

COMMISSION

Mariella Smith, *Chair*
Pat Kemp, *Vice Chair*
Harry Cohen
Ken Hagan
Gwendolyn “Gwen” W. Myers
Kimberly Overman
Stacy White



Executive Director

Janet D. Lorton

General Counsel

Ricardo Muratti

Meeting time

9:00 a.m.

**COMMISSION AGENDA
March 24, 2022**

Location

Virtual meeting via communications media technology – details below

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

2. ROLL CALL

3. CHANGES TO THE AGENDA

4. REMOVAL OF CONSENT ITEM FOR QUESTION, COMMENT, or SEPARATE VOTE

5. RECOGNITIONS and PROCLAMATIONS *(none)*

6. PUBLIC COMMENT - *Each speaker is allowed 3 minutes unless the Commission directs differently. If you wish to provide public comment please submit the online [public comment form](#) at least one hour prior to the start of the meeting.*

7. APPROVAL OF CONSENT AGENDA

Consent Agenda Items

a. Approval of EPC Meeting Minutes for the January 27, 2022 and February 17, 2022 Meetings.....	2
b. Monthly Activity Report FY2022 (February)	9
c. Pollution Recovery Fund Budget FY2022.....	12
d. Legal Case Notification.....	14
e. Initiation of Rulemaking: Waste Management Rule, Chapter 1-7, Rules of the EPC.....	16

8. PUBLIC HEARING *(none)*

9. REGULAR AGENDA

a. FY23 Budget Presentation	18
b. Presentation Regarding Ozone	20
c. Overview of Wetlands Division’s Development Services Reviews.....	21
d. Legislative Update.....	22
e. Lead Advisory Update.....	26
f. Executive Director’s Report	

10. DISCUSSION OF FUTURE AGENDA ITEMS

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.

This meeting will be available LIVE as follows: Spectrum - Channel 637, Frontier - Channel 22, Comcast - Channel 22, PC: <http://www.hcflgov.net/HTVlive>, and iOS: <http://65.49.32.149/iosvideo/ios.htm>



ENVIRONMENTAL PROTECTION COMMISSION

AGENDA ITEM COVER SHEET

Agenda Item # 7.a.

Date of EPC Meeting: March 24, 2022

Subject: Approval of the January 27, 2022, EPC meeting minutes and the February 17, 2022, EPC meeting minutes.

Agenda Section: Consent Agenda

Division: Administration Division

Recommendation: Approve the January 27, 2022, EPC meeting minutes and the February 17, 2022, EPC meeting minutes.

Brief Summary: Staff requests the Commission approve the meeting minutes from the Commission meetings held on January 27, 2022, and February 17, 2022.

Financial Impact: No Financial Impact

List of Attachments: Draft copy of the January 27, 2022, EPC meeting minutes and the February 17, 2022, EPC meeting minutes.

Background: None

JANUARY 27, 2022 - ENVIRONMENTAL PROTECTION COMMISSION

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting, scheduled for Thursday, January 27, 2022, at 9:00 a.m., in the Boardroom, Frederick B. Karl County Center, Tampa Florida, and held virtually.

The following members were present: Chair Mariella Smith and Commissioners Harry Cohen, Ken Hagan (via telephone), Pat Kemp, Gwen Myers (arrived at 9:30 a.m.), Kimberly Overman, and Stacy White.

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

▶ Chair Smith 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. ROLL CALL

▶ The Deputy Clerk called the roll and noted a quorum was present.

3. CHANGES TO THE AGENDA

▶ Chair Smith noted changes to the agenda and sought a motion to approve the suggested changes. ▶ **Commissioner Overman moved the changes, seconded by Commissioner Cohen.** Upon roll call vote, ▶ **the motion carried six to zero.** (Commissioner Myers had not arrived.)

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

5. RECOGNITIONS AND PROCLAMATIONS

Recognition of Ron Nichols, Air Division, upon his retirement after more than 26 years of service.

▶ Ms. Janet Dougherty, EPC Executive Director, introduced Mr. Reginald Sanford, Director, EPC Air Division, who shared a presentation.

Proclamation declaring February 2, 2022, as World Wetlands Day in the County.

▶ Ms. Kimberly Tapley, EPC, shared a presentation. ▶ Chair Smith declared February 2, 2022, as World Wetlands Day in the County. Remarks followed.

