

112TH CONGRESS
2D SESSION

H. R. 3856

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 HOUSE OF REPRESENTATIVES

JANUARY 31, 2012

Mr. SOUTHERLAND (for himself, Mr. ROSS of Florida, Mr. RIVERA, Mr. WEST, Mrs. ADAMS, Mr. MILLER of Florida, Mr. ROONEY, Mr. BUCHANAN, and Mr. WEBSTER) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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 the following:

1 (1) The Environmental Protection Agency has
2 repeatedly described the State of Florida as having
3 some of the most progressive nutrient management
4 strategies in the Nation.

5 (2) The Environmental Protection Agency
6 agrees with Florida that the Federal Water Pollu-
7 tion Control Act envisions that States have the pri-
8 mary role in establishing and implementing water
9 quality standards for their waters.

10 (3) The Environmental Protection Agency has
11 repeatedly referenced its desire to work cooperatively
12 with States in the development and implementation
13 of numeric nutrient criteria.

14 (4) The Environmental Protection Agency has
15 stated that upon approval of Florida's numeric nu-
16 trient criteria, the Administrator will promptly ini-
17 tiate rulemaking to repeal federally promulgated nu-
18 meric nutrient criteria.

19 (5) The Florida Environmental Regulation
20 Commission, on December 8, 2011, adopted numeric
21 nutrient criteria for Florida's fresh water bodies and
22 estuary systems, which included a firm regulatory
23 schedule for adoption of additional marine criteria.

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

1 approves, numeric nutrient criteria for any waters
2 for which the Environmental Protection Agency has
3 not yet proposed or promulgated Federal numeric
4 nutrient criteria, the Environmental Protection
5 Agency will not propose or promulgate cor-
6 responding Federal numeric nutrient criteria.

7 **SEC. 3. SENSE OF CONGRESS.**

8 It is the sense of Congress that the Administrator
9 should take into account the effect of numeric nutrient
10 criteria on the economy, job creation, consumers, munici-
11 palities, agriculture, small business, and other affected
12 sectors, using State data, information, and independent
13 studies to ensure to accountability, and that the Adminis-
14 trator should not promulgate or enforce any numeric nu-
15 trient criteria that would result in a negative economic im-
16 pact of 15 percent or higher on any such sector.

17 **SEC. 4. NUMERIC NUTRIENT CRITERIA.**

18 The Administrator may not propose, promulgate, or
19 enforce any numeric nutrient criteria for any streams,
20 lakes, springs, canals, estuaries, or marine waters of the
21 State of Florida, until the Administrator makes a final
22 determination in accordance with section 303(c) of the
23 Federal Water Pollution Control Act (33 U.S.C. 1313(e))
24 regarding the Florida amended rule. If the Administrator
25 determines under such section that the Florida amended

1 rule meets the requirements of the Federal Water Pollu-
2 tion Control Act, then the Administrator may not enforce,
3 and shall withdraw, section 131.43 of title 40, Code of
4 Federal Regulations, in its entirety and may not propose
5 or promulgate any numeric nutrient criteria for any
6 streams, lakes, springs, canals, estuaries, or marine waters
7 of the State of Florida based on the January 14, 2009,
8 determination.

9 **SEC. 5. DEFINITIONS.**

10 In this Act:

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

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

21 (3) JANUARY 14, 2009, DETERMINATION.—The
22 term “January 14, 2009, determination” means the
23 determination issued by the Environmental Protec-
24 tion Agency on January 14, 2009, under section
25 303(c)(4)(B) of the Federal Water Pollution Control

1 Act, regarding numeric nutrient criteria for the
2 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).

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