FEDERAL/ STATE ISSUE: NUMERIC NUTRIENT CRITERIA FOR FLORIDA WATERBODIES

POSITION: FNGLA supports the development and adoption of nutrient standards which are science-based; technically and economically feasible; and, provide practical solutions for the protection of Florida's water bodies.

BACKGROUND: Protection of Florida's water resources is critical to the future of Florida's environment, businesses, residents and visitors. As such, Florida has one on the most comprehensive, complex and data-intensive water quality monitoring programs, commonly known as the Total Maximum Daily Loads (TMDLs). As Florida's TMDL program has matured, the Florida Department of Environmental Protection (FDEP) has adapted and targeted specific areas and potential pollutant sources. Concurrently, FDEP also relies heavily on agencies, such as the Florida Department of Agriculture and Consumer Services (FDACS), for the development of agricultural Best Management Practices (BMPs).

In 2007, FDEP published a Numeric Nutrient Criteria Plan which outlined its approach for collecting the necessary research, modeling and methodologies to create nutrient criteria throughout Florida. This plan was submitted to the U. S. Environmental Protection Agency (EPA) for review in 2008. Subsequently, several environmental activist organizations filed a federal lawsuit against the EPA alleging the agency's failure to comply with the provisions of the Federal Clean Water Act. Essentially, this is forcing Florida to adopt overly stringent nutrient standards. In response to the lawsuit, EPA issued a determination letter to Florida which requires a strict deadline (January 2010 for all inland water bodies and 2011 for coastal waters) or EPA would establish its own criteria for the State of Florida.

Science and rationality have taken a back seat as the deadlines for development of these standards are purely litigation-driven rather than science-based or following any technical procedure. In addition, Florida is the only state being subject to such an overly strict regulatory approach even though much of the water quality in North Florida is dependent upon surface water flows from Georgia and Alabama.

Under the current plan, the costs to the State of Florida and every business sector are genuinely immeasurable. If adopted, these standards will impact every water body, storm water pond, drainage facility, agricultural irrigation pond and flood protection system. In fact, the overall environmental impact of imposing federal numeric standards more restrictive than those of historic flows can damage aquatic ecosystems. It can also make environmental restoration, additional development of alternative water supplies, or simple reclaimed water usage costs prohibitive to businesses and communities.

FNGLA believes the current TMDL process and the support science are appropriate protocols to address Florida's water quality concerns. However, if a more comprehensive program is utilized then it must be based on a defensible scientific process which includes collaborative efforts from all stakeholders in the development of the new criteria