

**COMMISSION**

Lesley “Les” Miller, Jr., *Chair*  
Victor D. Crist, *Vice Chair*  
Ken Hagan  
Al Higginbotham  
Pat Kemp  
Sandra L. Murman  
Stacy White



**Executive Director**

Janet L. Dougherty

**General Counsel**

Richard Tschantz

**Meeting time**  
9:00 a.m.

**COMMISSION AGENDA**  
**March 22, 2018**

**Location**  
601 E. Kennedy Blvd., Tampa  
County Center, 2<sup>nd</sup> Floor

- 1. CALL TO ORDER, PLEDGE OF ALLEGIANCE, and INVOCATION**
- 2. CHANGES TO THE AGENDA**
- 3. REMOVAL OF CONSENT ITEM FOR QUESTION, COMMENT, or SEPARATE VOTE**
- 4. RECOGNITIONS**
  - *Pragnya Kulkarni – Student, Hillsborough STEM Fair Winner*
  - *Woodrow Batchelor – Professional Engineer, Water Mgmt. Division Recognition*
  - *Jerry Campbell – Division Director/Professional Engineer, Air Mgmt. Division Recognition*
- 5. PUBLIC COMMENT - Each speaker is allowed 3 minutes unless the Commission directs differently.**
- 6. APPROVAL OF CONSENT AGENDA**

**AGENDA ITEMS**

**A. CONSENT AGENDA**

- 1. Approval of EPC Meeting Minutes – February 15, 2018 and February 21, 2018..... 2
- 2. Monthly Activity Report..... 8
- 3. FY2018 Pollution Recovery Fund Budget ..... 10
- 4. Legal Case Summary – March 2018..... 12

**B. PUBLIC HEARING**

- 1. Rule amendment public hearing on Chapter 1-6, Rules of the EPC (Services-Fee Schedule)..... 15

**C. REGULAR AGENDA**

- 1. 2018 Legislative Session and Constitution Revision Commission updates ..... 30
- 2. Executive Director’s Report

**ADJOURN**

Any person who might wish to appeal any decision made by the EPC regarding any matter considered at the forthcoming public hearing or meeting is hereby advised that they will need a record of the proceedings, and for such purpose they may need to ensure that a verbatim record of the proceedings is made which will include the testimony and evidence upon which such appeal is to be based.



# ENVIRONMENTAL PROTECTION COMMISSION

## AGENDA ITEM COVER SHEET

Agenda Item # A1

**Date of EPC Meeting:** March 22, 2018

**Subject:** Approval of February 15, 2018 EPC meeting minutes and February 21, 2018 EPC special meeting minutes

**Agenda Section:** Consent Agenda

**Division:** Legal and Administrative Services Division

**Recommendation:** Approve the February 15, 2018 EPC meeting minutes and February 21, 2018 EPC special meeting minutes.

**Brief Summary:** Staff requests the Commission approve the meeting minutes from the Commission meetings held on February 15, 2018 and February 21, 2018.

**Financial Impact:** No Financial Impact

**List of Attachments:** Draft copy of the February 15, 2018 EPC meeting minutes and February 21, 2018 EPC special meeting minutes.

**Background:** None.

FEBRUARY 15, 2018 - ENVIRONMENTAL PROTECTION COMMISSION

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting scheduled for Thursday, February 15, 2018, at 9:00 a.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida.

The following members were present: Chairman Lesley Miller Jr. and Commissioners Victor Crist (arrived at 10:06 a.m.), Ken Hagan (arrived at 9:01 a.m.), Al Higginbotham, Pat Kemp, Sandra Murman (arrived at 9:22 a.m.), and Stacy White.

1. CALL TO ORDER, PLEDGE OF ALLEGIANCE, AND INVOCATION

▶ Chairman Miller called the meeting to order at 9:00 a.m. Commissioner White led in the pledge of allegiance to the flag and gave the invocation.

2. CHANGES TO THE AGENDA

▶ Ms. Janet Dougherty, EPC Executive Director, stated there were no changes to the agenda.

3. REMOVAL OF CONSENT ITEM FOR QUESTION, COMMENT, OR SEPARATE VOTE - ▶  
None.

4. RECOGNITION

Recognition of the County Facility Staff and Mr. Robert Owens (EPC staff) for the tree maintenance at the Roger P. Stewart Center

▶ Ms. Dougherty supplied a presentation and delivered the recognition. Dialogue occurred.

5. PUBLIC COMMENT - ▶ None.

6. APPROVAL OF CONSENT AGENDA

AGENDA ITEMS

A. CONSENT AGENDA

1. Approval of EPC Meeting Minutes - December 14, 2017
2. Monthly Activity Report
3. Fiscal Year 2018 Pollution Recovery Fund (PRF) Budget
4. Legal Case Summary - January and February 2018

THURSDAY, FEBRUARY 15, 2018

5. Fourth Quarter 2017 Action Plan Update
6. Select Performance Measure Goals for 2017

▶ **Commissioner Higginbotham moved approval, seconded by Commissioner Kemp, and carried five to zero.** (Commissioners Crist and Murman had not arrived.)

B. PUBLIC HEARING - ▶ None.

C. REGULAR AGENDA

1. U.S. Environmental Protection Agency Sulfur Dioxide Nonattainment Declaration for East Hillsborough

▶ Ms. Dougherty deferred to Mr. Sterlin Woodard, EPC, who gave a presentation and ▶ responded to inquiries from Commissioner White on the plant compliance status, categorization changes, potential public health risks, and anticipated compliance dates. ▶ Chairman Miller sought a motion to receive the report. **Commissioner Higginbotham so moved, seconded by Commissioner Kemp, and carried five to zero.** (Commissioners Crist and Murman had not arrived.)

2. Staff Report on Study of Full Cost Recovery for EPC Services

▶ Ms. Dougherty introduced the item. Mr. Jerry Campbell, EPC, delivered the presentation. ▶ Upon comments, Ms. Dougherty advised the EPC to accept the presentation and associated documentation as demonstrating compliance with commission policy regarding full cost disclosure, and to vote to direct staff to advertise for a public hearing to be held at the next regularly scheduled EPC meeting on March 22, 2018, and host a rule workshop with stakeholders prior to that date; the hearing would be for the purpose of revising Chapters 1-6, to seek full cost recovery on some or all of EPC's existing services. ▶ **Commissioner Kemp so moved, seconded by Commissioner White.** Dialogue ensued on industry contact efforts, online service fee collection practices, system upgrade costs, and interagency collaboration possibilities with Code Enforcement, which Mr. Campbell and Mses. Dougherty and Elaine DeLeeuw, EPC, addressed. Commissioner Kemp wanted any additional technology fees included in the costs. Commissioner Murman pondered if built-in transaction fees should be added to the recommended actions. Commissioner Higginbotham requested a copy of the presentation. ▶ **The motion carried five to one; Commissioner Hagan voted no.** (Commissioner Crist had not arrived.)

THURSDAY, FEBRUARY 15, 2018

3. Request for PRFs for Petroleum Cleanup at 8846 Mobley Road, Tampa

▶ Mr. Hooshang Boostani, Director, EPC Waste Management Division, relayed staff recommendation for EPC to authorize staff to use up to \$2,500 of PRFs to hire a consultant to take a sample and analyze. ▶ **Commissioner Kemp so moved, seconded by Commissioner White, and carried six to zero.** (Commissioner Crist had not arrived.)

4. Volkswagen Litigation Update

▶ EPC General Counsel Richard Tschantz introduced the item. Mr. Jeffrey Sims, EPC, delivered the presentation. ▶ Ms. Dougherty shared conversations with the Tampa Port Authority and touched on interagency collaborative charging stations/diesel reductions possibilities. ▶ Responding to Commissioner Kemp, Mr. Sims clarified the proposed terms/project budget. Chairman Miller cautioned any litigation award funds could be a long time coming.

5. 2018 Legislative Session Update

▶ Ms. Dougherty deferred to Senior Assistant Attorney Rick Muratti, EPC Legal Department, and Attorney Tschantz, who gave a presentation and referenced distributed material. ▶ Chairman Miller noted an agenda item on the upcoming February 21, 2018, Board of County Commissioners (Board) meeting to eliminate Board Policy 02.09.00.00. Subsequent to seeking clarification on discussing EPC items during Board meetings, ▶ **Commissioner White moved to schedule a brief EPC meeting immediately following the next Board meeting and have the appropriate EPC staff member draft a resolution opposing that particular constitutional revision to send to the Constitutional Revision Commission and have the Board vote on that, seconded by Commissioner Kemp.** Upon procedural talks, ▶ **the motion carried six to zero.** (Commissioner Hagan was out of the room.)

6. Executive Director's Report

▶ After acknowledging the forthcoming retirement of Ms. Holly East, aide, ▶ Ms. Dougherty announced County Solar Co-Op registration data; highlighted EPC community involvement; congratulated Meses. Sarah Newkirk and Charissa Gionet, EPC, on their respective engagements; and extended an invitation to

THURSDAY, FEBRUARY 15, 2018

Mr. Campbell's retirement party on March 15, 2018, at 11:30 a.m., at the Columbia Restaurant.

ADJOURN

▶ There being no further business, the meeting was adjourned at 10:26 a.m.

READ AND APPROVED: \_\_\_\_\_  
CHAIRMAN

ATTEST:  
PAT FRANK, CLERK

By: \_\_\_\_\_  
Deputy Clerk

jh

DRAFT

FEBRUARY 21, 2018 - ENVIRONMENTAL PROTECTION COMMISSION SPECIAL MEETING

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Special Meeting scheduled for Wednesday, February 21, 2018, at 10:45 a.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida.

The following members were present: Chairman Lesley Miller Jr. and Commissioners Victor Crist, Ken Hagan, Al Higginbotham, Pat Kemp, Sandra Murman, and Stacy White.

▶ Chairman Miller called the meeting to order at 10:59 a.m. and explained the meeting's purpose was to discuss the proposed resolution in opposition to Proposal 95, the Florida Constitution Revision Commission proposal to preempt local government.

EPC General Counsel Richard Tschantz expounded on item background. Following remarks, ▶ **Commissioner White moved the item, seconded by Commissioner Kemp, and carried seven to zero.** (R18-01EPC)

▶ There being no further business, the meeting was adjourned at 11:02 a.m.

