

Congress of the United States

Washington, DC 20515

September 21, 2011

The Honorable Lisa P. Jackson
Administrator
United States Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, DC 20460

Dear Administrator Jackson:

It has come to our attention that the Environmental Protection Agency (EPA) recently denied the Minnesota Center for Environmental Advocacy's (MCEA) petition requesting that the EPA set numeric nutrient water quality standards for the Mississippi River and the Gulf of Mexico. As representatives of the only state in the nation subject to EPA numeric nutrient standards, we hope that EPA's cooperative approach to the Mississippi River basin signals that EPA will immediately reconsider its unilateral actions in Florida.

In a letter dated July 29th to the Legal Director of MCEA, the EPA outlines several nation-wide efforts the Agency has made to address nutrient loadings throughout the country. The letter states that "the most effective and sustainable way to address widespread and pervasive nutrient pollution in the MARB and elsewhere is to build on these efforts and work cooperatively with states and tribes to strengthen nutrient management programs." Furthermore, the Agency states it is "exercising its discretion to allocate its resources in a manner that supports targeted regional and state activities to accomplish our mutual goals of reducing N and P pollution and accelerating the development and adoption of **state approaches** to controlling N and P." [*Emphasis added.*]

As you know, the State of Florida is the only state that EPA has overtaken with Federal regulations to address nutrients in water bodies. Notably, all of the national efforts outlined in the Agency's July 29th letter to MCEA equally apply to Florida. Additionally, in the EPA's own words, "Florida has developed and implemented some of the most progressive nutrient management strategies in the Nation."

Recognizing this good work in our state, on April 22nd, Secretary Vineyard of the Florida Department of Environmental Protection formally requested that EPA withdraw its Federal nutrient rules and instead allow Florida to manage nutrient loadings in its own waters. EPA has declined to accept this request, despite the clear evidence that Florida has been a national leader in water quality management. The state has invested millions of dollars into the EPA-approved TMDL program and has seen remarkable water quality improvements because of its work. In singling out Florida for federal nutrient criteria promulgation, however, EPA has continued to ignore the effective steps Florida has taken to manage nutrient loadings to its state waters.

Given your Agency's recent response to MCEA's petition and the efforts taken by our state agencies to properly implement nutrient control programs, we question the EPA's justification for ignoring the work in the State of Florida by declining to respond to the petition filed by the state on April 22nd. While we recognize the geographical differences in setting criteria for a region versus a single state, we fail to see the need for the Agency to continue to intervene in the State of Florida for the very reasons that the Agency denied MCEA's petition – the issue is best addressed by the states in cooperation with the EPA. The current regulatory scheme in Florida simply does not reflect cooperation. Furthermore and most importantly, it is our understanding that, by declining to simply take action on the DEP petition, the EPA has created further regulatory uncertainty for many of the employers in Florida eager to create more jobs for our constituents.

Consistent with the cooperative federalism envisioned by Congress in the Clean Water Act, we ask that the EPA immediately withdraw its decision to impose numeric nutrient criteria in Florida and place our state on a level playing field with states in the Mississippi River watershed and throughout the rest of the nation. Specifically, and to this end, we respectfully request that you immediately grant the petition filed on April 22nd by the State of Florida so that the state can move forward in protecting Florida's waters and businesses can move forward in creating more jobs in our state with newfound regulatory certainty.

Given the importance of this issue and the vast economic implications of inaction, we look forward to your prompt response.

Respectfully,

Mark

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