

“EPA and the Numeric Nutrient Criteria”

Previously we have written about the Federal Environmental Protection Agency’s (EPA) imposition of numeric nutrient criteria. Florida’s Department of Environmental Protection (DEP) sets standards for the State’s water quality. Those standards are in narrative form.

That form was not good enough to satisfy some special interest groups. As is these groups’ bent, they found a Federal Judge willing to ignore the separation of powers doctrine in order to legislate from the bench the numeric form of standards.

The outcry was loud and broad. The job killing mandate was recognized for what it was. The numeric rule empowered the Federal agency with little likelihood of substantially improving water quality.

The cost of the numeric standard was expected to be high while the benefit estimate was low. In addition to the impact upon business and agriculture, the new rules would have made the issue of septic systems more expensive and more restrictive. The dreadful imposition of Senate Bill 550 from the 2010 Florida legislative session would have been made worse by the imposition of the EPA’s rules.

The response from Florida’s Congressional delegation was also loud and emphatic. Our Senators and Congress members recognized immediately that Florida was being singled out for devastating over-regulation.

The Federal EPA modified its intransigence. The EPA agreed to consider standards revised and offered by Florida’s DEP. Several deadlines for imposition of EPA’s standards have come and past.

The December 22nd Federal Register included the announcement that EPA would postpone the rule implementation for 90 days from March 6, 2012 to June 4. That is good news.

On December 9, 2011, Florida’s DEP submitted its nutrient rule revision to the Florida House and Senate for approval during the 2012 regular legislative session. Presuming approval by the legislature, one would hope that the Federal EPA will approve Florida DEP’s revised standards.

The legislative session will have DEP’s revised standards on its agenda as well as a number of proposed changes to the mandatory septic system inspections imposed by 2010’s SB 550.

Should you have any question about this issue or any other matter, please call me at 407-836-7350 or email me at fred.brummer@ocfl.net.