READ AND APPROVED: \_\_\_\_\_

CHAIRMAN

ATTEST:

PAT FRANK, CLERK

By: \_\_\_\_\_  
Deputy Clerk

lm



# ENVIRONMENTAL PROTECTION COMMISSION

## AGENDA ITEM COVER SHEET

Agenda Item # A2

**Date of EPC Meeting:** March 22, 2018

**Subject:** Agency Monthly Activity Report

**Agenda Section:** Consent Agenda

**Division:** All five EPC Divisions

**Recommendation:** None. Informational report.

**Brief Summary:** The Agency-wide report represents the total number of select divisional activities that were tracked within a specific month.

**Financial Impact:** No financial impact.

**List of Attachments:** Monthly report for February 2018

**Background:** Select data that is associated with the EPC's five core functions is tracked by each Division (i.e. outreach events, monitoring, compliance inspections, permits issued, etc.) Monthly activity tracking reports from each Division are tallied to generate one final Agency-wide report.



**EPC STAFF ACTIVITIES - AGENCY-WIDE**  
**Monthly Activity Report**  
**FY18**

		<b>February</b>	<b>FISCAL YEAR TO DATE</b>
<b>A.</b>	<b><u>Core Function: Citizen Support &amp; Outreach</u></b>		
1	Environmental Complaints Received	113	552
2	Number of Presentations/Outreach Events	15	48
3	Citizen Support (walk-ins, file reviews, email/letter correspondence, etc.)	410	1932
<b>B.</b>	<b><u>Core Function: Air &amp; Water Monitoring</u></b>		
1	Air Monitoring Data Completeness (Note: reflects previous month due to data acquisition delay)	93.3%	N/A
2	Water Quality Monitoring Data Completeness (Note: reflects previous month due to data acquisition delay)	0.0%	N/A
3	Number of Noise Monitoring Events	1	14
<b>C.</b>	<b><u>Core Function: Environmental Permitting</u></b>		
1	Permit/Authorization Applications Received	104	626
2	Applications In-house >180 days	4	N/A
3	Permits/Authorizations Issued	110	622
4	Petroleum Cleanup Cases	91	285
<b>D.</b>	<b><u>Core Function: Compliance Assurance</u></b>		
1	Compliance Inspections	461	1524
2	Compliance Test Reviews	91	451
3	Compliance Assistance Letters Issued	154	1692
4	Warning Notices Issued	4	29
<b>E.</b>	<b><u>Core Function: Enforcement</u></b>		
1	New Cases Initiated	9	26
2	Active Cases	22	N/A
3	Tracking Cases	48	N/A



# ENVIRONMENTAL PROTECTION COMMISSION

## AGENDA ITEM COVER SHEET

Agenda Item # A3

**Date of EPC Meeting:** March 22, 2018

**Subject:** Pollution Recovery Fund Budget

**Agenda Section:** Consent Agenda

**Division:** Legal and Administrative Services Division

**Recommendation:** Informational Report Only

**Brief Summary:** The EPC staff provides a monthly summary of the funds allocated and available in the Pollution Recovery Fund.

**Financial Impact:** No Financial Impact

**List of Attachments:** PRF Budget Spreadsheet

**Background:** The EPC staff provides a monthly summary of the funds allocated and available in the Pollution Recovery Fund (PRF). The PRF funds are generated by monetary judgments and civil settlements collected by the EPC staff. The funds are then allocated by the Commission for restoration, education, monitoring, the Artificial Reef Program, and other approved uses.

**ENVIRONMENTAL PROTECTION COMMISSION  
OF HILLSBOROUGH COUNTY  
FY 18 POLLUTION RECOVERY FUND  
10/1/2017 through 2/28/2018**

REVENUE		EXPENDITURES		RESERVES		NET PRF
Beginning Balance	\$ 711,583	Artificial Reef	\$ 33,339	Minimum Balance	\$ 120,000	
Interest	\$ (23)	Open Projects	\$ 443,863	Est. FY 18 Budget	\$ 33,339	
Deposits	\$ 36,470			Asbestos Removal	\$ 5,000	
Total	\$ 748,030	Total	\$ 477,202	Total	\$ 158,339	\$ 112,489

PROJECT		Project Amount	Project Balance
<b>FY 16 Projects</b>			
TBW McKay Bay South Oyster Reef	10131.102063.582990.5370.1267	\$ 48,010	\$ 23,841
TBEP Tampa Bay Dredge Hole Habitat	10131.102063.581990.5370.1268	\$ 35,880	\$ 3,880
USF Fecal Pollution in Tampa Bay	10131.102063.581990.5370.1271	\$ 50,000	\$ 16,306
		\$ 133,890	\$ 44,027
<b>FY 17 Projects</b>			
Keep T.B. Beautiful Hills River Poll Prev	10131.102063.582990.5370.1278	\$ 20,160	\$ 3,204
Sun City Ctr Audubon Nature Trail Prop	10131.102063.582990.5370.1279	\$ 20,000	\$ 4,050
H.C. Conservation Bahia Bch Invasive	10131.102063.581990.5370.1280	\$ 31,500	\$ 31,500
FL Aquarium Watershed Invest	10131.102063.582990.5370.1282	\$ 55,477	\$ 55,477
		\$ 127,137	\$ 94,231
<b>FY18 Projects</b>			
Ecosphere Restoration Ignacio Haya Park	10131.102063.582990.5370.1292	\$ 47,000	\$ 47,000
Audubon Florida Invasive Removal	10131.102063.582990.5370.1293	\$ 50,000	\$ 50,000
Keep T.B. Beautiful Trash Free Waters	10131.102063.582990.5370.1296	\$ 20,000	\$ 20,000
TBW MacDill AFB Living Shoreline	10131.102063.582990.5370.1294	\$ 49,324	\$ 49,324
UF Small Farms For Clean Water	10131.102063.581990.5370.1295	\$ 15,750	\$ 15,750
		\$ 182,074	\$ 182,074



# ENVIRONMENTAL PROTECTION COMMISSION

## AGENDA ITEM COVER SHEET

Agenda Item # A4

**Date of EPC Meeting:** March 22, 2018

**Subject:** Monthly Legal Case Summary for March 2018

**Agenda Section:** Consent Agenda

**Division:** Legal and Administrative Services Division

**Recommendation:** None. Informational update only.

**Brief Summary:** The EPC Legal Department provides a monthly summary of its ongoing Civil, Appellate and Administrative matters.

**Financial Impact:** No financial impact anticipated. Informational update.

**List of Attachments:** March 2018 Legal Case Summary

**Background:** In an effort to provide the Commission with timely information regarding legal challenges, the EPC staff provides this monthly summary. The update serves not only to inform the Commission of current litigation but may also be used as a tool to check for any conflicts they may have in the event a legal matter is discussed by the Commission. The summary provides general details as to the status of the civil and administrative cases.

**EPC LEGAL DEPARTMENT**  
**MONTHLY REPORT OF LEGAL CASES**  
*March 2018*

**I. ADMINISTRATIVE CASES**

**Richard Rhodes vs. Sandy Moscovic and EPC [18-EPC-002]:** On February 26, 2018, Appellant Richard Rhodes filed a Notice of Appeal to challenge the issuance of Minor Work Permit #64504. The Appeal was dismissed with leave to amend and the Appellant re-filed an amended Appeal on March 9, 2018.

**Kenneth Moen vs. EPC [18-EPC-001]:** On January 17, 2018, Appellant Kenneth Moen filed a Notice of Appeal challenging the Executive Director's Notice Exemption Denial for proposed wetland impacts. The Appeal was dismissed with leave to amend and the Appellant has until February 9, 2018 to file an amended appeal in this matter. No amended Appeal was filed and the case is closed.

**Ronald Buchbaum vs. Leo Caruso and EPC [17-EPC-011]:** On December 5, 2017, Appellant Ronald Buchbaum filed a Notice of Appeal to challenge the issuance of Minor Work Permit #61541 (R1) for construction of a boatlift. The matter has been transferred a Hearing Officer to conduct an Administrative Hearing.

**Sandrine Guez vs. Island Club at Rocky Point Condo Assoc., Inc. and EPC [17-EPC-004]:** On June 30, 2017, the Appellant Sandrine Guez filed an Appeal challenging a Mangrove Trimming Exemption qualification notice. The matter was transferred to a Hearing Officer to conduct an Administrative Hearing.

**J.E. McLean, III and RaceTrac Petroleum, Inc. [12-EPC-014]:** On October 24, 2012, the Appellants, RaceTrac Petroleum, Inc. and the property owner filed a request for an extension of time to file an Appeal challenging the Executive Director's denial for wetland impacts on the corner of Lumsden and Kings Avenue. The extension was granted and the Appellants filed an appeal in this matter on December 7, 2012. A Hearing Officer has been assigned and conducted a case management conference. This matter was placed in abeyance as the parties discussed options. A conceptual wetland impact approval letter was sent to the applicant on December 8, 2015 after a modification to the application was submitted. The Appellants have not filed a dismissal as they are waiting for final approval of the proposed project by Hillsborough County.

**II. CIVIL CASES**

**Petrol Mart, Inc. [LEPC07-018]:** On December 29, 2017 EPC filed a motion to reopen Civil Court Case #07-CA-012545 for the purpose of filing a motion for the appointment of a Receiver for the Defendant Petrol Mart, Inc. On January 26, 2018, the EPC filed a Motion for Appointment of a Receiver. On February 16, 2018 a Notice of Action in the matter was issued by the Clerk of Court for service of process by publication. The case is currently in the noticing period.

**Poo-Fessional Recycled Organics & Land Management Inc., [17-EPC-014]:** On December 14, 2017, the Commission authorized staff to take appropriate legal action against Poo-fessional Recycled Organics & Land Management Inc. aka Pro Inc. for failure to comply with a Director's Authorization for the operation of a yard trash processing facility in Odessa in Hillsborough County. The EPC Legal Department filed a civil lawsuit on February 9, 2018, and the parties are in negotiations.

**David A. Stumbo [17-EPC-013]:** On October 19, 2017, the EPC authorized staff to take appropriate legal action against David A. Stumbo for failure to close unmaintained underground storage tanks. Daniel A. Stumbo owns real property located at 1102 East Laura Street, Plant City. The property includes four underground storage tanks of unknown capacity or type and which are currently in violation of the underground storage tank rules adopted in Chapter 1-12, Rules of the EPC. The EPC Legal Department filed a civil lawsuit and is attempting to serve the Defendant.

