

112TH CONGRESS  
2D SESSION

# S. 2115

To limit the authority of the Administrator of the Environmental Protection Agency with respect to certain numeric nutrient criteria, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 2012

Mr. RUBIO introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## 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 that—

8 (1) the Environmental Protection Agency has  
9 repeatedly described the State of Florida as having

1 some of the most progressive nutrient management  
2 strategies in the United States;

3 (2) the Environmental Protection Agency  
4 agrees with the State of Florida that the Federal  
5 Water Pollution Control Act (33 U.S.C. 1251 et  
6 seq.) envisions that States have the primary role in  
7 establishing and implementing water quality stand-  
8 ards for State water;

9 (3) the Environmental Protection Agency has  
10 repeatedly referenced a desire to work cooperatively  
11 with States in the development and implementation  
12 of numeric nutrient criteria;

13 (4) the Environmental Protection Agency has  
14 stated that, upon approval of numeric nutrient cri-  
15 teria by the State of Florida, the Administrator will  
16 promptly initiate a rulemaking to repeal federally  
17 promulgated numeric nutrient criteria;

18 (5) on December 8, 2011, the Florida Environ-  
19 mental Regulation Commission adopted numeric nu-  
20 trient criteria for fresh water bodies and estuary  
21 systems of the State of Florida, which included a  
22 firm regulatory schedule for adoption of additional  
23 marine criteria; and

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

1 Administrator approves, numeric nutrient criteria  
2 for any water for which the Environmental Protec-  
3 tion Agency has not yet proposed or promulgated  
4 Federal numeric nutrient criteria, the Environ-  
5 mental Protection Agency will not propose or pro-  
6 mulgate corresponding Federal numeric nutrient cri-  
7 teria.

8 **SEC. 3. DEFINITIONS.**

9 In this Act:

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

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

20 (3) JANUARY 14, 2009, DETERMINATION.—The  
21 term “January 14, 2009, determination” means the  
22 determination issued by the Administrator on Janu-  
23 ary 14, 2009, under section 303(c)(4)(B) of the  
24 Federal Water Pollution Control Act (33 U.S.C.

1 1313(c)(4)(B)), regarding numeric nutrient criteria  
2 for the 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).

9 **SEC. 4. SENSE OF CONGRESS.**

10 It is the sense of Congress that the Administrator  
11 should—

12 (1) take into account the effect of numeric nu-  
13 trient criteria on the economy, job creation, con-  
14 sumers, municipalities, agriculture, small business,  
15 and other affected sectors, using State data, infor-  
16 mation, and independent studies to ensure account-  
17 ability; and

18 (2) not promulgate or enforce any numeric nu-  
19 trient criteria that would result in a negative eco-  
20 nomic impact of 15 percent or higher on any such  
21 sector.

22 **SEC. 5. NUMERIC NUTRIENT CRITERIA.**

23 (a) IN GENERAL.—The Administrator shall not pro-  
24 pose, promulgate, or enforce any numeric nutrient criteria  
25 for any stream, lake, spring, canal, estuary, or marine

1 water of the State of Florida, until the Administrator  
2 makes a final determination in accordance with section  
3 303(c) of the Federal Water Pollution Control Act (33  
4 U.S.C. 1313(c)) regarding the Florida amended rule.

5 (b) WITHDRAWAL OF REGULATIONS.—If the Admin-  
6 istrator determines under section 303(c) of the Federal  
7 Water Pollution Control Act (33 U.S.C. 1313(c)) that the  
8 Florida amended rule meets the requirements of that Act  
9 (33 U.S.C. 1251 et seq.)—

10 (1) the Administrator shall not enforce, and  
11 shall withdraw, section 131.43 of title 40, Code of  
12 Federal Regulations (or a successor regulation), in  
13 its entirety; and

14 (2) shall not propose or promulgate any nu-  
15 meric nutrient criteria for any stream, lake, spring,  
16 canal, estuary, or marine water of the State of Flor-  
17 ida based on the January 14, 2009, determination.

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