6. PUBLIC COMMENT - ▶ **None.**

THURSDAY, JANUARY 27, 2022

7. APPROVAL OF CONSENT AGENDA

Consent Agenda Items

- a. Approval of EPC Meeting Minutes - EPC Regular Meeting November 18, 2021, and EPC Special Meeting December 8, 2021.
- b. Monthly Activity Report Fiscal Year (FY) 2022 (November and December)
- c. Pollution Recovery Fund Budget FY 2022
- d. Legal Case Notification
- e. Action Plans Quarterly Update
- f. Select Performance Measure Goals Quarterly Update

▶ **Commissioner Overman moved approval, seconded by Commissioner Cohen.** Upon roll call vote, ▶ **the motion carried six to zero.** (Commissioner Myers had not arrived.)

8. PUBLIC HEARING - **None.**

9. REGULAR AGENDA

- a. Phosphate Mining and Reclamation Overview

▶ Ms. Dougherty introduced the item. ▶ Ms. Mary James, EPC, delivered a presentation. Following remarks, ▶ **Commissioner Overman moved to provide the financial analysis of the impact of the severance tax being ceased for the various different responsibilities that the EPC and the County were to oversee and to include in that, the risk analysis of the mining agencies obligations, and financial responsibilities associated with that.** After discussion, ▶ **Commissioner Kemp seconded the motion.** Upon roll call vote, ▶ **the motion carried six to zero.** (Commissioner Cohen was out of the room.) Commissioner Kemp spoke on the distribution and the fiscal impact of the General Revenue and State Park Trust Fund.

- b. Executive Director Annual Evaluation FY 2021

Ms. Elaine DeLeeuw, EPC, presented the item. ▶ Commissioner White moved to do for Janet exactly what the Board did for the County Administrator and the

THURSDAY, JANUARY 27, 2022

County Attorney, which was a 4 percent pay raise, and would direct staff to extend the contract to a date to expire on the same date as the County Administrator and County Attorney, seconded by Commissioner Kemp. (The motion was not voted on.) Discussion ensued. ▶ Ms. DeLeeuw, clarified the evaluation process dates and asked the EPC to extend the contract to December 2025; to move the evaluation assessment to October, or the month after October; and to give the 4 percent pay increase. ▶ **Commissioner White moved the 4 percent pay increase, the extension to December of 2025, and the change of the evaluation month to October, seconded by Commissioner Kemp.** Discussion ensued. Upon roll call vote, ▶ **the motion carried six to zero.** (Commissioner Myers had not arrived.)

c. Executive Director's Report

▶ Ms. Dougherty discussed recent noise complaints and reviewed the report. Commissioner White talked about the Theodore Roosevelt Hillsborough Forever Conservation Award.

10. DISCUSSION OF FUTURE AGENDA ITEMS - **None.**

ADJOURN

▶ There being no further business, the meeting was adjourned at 10:52 a.m.

READ AND APPROVED: _____
CHAIR

ATTEST:
CINDY STUART, CLERK

By: _____
Deputy Clerk

rs

FEBRUARY 17, 2022 - ENVIRONMENTAL PROTECTION COMMISSION

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting, scheduled for Thursday, February 17, 2022, at 9:00 a.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida, and held virtually.

The following members were present: Chair Mariella Smith and Commissioners Harry Cohen, Ken Hagan (via telephone), Pat Kemp (arrived at 9:14 a.m.) Gwen Myers, Kimberly Overman (arrived at 9:25 a.m.), and Stacy White.

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

► Chair Smith called the meeting to order at 9:01 a.m. Commissioner White led in the pledge of allegiance to the flag and gave the invocation.

2. ROLL CALL

► The Deputy Clerk called the roll and noted a quorum was present.

3. CHANGES TO THE AGENDA

► Ms. Janet Lorton, EPC Executive Director, noted there were no changes to the agenda.

4. REMOVAL OF CONSENT ITEM FOR QUESTION, COMMENT, OR SEPARATE VOTE - **None.**

5. RECOGNITIONS AND PROCLAMATIONS - ► **None.**

6. PUBLIC COMMENT - ► **None.**

7. APPROVAL OF CONSENT AGENDA

Consent Agenda Items

- a. Monthly Activity Report Fiscal Year (FY) 2022 (January)
- b. Pollution Recovery Fund Budget FY 2022
- c. Legal Case Notification
- d. Voice over Internet Protocol Service Agreement Delegation

► **Commissioner Cohen moved the Consent Agenda, seconded by Commissioner Myers.** Upon roll call vote, ► **the motion carried five to zero.** (Commissioners Kemp and Overman had not arrived.)