**Mouhammed Z. Al-Samkari [17-EPC-012]:** On October 19, 2017, the EPC authorized staff to take appropriate legal action against Mouhammed Z. Al-Samkari. Mr. Al-Samkari owns real property and operates a gasoline

station known as Hope Food Store located at 4002 North 22<sup>nd</sup> Street in Tampa. The underground petroleum storage tank system is currently in violation of the storage tank rules adopted in Chapter 1-12, Rules of the EPC. The EPC Legal Department is preparing a civil lawsuit.

**Volkswagen AG, et al.** [16-EPC-002]: On March 24, 2016, the EPC filed a complaint against Volkswagen AG, et al. for activities that violate the EPC Enabling Act and the rules promulgated thereunder.

**Janet Layer** [15-EPC-009]: In December of 2015 the EPC Commission authorized staff to take appropriate legal action against Ms. Janet Layer for failure to comply with various wastewater regulations regarding her operation of the domestic wastewater treatment plant and disposal system at Little Manatee Isles Mobile Home Park in Ruskin. The EPC filed discovery requests and Ms. Layer requested additional time to respond.

**U.S. Bankruptcy Court in re Jerry A. Lewis Adversary Proceeding** [15-EPC-007]: An Adversary Proceeding pertaining to the ongoing Chapter 13 Bankruptcy Case regarding Jerry A. Lewis (see EPC Case No. LEPC09-011) was entered on October 9, 2013, in the U.S. Bankruptcy Court Middle District of Florida. EPC is defendant in the matter and will seek to protect a monetary judgment awarded to us by the Circuit Court.

**Thomas Jennings and Lorene Hall-Jennings** [14-EPC-011]: On October 7, 2014, the EPC was served with a Declaratory Action challenging the validity of a conservation easement conveyed to the EPC on September 16, 1997. The EPC Legal Department has responded to the lawsuit with an Answer and Affirmative Defenses on October 27, 2014 and the case will move forward as appropriate. On October 12, 2015 the Plaintiff filed a Motion for Judgment on the Pleadings. The EPC responded to the Motion on October 21, 2015. The parties conducted a hearing on the Motion on November 14, 2016. On the January 4, 2017 the Judge denied the Plaintiff's motion and the case will continue. On December 11, 2017 the Plaintiff filed a Motion for Summary Judgment and the EPC responded on January 18, 2018 and the parties are waiting for a hearing to be set.

**Boyce E. Slusmeyer** [LEPC10-019]: On Sept 20, 2001, the EPC staff received authority to take legal action for failure to comply with an Executive Director's Citation and Order to Correct Violation for the failure to initiate a cleanup of a petroleum-contaminated property. The Court entered a Consent Final Judgment on March 13, 2003. The Defendant has failed to perform the appropriate remedial actions for petroleum contamination on the property. The EPC filed a lawsuit on October 7, 2010 seeking injunctive relief and recovery of costs and penalties. The property ownership is currently in a probate proceeding and the EPC is waiting for resolution of the matter to move forward. The EPC staff are in negotiations with the representative of the property owner regarding eligibility to utilize a state petroleum cleanup program to resolve the case.

**U.S. Bankruptcy Court in re Jerry A. Lewis** [LEPC09-011]: On May 1, 2009, the U.S. Bankruptcy Court Middle District of Florida filed a Notice of Chapter 13 Bankruptcy Case regarding Jerry A. Lewis. On May 26, 2009, the EPC filed a Proof of Claim with the Court. The EPC's basis for the claim is a recorded judgment lien awarded in Civil Court against Mr. Lewis concerning unauthorized disposal of solid waste. The EPC obtained an award of stipulated penalties from the state court. The site remains out of compliance with applicable EPC solid waste regulations and no liens have been paid. The bankruptcy case is ongoing.

**Grace E. Poole and Michael Rissell** [LEPC08-015]: Authority to take appropriate legal action against Grace E. Poole and Michael Rissell for failure to properly assess petroleum contamination in accordance with EPC and State regulations was granted on June 19, 2008. The property owner and/or other responsible party are required to initiate a site assessment and submit a Site Assessment Report. They have failed to do the required work and the EPC staff sought and obtained Pollution Recovery Funds to address the potential contamination. The confirmatory sampling will be conducted in mid-March.



# ENVIRONMENTAL PROTECTION COMMISSION

## AGENDA ITEM COVER SHEET

Agenda Item # B1

**Date of EPC Meeting:** March 22, 2018

**Subject:** Public hearing to consider amendments to the Services-Fee Schedule Rule, Ch. 1-6, Rules of the EPC

**Agenda Section:** Public Hearing

**Division:** Legal and Administrative Services Division

**Recommendation:** Staff recommends the Commission approve the proposed rule amendments to the Services-Fee Schedule Rule, Ch. 1-6, Rules of the EPC.

**Brief Summary:** Pursuant to the EPC Act, the Commission must hold a noticed public hearing to adopt or amend a rule. The EPC staff requests that the Commission approve the attached amendments to the Services-Fee Schedule Rule Chapter 1-6. These proposed rule amendments are a result of a comprehensive review and study of the current fees based on BOCC policy # 03.02.02.09 which requires EPC staff to periodically report back on full cost analysis of the agency fees.

**Financial Impact:** Approval of the proposed Fee Schedule amendments would result in a reduction of EPC's impact on the County-Wide General Operating Fund.

**List of Attachments:** Draft proposed Fee Schedule Rule Chapter 1-6 – Strikethrough/underline and no markup

### **Background:**

In April of 2016, the Commission voted to direct staff to hold technical workshops with stakeholders to get feedback on revising EPC's Services-Fee Schedule Rule Chapter 1-6, Rules of the EPC. EPC's fees have not been comprehensively adjusted since 2003 and EPC-adopted BOCC policy # 03.02.02.09 requires EPC staff to periodically report back on the full cost of services. The EPC staff conducted three workshops regarding the cost study.

On February 15, 2018, the EPC staff presented the Fee Study report to the Commission including the full cost methodology used and the comments received during the workshops. The Commission approved scheduling a Public Hearing on March 22, 2018 to consider amending the rule. On March 7, 2018, the EPC staff conducted an additional workshop with the final proposed rule amendments to receive input from the public and other stakeholders.

This Public Hearing was authorized by a vote of the Commission on February 15, 2018 and was properly noticed in the Tampa Bay Times on March 8, 2018. The proposed draft rule amendments have been available for public review on the EPC website since March 5, 2018. Pursuant to Section 5(2) of the Hillsborough County Environmental Protection Act (EPC Act), the Commission must hold a noticed public hearing to approve a rule or rule amendment. The EPC staff requests that the Commission approve the attached draft rule amendments that incorporate the appropriate fees based on the fee study and subsequent staff comment and public comment received by EPC staff.

**RULES OF THE  
ENVIRONMENTAL PROTECTION COMMISSION  
OF HILLSBOROUGH COUNTY**

**CHAPTER 1-6  
SERVICES-FEE SCHEDULE**

- 1-6.01** Declaration and Intent
- 1-6.02** Air Management
- 1-6.03** Waste Management
- 1-6.04** Water Management
- 1-6.05** Wetlands Management
- 1-6.06** Other Miscellaneous Charges
- 1-6.07** Fee Modifications or Waivers
- 1-6.08** Prohibitions

**1-6.01 DECLARATION AND INTENT**

It is the intent of the Commission, pursuant to Section 5 of Chapter 84-446, Laws of Florida, as amended, to establish appropriate reasonable fees for services performed by the ~~Environmental Protection Commission Executive~~ Director, and ~~his~~ duly authorized agents and employees in the review of applications and other services rendered under the provisions of the enabling act technical materials, in the investigation of cases involving violation of the enabling act and rules promulgated there under, and in the conduct of inspections.

~~These Said~~ fees are for the purpose of defraying expenses incurred by the Environmental Protection Commission in performing professional services necessitated by the actions of others. All funds collected for ~~said~~ services shall become funds of Hillsborough County and shall be deposited in the General Revenue Fund.

**1-6.02 AIR MANAGEMENT**

A. Stationary source air pollution permitting  
~~+~~ The following application and compliance fees apply to permits that are to be reviewed pursuant to the authority of Chapter 84-446, Laws of Florida, and not pursuant to full permit delegation from the Florida Department of Environmental Protection (FDEP) except as provided in subsection A.5.2 below. The fees for the non-delegated activities facilities are as follows:

<del>1.a)</del> Construction permit <del>for an air pollution source</del>			
(i) <del>New source review or prevention of significant deterioration</del>			\$480
(ii) <del>All others per emission unit at either a minor or synthetic minor facility</del>			\$960
<u>2.(b)</u> Operation permit <del>for an air pollution source for (5 years) yrs</del>			\$700
(i) <u>Per emission unit at a m</u> Minor facility			\$1245
(1) Application review	\$795	\$440	\$760
(2) Compliance	\$450	\$320	
(ii) <u>Per emission unit at a s</u> Synthetic minor facility			\$1645
(1) Application review	\$795	\$560	\$1,850
(2) Compliance	\$850	\$1,290	
(iii) <u>Major facility</u>			\$2645
(1) <del>Application review</del>	\$795		
(2) <del>Compliance</del>	\$1850		
<u>3.(e)</u> Revise an <u>air pollution source operation permit per emission unit at either a minor or synthetic minor facility</u>			\$380
			\$390
<u>4.(d)</u> Transfer of ownership, name change, and extension of expiration date for each air permit			\$45 \$270
<u>5.(e)</u> <u>Air permits being reviewed and processed by the Commission pursuant to permit delegation from the FDEP shall be subject to the processing fees set forth in Section 62-4.050 F.A.C.</u>			
<del>2. Air permits being reviewed and processed pursuant to full permit delegation from FDEP shall be subject to the processing fees set forth in section 62-4.050 F.A.C., as summarized below, and shared with FDEP as agreed.</del>			
<del>(a) Construction permits</del>			
(i) <del>Source with PSD or NAA, 100 tons/yr or more</del>			\$750
(ii) <del>Source without PSD or NAA, 100 tons/yr or more</del>			\$5000
(iii) <del>Source 50 tons/yr but less than 100</del>			\$4500
(iv) <del>Source 25 tons/yr but less than 50</del>			\$2000
(v) <del>Source 5 tons/yr but less than 25</del>			\$1000
(vi) <del>Source less than 5 tons/yr</del>			\$250
(vii) <del>Minor modification</del>			\$250

