

CHAPTER 2012-3

House Bill No. 7051

An act relating to rules establishing numeric nutrient criteria; exempting specified rules from legislative ratification under s. 120.541(3), F.S.; requiring the Department of Environmental Protection to publish certain notice; requiring legislative ratification of certain subsequent rules or amendments; directing the department to submit specified rules to the United States Environmental Protection Agency for review under the federal Clean Water Act; providing an effective date.

WHEREAS, the Department of Environmental Protection proposed amendments to chapters 62-302 and 62-303, Florida Administrative Code, addressing nutrient pollution in waters of the state, and

WHEREAS, on December 8, 2011, the Environmental Regulation Commission approved proposed amendments to chapters 62-302 and 62-303, Florida Administrative Code, addressing nutrient pollution in waters of the state in an integrated, comprehensive, and consistent manner, and

WHEREAS, estimates of the cost to implement the department's proposed amendments to chapters 62-302 and 62-303, Florida Administrative Code, are significantly less than estimates of the cost to implement the numeric nutrient criteria rules adopted by the United States Environmental Protection Agency, and

WHEREAS, for purposes of compliance with the federal Clean Water Act, the department's proposed amendments to chapters 62-302 and 62-303, Florida Administrative Code, must be approved by the United States Environmental Protection Agency in order to replace the agency's adopted numeric nutrient criteria rules, which are scheduled to take effect March 6, 2012, unless extended to June 4, 2012, as proposed by the agency, and

WHEREAS, after adoption by the department, the amendments to chapters 62-302 and 62-303, Florida Administrative Code, require legislative ratification pursuant to s. 120.541(3), Florida Statutes, and

WHEREAS, a recently filed rule challenge pending before the Division of Administrative Hearings has delayed adoption by the department, making the rules unavailable for ratification during the 2012 Regular Session, and

WHEREAS, exempting the proposed amendments to chapters 62-302 and 62-303, Florida Administrative Code, from legislative ratification and directing the department to expeditiously submit the proposed amendments to the United States Environmental Protection Agency will facilitate the agency's review of the proposed amendments under s. 303(c) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq., NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) The rules proposed by the Department of Environmental Protection as rules 62-302.200, 62-302.530, 62.302.531, 62.302.532, 62-302.800, 62-303.150, 62-303.200, 62-303.310, 62-303.330, 62-303.350, 62-303.351, 62-303.352, 62-303.353, 62-303.354, 62-303.390, 62-303.420, 62-303.430, 62-303.450, 62-303.710, and 62-303.720, Florida Administrative Code, notices of which were published on November 10, 2011, in the Florida Administrative Weekly, Vol. 37, No. 45, pages 3753-3775, as approved by the Environmental Regulation Commission on December 8, 2011, and the subsequent changes to proposed rules 62-302.200, 62-302.531, 62-302.532, 62-302.800, 62-303.200, 62-303.330, 62-303.350, 62-303.351, 62-303.352, 62-303.353, 62-303.390, and 62-303.430, Florida Administrative Code, which were published on December 22, 2011, in the Florida Administrative Weekly, Vol. 37, No. 51, pages 4444-4450, are exempt from ratification under s. 120.541(3), Florida Statutes. At the time of filing these rules for adoption, or as soon thereafter as practicable, the department shall publish a notice of the enactment of this exemption in the Florida Administrative Weekly.

(2) After adoption of proposed rule 62-302.531(9), Florida Administrative Code, a nonseverability and effective date provision approved by the commission on December 8, 2011, in accordance with the commission's legislative authority under s. 403.804, Florida Statutes, notice of which was published by the department on December 22, 2011, in the Florida Administrative Weekly, Vol. 37, No. 51, page 4446, any subsequent rule or amendment altering the effect of such rule shall be submitted to the President of the Senate and the Speaker of the House of Representatives no later than 30 days before the next regular legislative session, and such amendment may not take effect until it is ratified by the Legislature.

(3) Within 30 days after the effective date of this act, the proposed rules specified in subsection (1) shall be submitted by the department to the regional administrator of the United States Environmental Protection Agency for review under s. 303(c) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor February 16, 2012.

Filed in Office Secretary of State February 16, 2012.