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1 A bill to be entitled
 2 An act relating to numeric nutrient criteria; amending
 3 s. 403.061, F.S.; authorizing the Department of
 4 Environmental Protection to implement ss. 403.088 and
 5 403.067, F.S., to control nutrient load in state
 6 waters; authorizing the department to implement its
 7 adopted nutrient standards; directing the department
 8 to remove rule 62-302.531(9), Florida Administrative
 9 Code, when the United States Environmental Protection
 10 Agency withdraws all federal numeric nutrient criteria
 11 rules in the state; subjecting any numeric nutrient
 12 rules for estuaries adopted in 2013 to the provisions
 13 of rule 62-302.531(9), Florida Administrative Code,
 14 and exempting them from ratification under s.
 15 120.541(3), F.S.; directing the department to
 16 establish estuary specific numeric interpretations of
 17 the narrative nutrient criterion for total nitrogen,
 18 total phosphorus, and chlorophyll a for any estuary
 19 not already subject to department numeric nutrient
 20 criteria; directing the department to send a report to
 21 the Governor, the Speaker of the House of
 22 Representatives, and the President of the Senate by
 23 August 1, 2013, concerning the status of establishing
 24 numeric nutrient criteria in the state; providing an
 25 effective date.

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

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31 | Section 1. Subsection (43) is added to section 403.061,
32 | Florida Statutes, to read:

33 | 403.061 Department; powers and duties.—The department shall
34 | have the power and the duty to control and prohibit pollution of
35 | air and water in accordance with the law and rules adopted and
36 | promulgated by it and, for this purpose, to:

37 | (43) (a) Implement ss. 403.088 and 403.067 in flowing waters
38 | consistent with the attainment and maintenance of:

39 | 1. The narrative criterion for nutrients and any in-stream
40 | numeric interpretation of the narrative water quality criterion
41 | for nutrients adopted by the department in streams, canals, and
42 | other conveyances; and

43 | 2. Nutrient water quality standards applicable to
44 | downstream waters.

45 | (b) The loading of nutrients to downstream waters from a
46 | stream, canal, or other conveyance shall be limited to provide
47 | for the attainment and maintenance of nutrient water quality
48 | standards in the downstream waters.

49 | 1. If the downstream water does not have a total maximum
50 | daily load adopted under s. 403.067 and has not been verified as
51 | impaired by nutrient loadings, then the department shall
52 | implement its authority in a manner that prevents impairment of
53 | the downstream water due to loadings from the upstream water.

54 | 2. If the downstream water does not have a total maximum
55 | daily load adopted under s. 403.067 but has been verified as
56 | impaired by nutrient loadings, then the department shall adopt a

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57 total maximum daily load under s. 403.067.

58 3. If the downstream water has a total maximum daily load
 59 adopted under s. 403.067 that interprets the narrative water
 60 quality criterion for nutrients, then allocations shall be set
 61 for upstream water bodies in accordance with s. 403.067(6), and
 62 if applicable, the basin management action plan established
 63 under s. 403.067(7).

64 (c) Compliance with an allocation calculated under s.
 65 403.067(6), or if applicable, the basin management action plan
 66 established under s. 403.067(7) for the downstream water shall
 67 constitute reasonable assurance that a discharge does not cause
 68 or contribute to the violation of the downstream nutrient water
 69 quality standards.

70
 71 The department shall implement such programs in conjunction with
 72 its other powers and duties and shall place special emphasis on
 73 reducing and eliminating contamination that presents a threat to
 74 humans, animals or plants, or to the environment.

75 Section 2. The Department of Environmental Protection is
 76 authorized to implement its adopted nutrient standards for
 77 streams, springs, lakes, and estuaries consistent with the
 78 document entitled "Implementation of Florida's Numeric Nutrient
 79 Standards," which was proposed for adoption by the department in
 80 the Florida Administrative Register, Vol. xx, No. xx, pages xxx-
 81 xxx. This document shall be subject to the provisions of rule
 82 62-302.531(9), Florida Administrative Code, and exempt from
 83 ratification under s. 120.541(3), Florida Statutes.

84 Section 3. When the United States Environmental Protection

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85 Agency withdraws all federal numeric nutrient criteria rules in
 86 the State of Florida, and otherwise ceases all federal nutrient
 87 rulemaking in the State of Florida, then rule 62-302.531(9),
 88 Florida Administrative Code, shall expire and the Department of
 89 Environmental Protection shall remove it from the Florida
 90 Administrative Code pursuant to the provisions of chapter 120,
 91 Florida Statutes.

92 Section 4. Any nutrient criteria rules for estuaries
 93 adopted by the Department of Environmental Protection in 2013
 94 are subject to the provisions of rule 62-302.531(9), Florida
 95 Administrative Code, and exempt from ratification under s.
 96 120.541(3), Florida Statutes.

97 Section 5. The Department of Environmental Protection shall
 98 establish by rule or final order the estuary specific numeric
 99 interpretations of the narrative nutrient criterion for total
 100 nitrogen, total phosphorus, and chlorophyll a for any estuaries
 101 not already subject to the department's numeric nutrient
 102 criteria, and establish chlorophyll a interpretations of the
 103 narrative nutrient criterion for non-estuarine coastal waters by
 104 December 1, 2014, subject to the provisions of chapter 120,
 105 Florida Statutes. The water quality standard pursuant to s.
 106 403.061(11), Florida Statutes, for total nitrogen, total
 107 phosphorus, and chlorophyll a in estuaries, and chlorophyll a in
 108 non-estuarine coastal waters, shall be the current conditions of
 109 those unimpaired waters, accounting for climactic and hydrologic
 110 cycles, until such time as a numeric interpretation of the
 111 narrative water quality criterion for nutrients is established
 112 by rule or final order. The Department of Environmental

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113 Protection shall send a report to the Governor, the Speaker of
 114 the House of Representatives, and the President of the Senate by
 115 August 1, 2013, conveying the status of establishing numeric
 116 interpretations of the narrative nutrient criterion pursuant to
 117 this section and including the department's calculation of the
 118 numeric values that represent the current conditions of those
 119 unimpaired waters as stated herein for those estuaries and non-
 120 estuarine coastal waters without numeric interpretations of the
 121 narrative nutrient criterion established by rule or final order
 122 as of the date of the report.

123 Section 6. This act shall take effect upon becoming a law.
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