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



(viii)	Minor modification, original permit fee less than \$30	\$50
(ix)	Transfer of ownership/permit	\$50
(x)	Time extension on permit	\$50
<b>(b) Operation permits</b>		
(i)	Major source	no fee
(ii)	Minor source—stack sample	\$1500
(iii)	Minor source—other source	\$1000
(iv)	Minor source—no sample	\$750
(v)	Minor modifications	\$250
(vi)	Transfer of permit ownership	\$50
(vii)	Time extension on permit	\$50
(viii)	Variable form permitting standards or conditions	\$2000

**~~NOTE: Major sources will pay a Title V fee pursuant to Section 62-213 F.A.C. If EPC and DEP have an agreement to share this fee, then no additional fee will be required under this rule. However, if there is no fee sharing agreement, then fees listed in section 1-6.02 A.1. above shall apply for Title V sources.~~**

**B. Asbestos notification\***

<b>1. Notification for commercial demolition</b>		
(a)	For structures less than 50,000 gross sq ft	\$200 <u>\$310</u>
(b)	For structures 50,000 gross sq ft —and greater	\$300
<b>2. Notification for asbestos abatement</b>		
(a)	Renovation 160 to 1000 sq ft or 260 to 1000 linear feet of asbestos	\$300 <u>\$310</u>
(b)	Renovation greater than 1000 linear feet or 1000 sq ft	\$500 <u>\$360</u>
(c)	Annual notifications for facilities where renovation of asbestos containing material is expected to exceed 160 sq ft or 260 linear feet in a calendar year	\$500 <u>\$310</u>

**~~\*There is no fee for courtesy notifications. Courtesy notifications are where a notification for a project is provided by the building owner or his contractor, even though it is not required by rule.~~**

**C. Open burning authorization**

Authorizations are allowed for residential, commercial, or industrial development; mineral operations; clearing of rights-of-way for public highways or roads; and

clearing of vegetation by a government or its agent for public flood control and water drainage channels. It does not include landscaping and yard maintenance operations or other such routine property cleanup activities.

1. Two (2) acres or less Initial clearing of vegetation for residential, commercial, and industrial development \$400 \$300
2. Greater than two (2) acres Initial land clearing for mineral operations \$600 \$300 for every 3 months

**D. Definitions:**

1. “Demolition” is defined as the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations or the intentional burning of any facility.

2. “Facility” is defined as any institutional, commercial, public, industrial, or residential structure, installation, or building (including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units); any ship; and any active or inactive waste disposal site. For purposes of this definition, any building, structure, or installation that contains a loft used as a dwelling is not considered a residential structure, installation, or building.

3. “Courtesy Notification” is defined as a notification provided by the building owner or contractor for a project, even though it is not required by this rule.

4. “Open Burning” is defined pursuant to Section 1-4.02 as the initial uprooting or clearing of vegetation and untreated wood.

**1-6.03 WASTE MANAGEMENT**

**A. Solid waste**

<b>1. Construction permits</b>		
(a)	Class I or <u>Class II</u> facility 5 year permit	\$3300
(i)	Application review	\$800
(ii)	Compliance	\$2500
(b)	Class III facility - 5 year permit	\$2500

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(i) Application review	\$500				<u>\$1000</u>
(ii) Compliance	\$2000				<u>\$2000</u>
(c) Resource recovery/ Incinerator – 5 years		\$2500			<u>\$3600</u>
(i) Application review	\$500			(e) Waste processing facility – 5 year permit	<u>\$2000</u>
(ii) Compliance	\$2000			(i) Application review	<del>\$500</del> <u>\$700</u>
(d) Construction & demolition debris disposal – 5 year permit		\$2500		(ii) Compliance	<u>\$1500</u>
(i) Application review	\$500				<u>\$2800</u>
(ii) Compliance	\$2000			(f) Compost facility – 5 year permit	<u>\$2000</u>
(e) Waste processing facility – 5 year permit		\$2000		(i) Application review	<del>\$500</del> <u>\$700</u>
(i) Application review	\$500			(ii) Compliance	<u>\$1500</u>
(ii) Compliance	\$1500				<u>\$2800</u>
(f) Compost facility – 5 year permit		\$2000		(g) All other solid waste management facilities – 5 years	<u>\$2000</u>
(i) Application review	\$500			(i) Application review	<del>\$500</del> <u>\$700</u>
(ii) Compliance	\$1500			(ii) Compliance	<u>\$1500</u>
(g) All other solid waste management facilities – 5 years		\$2000			<u>\$2800</u>
(i) Application review	\$500			3. Closure/long term care permits	
(ii) Compliance	\$1500			(a) Class I or <u>Class</u> II facilities - 5 year permit	<u>\$1000</u>
2. Operation permits				(i) Application review	\$500
(a) Class I or <u>Class</u> II facility - 5 year permit				(ii) Compliance	<u>\$500</u>
(i) Application review	<del>\$600</del>				<u>\$1800</u>
(ii) Compliance	<u>\$1000</u>			(b) Class III facility - 5 year permit	\$1000
	<u>\$2500</u>			(i) Application review	\$500
	<u>\$2300</u>			(ii) Compliance	\$500
(b) Class III facility – 5 year permit		\$2500		(c) Construction & demolition debris disposal – 5 year permit	<u>\$1000</u>
(i) Application review	\$500			(i) Application review	\$500
(ii) Compliance	\$2000			(ii) Compliance	<del>\$500</del> <u>\$1800</u>
(c) Resource recovery/ Incinerator – 5 year permit				(d) All other solid waste management facilities - 5 year permit	<u>\$1000</u>
(i) Application review	<del>\$500</del>			(i) Application review	\$500
(ii) Compliance	<u>\$1000</u>			(ii) Compliance	<u>\$500</u>
	<u>\$2000</u>				<u>\$1800</u>
	<u>\$2300</u>			4. Director’s Authorization – facilities not otherwise requiring a solid waste permit issued by the FDEP	
(d) Construction & demolition debris disposal – 5 year permit					
(i) Application review	<del>\$500</del>				
		<u>\$2500</u>			
		<u>\$4600</u>			

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(ii) 10 or more EDU \$500  
\$880

~~(a) Application review \$270~~  
~~(b) Compliance \$230~~

(c) The following fee shall apply to all FDEP delegated or non-delegated applications associated with the Request for Approval to Place a Domestic Wastewater Collection/Transmission System into Operation (As-built Verification) due upon submittal of the collection/transmission system permit application: \$340

3. Industrial wastewater source permits

(a) Preliminary design report  
(i) Major facility \$2500  
\$4500  
(ii) Minor facility \$1000  
\$1750  
(b) Facility permit renewals for 5 years  
(i) Minor facility \$1000  
\$1750  
(ii) Major facility \$3000  
\$4400  
~~(a) Application review \$2455~~  
~~(b) Compliance activities \$545~~  
(c) General permits \$275  
\$530  
(d) Permit modifications revisions  
(i) Minor modification \$750  
involving construction \$1300  
activity  
(ii) Substantial modification \$1750  
\$2100

4. EPC authorization for facilities not requiring a FDEP permit which may discharge pollutants or contaminants into waters of the county \$2200

B. With the exception of those fees in Section 1-6.04A.2.(c), Wwastewater permits being reviewed and processed by the Commission pursuant to permit delegation from the FDEP shall be subject to the processing fees set forth in Ssection 62-4.050 F.A.C.; ~~although the compliance fees above may also apply as appropriate.~~

**1-6.05 WETLANDS AND WATERSHED MANAGEMENT**

~~\*\*A1. Land excavation permits~~  
~~(a) New and expansion \$870~~  
~~\$1150~~  
~~(b) Extension and renewal \$650~~

~~\*\*B2. Rezoning application \$300 \$350~~

~~\*\*C3. Subdivision applications~~  
~~1.(a) Preliminary \$370 \$460~~  
~~2.(b) Master plan \$750~~  
~~3.(c) Construction \$490 \$710~~  
~~4.(d) Final plat/Platted subdivision \$200 \$260~~  
~~5.(e) \_\_\_\_\_ Minor subdivision \$230 \$320~~  
~~plans/Certified Parcels~~  
~~6.(f) As-built verification \$300 \$400~~

D4. Tampa Port Authority (TPA)

1.(a) Delegated Minor Work Permit \$590 \$650  
(multi-agency review excluding Section 1-6.05M)  
2.(b) EPC Delegated Minor Work \$ 75 \$100  
Permit Revision (prior to construction)  
3. Delegated Minor Work Permit \$360  
Modification (after construction has commenced)  
4.(c) TPA Permit EPC  
Environmental Review (fee collected by TPA)  
(a) Minor Work Permit \$150  
Environmental and Compliance  
Review (fee collected by TPA)  
(b) Standard Work Permit \$300  
Environmental and Compliance  
Review (fee collected by TPA)

~~\*\*E5. Phosphate mining~~  
~~1. Mitigation Plan Modifications \$730~~  
~~\*\*2.(a) Annual report review and \$375~~  
~~inspection~~  
~~\*\*3.(b) Unit review and \$3500~~  
~~reclamation~~  
~~(c) Bimonthly inspections (6 per \$310~~  
~~year)~~

