memorandum to all 10 regions
 - Contained 8 elements for states to focus on nutrient management and reduction strategies
- April 2011: DEP submits petition to EPA to rescind 2009 Determination Letter, current NNC rule, and future rulemaking (e.g., marine waters)
- June – December 2011: Rule development, including series of public meetings, led to:
 - Revisions to Florida Administrative Code 62-302 and 62-303
 - Environmental Regulation Commission passed changes and sent to Florida Legislature

(<http://www.dep.state.fl.us/water/wqssp/nutrients/>)

DEP's Current Rulemaking: Concepts

- Hierarchy of Site Specific Numeric Interpretation of Narrative Nutrient Criterion:
 - Nutrient Site Specific Analyses (e.g., Current TMDLs)
↓
 - Cause and Effect Relationships (e.g., Lakes & Springs)
↓
 - Reference-based Thresholds Combined with Biological Data to Evaluate Attainment (e.g., Rivers and Streams)
↓
 - Narrative standard continues where numeric interpretation is unavailable (e.g., Wetlands, Canals, and Intermittent Streams)

DEP's Current Rulemaking: Estuaries



- Current TMDLs
 - e.g., St. Lucie Estuary
- National Estuary Programs
 - e.g., Charlotte Harbor
- Southern Estuaries
 - e.g., Florida Bay
- Set Future NNC Development
 - **e.g., Lake Worth Lagoon deadline is June 15th, 2015**

Numeric Nutrient Criteria 2012 Timeline (as of 02/10/2012)

- January 9th: **Federal Court Hearing** on current **EPA** rule for lakes, springs, rivers and streams
- January through February: **DEP rule in Legislature** and has passed House (02/03) and Senate (02/09)
- January 30th: '**The State Waters Partnership Act**' bill announced by U.S. Representative Steve Southerland, II (FL-2):
 - All 3 **NNC** 'Structural Components'
- Feb 16th: **DEP** to give status briefing to the **Environmental Regulation Commission**



Numeric Nutrient Criteria 2012 Timeline (cont.) (as of 02/10/2012)

- February 26th – March 2nd: **Florida Division of Administrative Hearings** on **DEP** rule
- February 28th: **National Research Council Economic Study** draft report on current **EPA** rule
- March 15th: **EPA's future rulemaking** (estuaries, offshore waters, and South Florida canals)
- June 4th: **EPA's** current rule **implementation** date



Discussion and Contact Information



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