

NANCY STEPHENS'
TESTIMONY ON NUMERIC NUTRIENT CRITERIA
12/09/09
Senate Committee on Environmental Preservation and
Conservation

Good afternoon Chairman Constantine and members of the Committee.

My name is Nancy Stephens and I am speaking for the Manufacturers Association of Florida and the Florida Minerals and Chemistry Council today. There are some 14,000 manufacturers in Florida and the vast majority of them are small businesses. They are very concerned about the pending EPA Numeric Nutrient Criteria rule.

Mr. Brooks and Secretary Sole gave you an excellent overview of the facts relevant to our current situation with EPA on numeric nutrient criteria. I'd like to share our thoughts on the issue and our request of you.

We fear what we don't know and so we fear this. But today I want to focus on the process and express our concerns.

Water body specific - Florida is a leader among the states on water quality issues. Evidence is the vast database on water quality we have developed, the systematic process we have been following on development of Total Maximum Daily Loads over 10 years that has cost Florida taxpayers tens of millions of dollars, and examined water

body by water body, and the water quality improvements we have made over the past several decades. Nutrients are water body specific, Florida's TMDL program recognizes that; EPA's expected statewide standards will not recognize that specificity.

Sound science – We understand that EPA's own Science Advisory Board does not believe EPA has adequate information or procedures to develop numeric nutrient criteria for states. Criteria that is based on sound science and peer review is imperative when you consider the investment we are all going to be asked to make.

Process – DEP has followed a deliberative, inclusive, and fair process for evaluating each water body. The experts have been at the table, they have provided the best science available for decision making, and anyone could participate. The pace has been reasonable given the large number of water bodies that must be evaluated in Florida and our appetite for public comment. We congratulate DEP on its professionalism and decision making process.

Congressional delegation – This issue has gotten the attention of our congressional delegation, 25 members of that delegation united to write a letter to EPA Administrator Lisa Jackson recently, asking for standards based on science. We applaude the delegation for that.

But we are now faced with proposed federal mandates in January 2010 with a short 60 day comment period. How can EPA develop in 30 days what has taken Florida a

decade to develop and we are not finished yet? When EPA comes to play in our sandbox in January they won't be playing by our rules of engagement – rules that call for criteria based on defensible science, criteria based on the individuality of the water body, a deliberative process that allows reasonable time for public input, peer review, and recognition for balancing costs and benefits.

OUR REQUEST

Mr. Chairman, we would like the Florida Legislature to communicate to EPA that:

- a) Florida will only accept numeric nutrient criteria that recognizes unique characteristics of individual water bodies, that are scientifically defensible and peer reviewed.
- b) We expect EPA to conduct its standard setting process with the same transparency and broad stakeholder participation that Florida would...in other words play by Florida rules.
- c) A cost benefit analysis must be performed on the criteria so that we can all understand the magnitude of the mandate we are dealing with.

The cloud hanging over us troubles us greatly. We need your help in communicating the serious nature and the implications of EPA's decision to ONLY this state.

This is not a perfect world and no amount of money will make it perfect, but we can continue to make progress by following the procedure we have outlined and that Florida practices.

Thank you Mr. Chairman for engaging in this discussion today.

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