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<u>**4. Mitigation Review Inspections</u>	<u>\$310</u>	<u>J40. Wetland delineation</u>	
<u>(per annual report review, per</u>		<u>(a) Less than 250 L.F</u>	<u>\$150</u>
<u>year, including monitoring report</u>		<u>(b) 250 L.F. or greater</u>	<u>\$150 + .20</u>
<u>reviews)</u>			<u>L.F</u>
<u>**5.(d) Administrative Review</u>	<u>\$100</u>	<u>Project Area Size</u>	
<u>**6.(e) Land Alteration</u>	<u>\$500</u>	<u>1. Less than 1 acre</u>	<u>\$200</u>
<u>**7.(f) Amendments to Mining/</u>		<u>2. 1 acre to 3 acres</u>	<u>\$270</u>
<u>Reclamation</u>		<u>3. 3 acres to 10 acres</u>	<u>\$460</u>
<u>(ia) Changes within the mining</u>	<u>\$1000</u>	<u>4. 10 acres to 40 acres</u>	<u>\$810</u>
<u>unit</u>		<u>5. 40 acres to 100 acres</u>	<u>\$1420</u>
<u>(bih) Addition of adjacent acreage</u>	<u>***</u>	<u>6. Over 100 acres</u>	<u>\$1420 +</u>
			<u>\$280 per</u>
<u>**F6. Development of regional impact</u>	<u>\$1200</u>		<u>additional</u>
			<u>100 acres</u>
<u>**G7. Commercial site development</u>	<u>\$500</u>	<u>7. Recertification</u>	<u>50% of</u>
<u>application</u>		<u>(up to 1 year after expiration)</u>	<u>Initial Fee</u>
<u>1. Preliminary</u>	<u>\$460</u>		
<u>2. Construction</u>	<u>\$710</u>	<u>44K. Wetland Impact Mitigation</u>	
<u>3. Final plat</u>	<u>\$260</u>	<u>(a) Single family homes (review</u>	<u>\$850</u>
<u>4. Minor construction</u>	<u>\$310</u>	<u>and monitoring reports)</u>	
<u>5. As-built verification</u>	<u>\$400</u>	<u>(i) Review</u>	<u>\$500</u>
		<u>(ii) 7 monitoring reports</u>	<u>\$350</u>
<u>**H8. Natural Resources</u>	<u>\$270</u>	<u>** (b) Commercial/subdivision-</u>	
<u>1. Setback encroachment</u>	<u>\$260</u>	<u>forested</u>	<u>\$4975</u>
<u>2. Land alteration</u>	<u>\$590</u>	<u>(i) Review</u>	<u>\$2500</u>
		<u>(ii) 11 monitoring reports</u>	<u>\$2475</u>
<u>*I9. Miscellaneous activities in</u>		<u>(e) Commercial/subdivision-</u>	<u>\$4075</u>
<u>wetlands</u>		<u>herbaceous</u>	
<u>(MAIW)</u>		<u>(i) Review</u>	<u>\$2500</u>
<u>1.(a) Nuisance <u>vegetation</u> species</u>	<u>No fee</u>	<u>(ii) 7 monitoring reports</u>	<u>\$1575</u>
<u>removal</u>		<u>(d) Agricultural-Forested</u>	<u>\$1050</u>
<u>2.(b) Dock, boardwalks, riprap,</u>	<u>\$150 \$380</u>	<u>(i) Review</u>	<u>\$500</u>
<u>ete-swim access, etc. (3 year permit)</u>		<u>(ii) Monitoring</u>	<u>\$550</u>
		<u>(e) Agricultural-Herbaceous</u>	<u>\$850</u>
<u>(c) Projects requiring EPC MAIW and</u>	<u>\$400</u>	<u>(i) Review</u>	<u>\$500</u>
<u>Delegated FDEP Environmental</u>		<u>(ii) Monitoring</u>	<u>\$350</u>
<u>Resource Permitting (ERP)</u>		<u>(f) Amendment to mitigation plan</u>	
<u>Noticed General or Standard</u>		<u>(i) Changes in</u>	
<u>General Permit *****</u>		<u>configuration/location</u>	<u>\$500</u>
<u>3. Whole Lake Treatments (lakes less</u>		<u>(ii) Changes in elevations/</u>	
<u>than 10 acres) 3 year permit</u>	<u>\$490</u>	<u>planting scheme</u>	<u>\$100</u>
<u>4. Whole Lake Treatments (lakes</u>		<u>(g) Phosphate mining within a</u>	
<u>greater than 10 acres) 3 year</u>	<u>\$680</u>	<u>previously approved</u>	
<u>permit</u>		<u>mitigation application</u>	
<u>5. Hazard Native Tree Removal</u>	<u>\$50</u>		
<u>(up to 3 trees)</u>			

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~~(i) Addition of adjacent area or additional wetland impact request~~ ~~\*\*\*\*~~

1. Total Proposed Impact Size Review

- (a) Less than 0.5 acres  
\$720
- (b) 0.5 acres to 1 acre  
\$1270
- (c) 1 acre to 5 acres \$2100
- (d) 5 acres to 10 acres \$2810
- (e) Exceeds Threshold (10+ acre) \$3650

(f) Mitigation Compliance

- (i) Permittee Responsible Mitigation Monitoring Fee \$2000
- (ii) Mitigation Bank Credit \$250
- (iii) Authorization Extensions \$250
- (g) Permit Modification
- (i) Mitigation Bank Credit Withdrawal \$100
- (ii) Changes in configuration/location/elevation \$730

~~12~~ Mangrove Trimming and Alteration

- ~~1.~~ (a) Trimming permit per Ch. 1-14.06
- ~~2.~~ (b) Compliance/monitoring fee for staged trimming for each trim event— \$50

\$220

- ~~3.~~ (e) Other Trimming and Alteration permit
- Single family \$1,050
- (i) Review \$500 \$690
- (ii) Up to 11 monitoring reports \$550 \$2050

- ~~4.~~ (d) Other Trimming and Alteration permit
- Commercial /subdivision \$4,975
- (i) Review \$2500
- (ii) Up to 11 monitoring reports \$2475 \$2720

- ~~5.~~ (e) Professional Mangrove Trimmer fee per Ch. 1-14.08
- First time registration fee \$50
- Annual renewal fee \$25

M. FDEP Delegated Environmental Resource Permits  
\$100

N. Written Verification for the following Exemptions (not included in other authorizations) \$100

- 1. Noticed Exemptions
- 2. Mangrove Trimming Exemptions

3. FDEP Delegated Exemptions

~~\*\*Denotes EPC Fees collected by the Hillsborough County Development Services Planning and Growth Management—Department for EPC. For Subdivision/Commercial Preliminary & Construction Plan reviews there is no charge for the first resubmittal, and each subsequent resubmittal will be 50% of the initial review fee.~~

~~[Publisher’s Note: EPC charges for development and rezoning applications may be submitted to appropriate governmental entities where the review process has been coordinated with EPC]~~

~~\*\*Only this subsection of Rule 1-6.05.11 applies if the application contains a request for authorization to impact both forested and herbaceous wetlands.~~

~~\*\*\*Minimum \$500 or Straight Line Pro-Rata Fee whichever is greater calculated using the following formula: the number of acres of land to be added to an approved mining unit divided by 2500, multiplied by the fee required by Rule 1-6.05.5(b)E.3.~~

~~\*\*\*\*Minimum \$700 or Straight Line Pro-Rata Fee whichever is greater calculated using the following formula: the number of acres of land to be added to an approved mitigation application divided by 2500, multiplied by the fee required by Rule 1-6.05.11(b) or (c), as applicable.~~

~~\*\*\*\*\* All other FDEP fees will be waived for applications for eligible activities under the current ERP delegation agreement.~~

Definitions:

~~**1-6.05(5)(d) — Administrative Review** shall include applications that, regardless of whether the proposed activity is within an approved Mining Unit, do not (1) request authorization for wetland impacts; (2) require a field inspection; (3) necessitate an engineering review within the Wetlands Division; or (4) request any substantive modifications to an existing approval. For the purposes of this rule, non-substantive modifications shall include the following: modification of an approved mining schedule; modification of an approved reclamation schedule; transfer of permits; and transportation-related modifications.~~

~~**1-6.05(5)(e) — Land Alteration** shall include~~

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~~applications that, regardless of whether the proposed activity is within an approved Mining Unit: (1) do not request authorization for wetland impacts; and (2) may necessitate an engineering review within the Wetlands Division. This type of application shall include, but not limited to, the following: authorization to construct or expand access and utility corridors; applications to site settling ponds.~~

~~Section History - amended March 22, 2012 March 22, 2018  
Effective March 22, 2012 July 1, 2018~~

### 1-6.06 OTHER MISCELLANEOUS CHARGES

- ~~A1.~~ Enforcement Costs ~~\$50/hr~~ \$60/hr
- ~~B2.~~ Public Record fees ~~\*\*\*\*~~
- ~~2.~~ ~~Data Processing Data Analysis~~ ~~\*\$50/hr~~
- ~~3.~~ ~~Certification of Copies~~ ~~\$1/pg~~
- ~~4.~~ ~~Copies~~ ~~\$15/pg~~

~~\*\*\*\* Established in accordance with  
Chapter 119, Florida Statutes~~

### 1-6.07 FEE MODIFICATIONS OR WAIVERS

- ~~A1.~~ The Executive Director may modify or waive the appropriate application fee in cases of financial hardship.
- ~~B2.~~ The Executive Director may modify or waive an application fee in circumstances where unfairness would otherwise be the result.

### 1-6.08 PROHIBITIONS

The fees listed in Sections 1-6.02 through 1-6.05 are due and payable upon submission of a request, application or notification. Whenever a request application or notification is submitted without the required fee, receipt shall be acknowledged ~~and the request, application or notification shall be immediately returned with~~

attachments; and no further action or processing shall be taken until the appropriate fees are submitted along with the supporting documents. It shall be a violation to fail to pay a required fee.

~~[Publisher's Note: EPC charges for development and rezoning applications may be submitted to appropriate governmental entities where the review process has been coordinated with EPC]~~

#### Rule History:

Adopted 2/13/75; Amended 2/10/76; Amended 2/9/78; Amended 11/9/78; Amended 10/18/82; Amended 12/14/82; Adopted 2/28/85, Effective 03/15/85; Amended 02/28/86; Amended 12/11/86; Amended 01/13/88; Amended 02/28/90, Effective 04/01/90; Amended 07/10/90; Amended 08/22/90, Effective 10/01/90; Amended 05/22/91; Amended 09/25/91; Amended 11/05/91; Amended 3/24/93; Amended 5/26/93; Amended 1/25/95; Amended 8/21/97; Amended 9/17/98; Amended 6/12/03, Effective 10/01/03; Amended 2/16/06, Effective 2/24/06; Amended referenced section 10/15/09, Effective 11/2/09; Amended referenced section 3/22/12, Effective 3/22/12-; Adopted 3/22/18, Effective 7/1/18

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# Proposed Rule Without Strikethrough/Underline

## RULES OF THE ENVIRONMENTAL PROTECTION COMMISSION OF HILLSBOROUGH COUNTY

### CHAPTER 1-6 SERVICES-FEE SCHEDULE

- 1-6.01** Declaration and Intent
- 1-6.02** Air Management
- 1-6.03** Waste Management
- 1-6.04** Water Management
- 1-6.05** Wetlands Management
- 1-6.06** Other Miscellaneous Charges
- 1-6.07** Fee Modifications or Waivers
- 1-6.08** Prohibitions

#### **1-6.01 DECLARATION AND INTENT**

It is the intent of the Commission, pursuant to Section 5 of Chapter 84-446, Laws of Florida, as amended, to establish appropriate fees for services performed by the Executive Director, and duly authorized agents and employees in the review of applications and other services rendered under the provisions of the enabling act in the investigation of cases involving violation of the enabling act and rules promulgated there under, and in the conduct of inspections.

These fees are for the purpose of defraying expenses incurred by the Environmental Protection Commission in performing professional services necessitated by the actions of others. All funds collected for services shall become funds of Hillsborough County and shall be deposited in the General Revenue Fund.

#### **1-6.02 AIR MANAGEMENT**

A. Stationary source air pollution permitting  
The following application and compliance fees apply to permits that are to be reviewed pursuant to the authority of Chapter 84-446, Laws of Florida, and not pursuant to full permit delegation from the Florida Department of Environmental Protection (FDEP) except as provided in subsection A.5. below. The fees for the non-delegated activities are as follows:

- |   |   |        |
|---|---|--------|
| 1.  | Construction permit per emission unit at either a minor or synthetic minor facility   | \$700  |
| 2.  | Operation permit (5 years)  |        |
|   | (i) Per emission unit at a minor facility   | \$760  |
|   | (1) Application review  | \$440  |
|   | (2) Compliance  | \$320  |
|   | (ii) Per emission unit at a synthetic minor facility  | \$1850 |
|   | (1) Application review  | \$560  |
|   | (2) Compliance  | \$1290 |
| 3.  | Revise an operation permit per emission unit at either a minor or synthetic minor facility  | \$390  |
| 4.  | Transfer of ownership, name change, and extension of expiration date for each air permit  | \$270  |
| 5.  | Air permits being reviewed and processed by the Commission pursuant to permit delegation from the FDEP shall be subject to the processing fees set forth in Section 62-4.050 F.A.C. |        |
| <b>B. Asbestos notification</b>   |   |        |
| 1.  | Notification for commercial demolition  | \$310  |
| 2.  | Notification for asbestos abatement   |        |
|   | (a) Renovation 160 to 1000 sq ft or 260 to 1000 linear feet of asbestos   | \$310  |
|   | (b) Renovation greater than 1000 linear feet or 1000 sq ft  | \$360  |
|   | (c) Annual notifications for facilities where renovation of asbestos containing material is expected to exceed 160 sq ft or 260 linear feet in a calendar year.                     | \$310  |
| <b>C. Open burning authorization</b>  |   |        |
| Authorizations are allowed for residential, commercial, or industrial development: mineral operations; clearing of rights-of-way for public highways or roads; and clearing of vegetation by a government or its agent for public flood control and water drainage channels. It does not include landscaping and yard maintenance operations or other such routine property cleanup activities. |   |        |
| 1.  | Initial clearing of vegetation for  | \$300  |



## Proposed Rule Without Strikethrough/Underline

<p>residential, commercial, and industrial development.</p> <p style="text-align: right;">\$300 for every 3 months</p> <p>2. Initial land clearing for mineral operations</p> <p>D. Definitions:</p> <p>1. "Demolition" is defined as the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations or the intentional burning of any facility.</p> <p>2. "Facility" is defined as any institutional, commercial, public, industrial, or residential structure, installation, or building (including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units); any ship; and any active or inactive waste disposal site. For purposes of this definition, any building, structure, or installation that contains a loft used as a dwelling is not considered a residential structure, installation, or building.</p> <p>3. "Courtesy Notification" is defined as a notification provided by the building owner or contractor for a project, even though it is not required by this rule.</p> <p>4. "Open Burning" is defined pursuant to Section 1-4.02 as the initial uprooting or clearing of vegetation and untreated wood.</p> <p><b>1-6.03 WASTE MANAGEMENT</b></p> <p>A. Solid waste</p> <p>1. Construction permits</p> <p>(a) Class I or Class II facility 5 year permit</p> <p style="padding-left: 20px;">(i) Application review \$800</p> <p style="padding-left: 20px;">(ii) Compliance \$2500</p> <p>(b) Class III facility - 5 year permit</p> <p style="padding-left: 20px;">(i) Application review \$500</p> <p style="padding-left: 20px;">(ii) Compliance \$2000</p> <p>(c) Resource recovery/ Incinerator – 5 years</p> <p style="padding-left: 20px;">(i) Application review \$500</p> <p style="padding-left: 20px;">(ii) Compliance \$2000</p> <p>(d) Construction &amp; demolition debris disposal – 5 year permit</p> <p style="padding-left: 20px;">(i) Application review \$500</p> <p style="padding-left: 20px;">(ii) Compliance \$2000</p> <p>(e) Waste processing facility – 5 year permit</p>		<p>(i) Application review \$500</p> <p>(ii) Compliance \$1500</p> <p>(f) Compost facility – 5 year permit</p> <p style="padding-left: 20px;">(i) Application review \$500</p> <p style="padding-left: 20px;">(ii) Compliance \$1500</p> <p>(g) All other solid waste management facilities – 5 years</p> <p style="padding-left: 20px;">(i) Application review \$500</p> <p style="padding-left: 20px;">(ii) Compliance \$1500</p> <p>2. Operation permits</p> <p>(a) Class I or Class II facility - 5 year permit</p> <p style="padding-left: 20px;">(i) Application review \$1000</p> <p style="padding-left: 20px;">(ii) Compliance \$2300</p> <p>(b) Class III facility – 5 year permit</p> <p style="padding-left: 20px;">(i) Application review \$500</p> <p style="padding-left: 20px;">(ii) Compliance \$2000</p> <p>(c) Resource recovery/ Incinerator – 5 year permit</p> <p style="padding-left: 20px;">(i) Application review \$1000</p> <p style="padding-left: 20px;">(ii) Compliance \$2300</p> <p>(d) Construction &amp; demolition debris disposal – 5 year permit</p> <p style="padding-left: 20px;">(i) Application review \$1000</p> <p style="padding-left: 20px;">(ii) Compliance \$3600</p> <p>(e) Waste processing facility – 5 year permit</p> <p style="padding-left: 20px;">(i) Application review \$700</p> <p style="padding-left: 20px;">(ii) Compliance \$2800</p> <p>(f) Compost facility – 5 year permit</p> <p style="padding-left: 20px;">(i) Application review \$700</p> <p style="padding-left: 20px;">(ii) Compliance \$2800</p> <p>(g) All other solid waste management facilities – 5 years</p> <p style="padding-left: 20px;">(i) Application review \$700</p> <p style="padding-left: 20px;">(ii) Compliance \$2800</p> <p>3. Closure/long term care permits</p> <p>(a) Class I or Class II facilities - 5 year permit</p> <p style="padding-left: 20px;">(i) Application review \$500</p> <p style="padding-left: 20px;">(ii) Compliance \$1800</p> <p>(b) Class III facility - 5 year permit</p> <p style="padding-left: 20px;">(i) Application review \$500</p>	<p></p> <p>\$2000</p> <p></p> <p>\$2000</p> <p></p> <p>\$3300</p> <p>\$2500</p> <p>\$3300</p> <p>\$4600</p> <p>\$3500</p> <p>\$3500</p> <p>\$2300</p> <p>\$1000</p>
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## Proposed Rule Without Strikethrough/Underline

<ul style="list-style-type: none"> <li>(ii) Compliance \$500</li> <li>(c) Construction &amp; demolition debris disposal – 5 year permit \$2300               <ul style="list-style-type: none"> <li>(i) Application review \$500</li> <li>(ii) Compliance \$1800</li> </ul> </li> <li>(d) All other solid waste management facilities - 5 year permit \$2300               <ul style="list-style-type: none"> <li>(i) Application review \$500</li> <li>(ii) Compliance \$1800</li> </ul> </li> </ul>		<ul style="list-style-type: none"> <li>B. Storage tank installation and upgrade plan reviews \$170</li> </ul>
<h3 style="margin: 0;">1-6.04 WATER MANAGEMENT</h3>		
<p>A. The following application fees apply to permits that are to be reviewed pursuant to the authority of Chapter 84-446, Laws of Florida, and not pursuant to permit delegation from the FDEP:</p>		
<ul style="list-style-type: none"> <li>4. Director’s Authorization – facilities not otherwise requiring a solid waste permit issued by the FDEP           <ul style="list-style-type: none"> <li>(a) Old landfill development – 5 year permit \$3600               <ul style="list-style-type: none"> <li>(i) Application review \$1600</li> <li>(ii) Compliance \$2000</li> </ul> </li> <li>(b) Recovered materials processing facility \$4000               <ul style="list-style-type: none"> <li>(i) Application review \$1200</li> <li>(ii) Compliance \$2800</li> </ul> </li> <li>(c) Yard trash processing facility \$4000               <ul style="list-style-type: none"> <li>(i) Application review \$1200</li> <li>(ii) Compliance \$2800</li> </ul> </li> <li>(d) One time on site disposal – residential \$100</li> <li>(e) All other solid waste management facilities - 5 year permit \$2200               <ul style="list-style-type: none"> <li>(i) Application review \$500</li> <li>(ii) Compliance \$1700</li> </ul> </li> </ul> </li> <li>5. Modifications           <ul style="list-style-type: none"> <li>(a) Minor modifications \$200 Transfer, time extension, minor changes which involve new work, or new work locations which will alter, replace or eliminate permit requirements.</li> <li>(b) Substantial modifications shall require the appropriate application review fee in conformance with Section 1-6.03, 1 through 4.</li> </ul> </li> <li>6. Small quantity hazardous waste generators*           <ul style="list-style-type: none"> <li>(a) Annual notification/verification fee \$40</li> </ul> </li> </ul>		<ul style="list-style-type: none"> <li>1. Domestic wastewater source permits           <ul style="list-style-type: none"> <li>(a) Preliminary design report review \$3600</li> <li>(b) Facility permit renewals for 5 years               <ul style="list-style-type: none"> <li>(i) Types I &amp; II \$3800</li> <li>(ii) Type III \$2600</li> </ul> </li> <li>(c) Permit revisions               <ul style="list-style-type: none"> <li>(i) Minor modification involving construction activity \$1000</li> <li>(ii) Substantial modification \$2200</li> </ul> </li> <li>(d) Biosolids site permit Application \$2800</li> </ul> </li> <li>2. Collection/Transmission system permits           <ul style="list-style-type: none"> <li>(a) General permit \$580</li> <li>(b) Individual permit               <ul style="list-style-type: none"> <li>(i) Less than 10 Equivalent Dwelling Units (EDUs) \$850</li> <li>(ii) 10 or more EDUs \$880</li> </ul> </li> <li>(c) The following fee shall apply to all FDEP delegated or non-delegated applications associated with the Request for Approval to Place a Domestic Wastewater Collection/Transmission System into Operation (As-built Verification) due upon submittal of the collection/transmission system permit application \$340</li> </ul> </li> <li>3. Industrial wastewater source permits           <ul style="list-style-type: none"> <li>(a) Preliminary design report               <ul style="list-style-type: none"> <li>(i) Major facility \$4500</li> <li>(ii) Minor facility \$1750</li> </ul> </li> <li>(b) Facility permit renewals for 5 years               <ul style="list-style-type: none"> <li>(i) Minor facility \$1750</li> <li>(ii) Major facility \$4400</li> </ul> </li> <li>(c) General permits \$530</li> <li>(d) Permit revisions               <ul style="list-style-type: none"> <li>(i) Minor modification involving construction activity \$1300</li> <li>(ii) Substantial modification \$2100</li> </ul> </li> </ul> </li> <li>4. EPC authorization for facilities not requiring</li> </ul>
<p><b>*NOTE: These Environmental Protection Commission fees will normally be collected by the Hillsborough County Tax Collector.</b></p>		

## Proposed Rule Without Strikethrough/Underline

<p>a FDEP permit which may discharge pollutants or contaminants into waters of the county</p> <p>B. With the exception of those fees in Section 1-6.04A.2.(c), wastewater permits being reviewed and processed by the Commission pursuant to permit delegation from the FDEP shall be subject to the processing fees set forth in Section 62-4.050 F.A.C.</p> <p><b>1-6.05 WETLANDS MANAGEMENT</b></p> <p><b>**A. Land excavation permits</b></p> <table border="0" style="width: 100%;"> <tr> <td style="width: 80%;">New and expansion</td> <td style="width: 20%; text-align: right;">\$1150</td> </tr> </table> <p><b>**B. Rezoning application</b> <span style="float: right;">\$350</span></p> <p><b>**C. Subdivision applications</b></p> <table border="0" style="width: 100%;"> <tr> <td style="width: 80%;">1. Preliminary</td> <td style="width: 20%; text-align: right;">\$460</td> </tr> <tr> <td>2. Construction</td> <td style="text-align: right;">\$710</td> </tr> <tr> <td>3. Final plat/Platted subdivision</td> <td style="text-align: right;">\$260</td> </tr> <tr> <td>4. Minor subdivision plans/Certified Parcels</td> <td style="text-align: right;">\$320</td> </tr> <tr> <td>5. As-built verification</td> <td style="text-align: right;">\$400</td> </tr> </table> <p><b>D. Tampa Port Authority (TPA)</b></p> <table border="0" style="width: 100%;"> <tr> <td style="width: 80%;">1. Delegated Minor Work Permit (multi-agency review excluding Section 1-6.05M)</td> <td style="width: 20%; text-align: right;">\$650</td> </tr> <tr> <td>2. Delegated Minor Work Permit Revision (prior to construction)</td> <td style="text-align: right;">\$100</td> </tr> <tr> <td>3. Delegated Minor Work Permit Modification (after construction has commenced)</td> <td style="text-align: right;">\$360</td> </tr> <tr> <td>4. 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Wetland Impact Mitigation</b></p> <table border="0" style="width: 100%;"> <tr> <td style="width: 80%;">1. Total Proposed Impact Size Review</td> <td></td> </tr> <tr> <td style="padding-left: 20px;">(a) Less than 0.5 acres</td> <td style="text-align: right;">\$720</td> </tr> <tr> <td style="padding-left: 20px;">(b) 0.5 acres to 1 acre</td> <td style="text-align: right;">\$1270</td> </tr> </table>	(a) Changes within the mining unit	\$1000	(d) Addition of adjacent storage	***	1. Preliminary	\$460	2. Construction	\$710	3. Final Plat	\$260	4. Minor construction	\$310	5. As-built verification	\$400	1. Setback encroachment	\$260	2. Land alteration	\$590	1. Nuisance vegetation species removal	No fee	2. Dock, boardwalks, riprap, swim access, etc. (3 year permit)	\$380	3. Whole Lake Treatments (lakes less than 10 acres) 3 year permit	\$490	4. Whole Lake Treatments (lakes greater than 10 acres) 3 year permit	\$680	5. Hazard Native Tree Removal (up to 3 trees)	\$50	Project Area Size		1. Less than 1 acre	\$200	2. 1 acre to 3 acres	\$270	3. 3 acres to 10 acres	\$460	4. 10 acres to 40 acres	\$810	5. 40 acres to 100 acres	\$1420	6. Over 100 acres	\$1420 + \$280 per additional 100 acres	7. Recertification (up to 1 year after expiration)	50% of Initial Fee	1. Total Proposed Impact Size Review		(a) Less than 0.5 acres	\$720	(b) 0.5 acres to 1 acre	\$1270
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(c) 1 acre to 5 acres	\$2100
(d) 5 acres to 10 acres	\$2810
(e) Exceeds Threshold (10+ acre)	\$3650
(f) Mitigation Compliance	
(i) Permittee Responsible Mitigation Monitoring Fee	\$2000
(ii) Mitigation Bank Credit	\$250
(iii) Authorization Extensions	\$250
(g) Permit Modification	
(i) Mitigation Bank Credit Withdrawal	\$100
(ii) Changes in configuration/location/elevation	\$730
L. Mangrove Trimming and Alteration	
1. Trimming permit per Ch. 1-14.06	\$400
2. Compliance/monitoring fee for staged trimming for each trim event	\$220
3. Other Trimming and Alteration permit Single family	
(i) Review	\$690
(ii) Up to 11 monitoring reports	\$2050
4. Other Trimming and Alteration permit Commercial /subdivision	
(i) Review	\$2500
(ii) Up to 11 monitoring reports	\$2720
5. Professional Mangrove Trimmer fee per Ch. 1-14.08	
(i) First time registration fee	\$50
(ii) Annual renewal fee	\$25
M. FDEP Delegated Environmental Resource Permits	\$100
N. Written Verification for the following Exemptions (not included in other authorizations)	\$100
1. Noticed Exemptions	
2. Mangrove Trimming Exemptions	
3. FDEP Delegated Exemptions	

\*\*Denotes EPC Fees collected by the Hillsborough County Development Services Department for EPC. For Subdivision/Commercial Preliminary & Construction Plan reviews there is no charge for the first resubmittal, and each subsequent resubmittal will be 50% of the initial review fee.  
**[Publisher's Note:** EPC charges for development and rezoning applications may be submitted to appropriate governmental entities where the review process has been coordinated with EPC]

\*\*\*Minimum \$500 or Straight Line Pro-Rata Fee whichever is greater calculated using the following formula: the number of acres of land to be added to an approved mining unit divided by 2500, multiplied by the fee required by Rule 1-6.05E.3.

**Section History - amended March 22, 2018  
Effective July 1, 2018**

### 1-6.06 OTHER MISCELLANEOUS CHARGES

- |                       |         |
|-----------------------|---------|
| A. Enforcement Costs  | \$60/hr |
| B. Public Record fees | ****    |

\*\*\*\* Established in accordance with Chapter 119, Florida Statutes

### 1-6.07 FEE MODIFICATIONS OR WAIVERS

- A. The Executive Director may modify or waive the appropriate application fee in cases of financial hardship.
- B. The Executive Director may modify or waive an application fee in circumstances where unfairness would otherwise be the result.

### 1-6.08 PROHIBITIONS

The fees listed in Sections 1-6.02 through 1-6.05 are due and payable upon submission of a request, application or notification. Whenever a request application or notification is submitted without the required fee, receipt shall be acknowledged and no further action or processing shall be taken until the appropriate fees are submitted along with the supporting documents. It shall be a violation to fail to pay a required fee.

#### Rule History:

Adopted 2/13/75; Amended 2/10/76; Amended 2/9/78; Amended 11/9/78; Amended 10/18/82; Amended 12/14/82; Adopted 2/28/85, Effective 03/15/85; Amended 02/28/86; Amended 12/11/86; Amended 01/13/88; Amended 02/28/90, Effective 04/01/90; Amended 07/10/90; Amended 08/22/90, Effective 10/01/90; Amended 05/22/91; Amended 09/25/91; Amended 11/05/91; Amended 3/24/93; Amended 5/26/93; Amended 1/25/95; Amended 8/21/97; Amended 9/17/98; Amended 6/12/03, Effective 10/01/03; Amended 2/16/06, Effective 2/24/06; Amended referenced section 10/15/09, Effective 11/2/09; Amended referenced section 3/22/12,

## **Proposed Rule Without Strikethrough/Underline**

Effective 3/22/12; Adopted 3/22/18, Effective 7/1/18



# ENVIRONMENTAL PROTECTION COMMISSION

## AGENDA ITEM COVER SHEET

Agenda Item # C1

**Date of EPC Meeting:** March 22, 2018

**Subject:** 2018 Legislative Session and Constitution Revision Commission updates

**Agenda Section:** Regular Agenda

**Division:** Legal and Administrative Services Division

**Recommendation:** Informational Report.

**Brief Summary:** The Florida Legislature was in session from January 9 through March 11, 2018. EPC staff will provide updates on various environmental bills that passed and failed. The tree preemption bills that the Commission opposed did not pass. EPC staff will also provide an update on the Constitution Revision Commission.

**Financial Impact:** No Financial Impact

**List of Attachments:** None

### **Background:**

#### **A. Legislative Update**

The 2018 Florida Legislature was in session from January 9 through March 11, 2018. EPC staff reviews environmental and administrative bills to determine if they may impact the EPC's functions. The Commission approved a basic legislative strategy (EPC Policy No. 2007-02) on March 15, 2007, that gives staff and the Chair continuing direction to monitor, comment on, and lobby for bills that impact the functions of the EPC.

EPC tracked and analyzed dozens of bills. The most notable environmental and administrative bills are summarized below.

#### **BILLS THAT FAILED**

1) **INLAND PROTECTION TRUST FUND**  
**[HB 1075](#) and [SB 1438](#)**

These bills proposed to authorize use of Inland Protection Trust Fund (IPTF) for dry-cleaning solvent cleanup program and specifies annual appropriation to fund. We had concern this would decrease funding for petroleum cleanup. The bill allocated \$150M to the IPTF, but

\$30M was redirected from petroleum cleanup to dry-cleaning solvent cleanup. Both bills died in committee.

2) **FRACKING**  
**[SB 462](#) and [SB 834](#) and [HB 237](#)**

There were many bills proposing a ban on fracking (a/k/a well stimulation) as opposed to previous bills in the last two years that attempted to further regulate it. SB 462 was sponsored by Senator Dana Young. SB 462 was approved by the Senate Environmental Preservation and Conservation Committee, but then died in the next committee. House companion (HB 237 by Rep. Peters) and another Senate companion (SB 834) never were heard in committee. The bills all died in committee.

3) **TREE and TIMBER TRIMMING, REMOVAL, and HARVESTING**  
**[SB 574](#) and [HB 521](#)**

Senate Bill 574 by Senator Steube and identical House companion (HB 521) by Rep. Edwards proposed to preempt to the state the regulation of the trimming, harvesting, or removal of trees and timber on private property. The proposed law would not allow local governments to prohibit a private landowner from trimming, removing, or harvesting trees or timber located on the landowner's private property. Additionally, a local government would not be allowed to require mitigation (e.g. the planting of trees or the payment of a fee), for the removal of or harvesting of trees or timber from private property. The bill also provides that local governments may not prohibit the burial of trees, shrubs, palmettos, or other vegetative debris on properties larger than 2.5 acres. EPC staff raised concerns that this would pre-empt, at a minimum, local government environmental regulation of trees such as regulation of cypress tree harvesting and individual removal of trees in wetlands. Furthermore, the bill would unintentionally have allowed for unregulated landfill operations. Specifically, private landowners (over 2.5 acres) could bury anyone's trees and vegetative debris on their land as opposed to just trees the cut down on his/her property. The EPC Commission voted to oppose this bill on November 16, 2017, and a letter signed by the Commission Miller, EPC Chairman, was sent to key Legislators.

Two House committees passed committee substitutes (CS) that greatly narrowed down the scope of the pre-emption. The CS proposed to pre-empt local governments from regulating tree removal in rights of way intended for drainage control and it recognized that the pre-emption does not impact local governments' ability to regulate mangroves. The latter point was one EPC, FLERA, and FAC staff encouraged. The House CS was approved and sent to the Senate, but the Senate did not vote on it. The Senate bill died in committee. Thus, both bills failed.

4) **BASIN MANAGEMENT ACTION PLANS**  
**[SB 1664](#)**

The bill Sponsored by Senator Simmons proposed to amend section 403.067, F.S. regarding Best Management Action Plans (BMAPs) and total maximum daily load (TMDLs). As part of the BMAP process to achieve a TMDL, the DEP, Dept. of Health, utilities, and local governments must work together to create an Onsite Sewage Treatment and Disposal Systems (a/k/a septic

tank) remediation plan. The plan must consider economically feasible options, including but not limited to system repair, upgrade, or replacement; drainfield modification; the addition of effective nutrient-reducing features; connection to a central sewerage system; etc. The plan should have a ranking system to prioritize repairs and potentially a funding mechanism. A similar program of repair, ranking, and funding for wastewater treatment facilities is required also. The Senate bill died in committee.

5) **DOMESTIC WASTEWATER COLLECTION SYSTEM ASSESSMENT AND MAINTENANCE**  
**SB 244** and [HB 837](#)

SB 244 by Senator Brandes and HB 837 by Reps. Edwards-Walpole, Jacobs, and Lee create a blue star collection system assessment and maintenance program. It required the DEP to review and approve program applications for certification. It creates a presumption of compliance for certain total maximum daily load requirements for certified utilities. Moreover it required the DEP to provide extended duration operating permits when a certified utility applied for permit renewal. The House version was approved and sent to the Senate, but it was not voted on in the Senate. Thus, both bills died, but the language was later inserted into HB 1149 which passed.

**BILLS THAT PASSED**

6) **ENVIRONMENTAL REGULATION**  
[SB 1308](#) and [HB 1149](#)

HB 1149 is omnibus environmental legislation sponsored by Senator Perry and Representative Payne. Mainly a water resource bill; key provisions of the identical bills are as follows:

- a. Clarifies what types of uses of reclaimed water can qualify for a WUP “impact offset” (e.g. – saltwater intrusion barrier, elevate aquifer level, etc.). Per Senate Bill 1308 analysis, “An impact offset is the use of reclaimed water to reduce or eliminate a harmful impact that has occurred or would otherwise occur as a result of other surface water or groundwater withdrawals. A substitution credit is the use of reclaimed water to replace all or a portion of an existing permitted use of resource-limited surface water or groundwater which then allows a different user or use to initiate a withdrawal or increase its withdrawal from the same resource-limited surface water or groundwater source.” Environmental organizations have expressed concern that this bill may allow more treated wastewater to be pumped into the aquifer in exchange for new groundwater withdrawals.
- b. Allows Environmental Resource Permit (ERP) applicant to ask for a renewal of their individual permit under defined circumstances even if it has expired. Even a future landowner can ask for an expired ERP construction permit issued to the previous owner to be renewed.
- c. Private recycling companies cannot be required by local governments to process contaminated recycling (e.g. – single stream recycling that contains plastic bags, cords, clothing, etc.). Contaminated recycling may be defined in contracts with local government.
- d. Local government cannot require the DEP to provide verification that a person qualifies for one of the dozens of 403.813, F.S. (mainly wetland) exemptions.



- e. Section 403.813(1)(d), F.S. currently states that any dock repair/replacement is exempt from ERP if you build or repair the dock in the exact same location. This bill allows the replacement/repair to occur no more than 5 feet from the original location. The sponsor proposed this to assist owners when they rebuild after a hurricane. This language would limit DEP and delegated programs from enforcing dock replacement in slightly different location. The reconstruction cannot adversely impact additional aquatic resources.
- f. Creates a blue star collection system assessment and maintenance program at the DEP. The purpose of this voluntary incentive program is to assist public and private utilities in limiting sanitary sewer overflows and the unauthorized discharge of pathogens. It may qualify participants for 10-year permits and reduced penalties for future sewer overflows.
- g. Section 403.161, F.S. is amended to state, “Notwithstanding any other law, the department may reduce the amount of a penalty based on the person's investment in the assessment, maintenance, rehabilitation, or expansion of the permitted facility.”

The House version was passed and is awaiting the Governor’s signature.

**7) STATE ASSUMPTION OF FEDERAL SECTION 404 DREDGE AND FILL PERMITTING AUTHORITY**  
[HB 7043](#) and [SB 1402](#)

These bills give the DEP the authority to assume wetland and other surface water permitting from the Environmental Protection Agency and Army Corps of Engineers. The House of Representatives Government Accountability Committee Staff Analysis states as follows:

*Section 404 of the Clean Water Act (CWA) provides the principle federal protection for wetlands. Under the CWA, no person may discharge dredge or fill materials into navigable waters without a permit. The United States Army Corps of Engineers (Corps) administers the section 404 dredge and fill permitting program (program), while the United States Environmental Protection Agency (EPA) provides oversight.*

*Part IV of chapter 373, F.S., establishes Florida’s wetland regulatory program. The Environmental Resource Permit (ERP) program administers permits for dredging and filling in all wetlands and other surface waters, including state waters not subject to federal jurisdiction. The ERP program also regulates activities that affect the flow of water across the surface of the land, such as stormwater.*

*States may assume administration of the program from the federal government. Assumption allows states to process permit applications, issue permits, and monitor permitted activities on behalf of the federal government. A state’s permitting criteria must be at least as stringent as federal criteria and must follow federal permitting procedures. The ERP program requirements are substantially similar to the federal requirements and could be used to administer the program.*

*The bill:*

- *Authorizes the Department of Environmental Protection (DEP) to assume administration of the program. State assumption would streamline, but not merge, the current state and federal permitting processes.*
- *Grants DEP rulemaking authority to adopt necessary rules to satisfy federal requirements to administer the program.*

- *Clarifies that when state law conflicts with federal requirements, the federal requirements would apply to the state administered section 404 permits.*
- *Incorporates by reference the exemptions from federal permitting requirements found in the CWA and rules for the state administered section 404 permits.*
- *Exempts state administered section 404 permits from state permitting decision deadlines.*
- *Limits state administered section 404 permits to a period of no more than five years.*
- *Provides that upon timely, complete application for reissuance, a state administered section 404 permit does not expire until DEP acts on the application. DEP must adopt rules for an expedited permit review process for the reissuance of state administered section 404 permits.*
- *Authorizes DEP to delegate administration of the state administered program and to review, modify, revoke, or rescind any state administered section 404 permit issued by a delegated entity to ensure consistency with federal law.*

The federal agencies must approve the delegation to the DEP, thus passage of the bill does not implement this yet. The House version passed and was approved by the Senate. It has been sent to the Governor for signature.

## **B. Constitution Revision Commission Update**

Constitution Revision Commission (CRC) examines the Florida Constitution once every twenty years for possible changes to put on the ballot for consideration. This is the third CRC (1977, 1997, and 2017). CRC Proposal #95 proposes to amend the Florida Constitution to prohibit local government regulations that may intrude upon or impede commerce, trade, or labor across the local government's boundaries. The proposal states:

### **ARTICLE VIII. LOCAL GOVERNMENT. SECTION 6.**

“Regulation of commerce, trade, or labor.—A county, municipality, or special district may only regulate commerce, trade, or labor occurring exclusively within the respective entity's own boundaries in a manner not prohibited by law. A regulation enacted by a county, municipality, or special district may not intrude upon or impede commerce, trade, or labor across the respective entity's boundaries.”

CRC Proposal #95 is an overly broad proposal that could potentially invalidate a large portion of local government regulations intended to meet community specific needs. It is vague and may lead to litigation to interpret its intent. The CRC's Local Government Committee unanimously voted to lay the proposal on the table on February 2, 2018, but the full CRC commission can revive proposals that failed in committee. On February 21, 2018, the EPC conducted a special meeting and approved a resolution (No. R18-01) to oppose CRC Proposal 95 and other efforts to pre-empt local government regulation. EPC staff attended a public hearing of the Constitution Revision Commission on March 13, 2018. EPC staff delivered the resolution to the commissioners and explained our concerns about further attempts to pre-empt local government regulation. The CRC must complete work by May 10, 2018, if any amendment is to be placed on November 2018 ballot.