8. PUBLIC HEARING - **None.**

THURSDAY, FEBRUARY 17, 2022

9. REGULAR AGENDA

a. Overview of Florida Department of Environmental Protection 404 Assumption Program

▶ Ms. Lorton spoke on the item. ▶ Ms. Christina Bryant, EPC, delivered a presentation. ▶ Chair Smith opined on layered wetlands protections. ▶ Commissioner White posed questions about river categorization.

b. Initiation of Revisions to Chapter V of the Basis of Review

▶ Ms. Lorton introduced ▶ Mr. Sterlin Woodard, Director, Wetlands Division, EPC, who provided an overview. ▶ Chair Smith spoke on the item.

c. Legislative Update

▶ Ms. Lorton called on ▶ Attorney Beth Le, EPC, who supplied an update. ▶ Commissioner Cohen commented on the dangerous tree preemption law. Following discussion, ▶ Attorney Le addressed concerns. ▶ Talks continued regarding Florida House Bill 569, and Senate Bill 620.

d. Executive Director's Report

▶ Ms. Lorton supplied the report.

10. DISCUSSION OF FUTURE AGENDA ITEMS - ▶ **None.**

THURSDAY, FEBRUARY 17, 2022

ADJOURN

▶ There being no further business, the meeting was adjourned at 10:01 a.m.

READ AND APPROVED: _____
CHAIR

ATTEST:
CINDY STUART, CLERK

By: _____
Deputy Clerk

rs

DRAFT



ENVIRONMENTAL PROTECTION COMMISSION

AGENDA ITEM COVER SHEET

Agenda Item # 7.b.

Date of EPC Meeting: March 24, 2022

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: Agency monthly report for February FY22

Background: Select data that is associated with the EPC's five core functions; outreach, monitoring, compliance and enforcement, is tracked monthly by each Division. These monthly activity reports are then tallied to generate one final Agency-wide report.

EPC STAFF ACTIVITIES - AGENCY-WIDE
Monthly Activity Report
FY22

		February	FISCAL YEAR TO DATE
A.	<u>Core Function: Citizen Support & Outreach</u>		
1	Environmental Complaints Received (see attached Divisional breakdown)		see attached
2	Number of Presentations/Outreach Events	12	20
3	Citizen Support (walk-ins, file reviews, email/letter correspondence, etc.)	319	1585
B.	<u>Core Function: Air & Water Monitoring</u>		
1	Air Monitoring Data Completeness (Note: reflects previous month due to data acquisition delay)	95.5%	N/A
2	Water Quality Monitoring Data Completeness (Note: reflects previous month due to data acquisition delay)	97.0%	N/A
3	Number of Noise Monitoring Events	2	11
C.	<u>Core Function: Environmental Permitting</u>		
1	Permit/Authorization Applications Received	133	738
2	Applications In-house >180 days	1	N/A
3	Permits/Authorizations Issued	135	727
4	Petroleum Cleanup Cases	67	461
D.	<u>Core Function: Compliance Assurance</u>		
1	Compliance Inspections	315	1436
2	Compliance Test Reviews (NOTE: Wetlands reviews included under D.1)	134	559
3	Compliance Assistance Letters Issued	121	789
4	Warning Notices Issued	20	98
E.	<u>Core Function: Enforcement</u>		
1	New Cases Initiated	2	26
2	Active Cases	34	N/A
3	Tracking Cases	25	N/A



Citizen Support & Outreach

Environmental Complaints Received for FY2022

03/16/2022 10:54 AM

Environmental Complaints Received		Feb	FY2022
Agency Total		117	663
Air Division		39	286
General		5	33
Noise		26	184
Open Burning		7	51
Pollution		1	18
Waste Division		9	54
General			2
Pollution			1
Solid & Hazardous Waste		7	38
SQG		1	12
Water Pollution/Quality		1	1
Water Division		38	155
General			8
Unauthorized Discharge/Disposal		8	38
Wastewater		23	93
Water Pollution/Quality		7	16
Wetlands Division		31	168
Dredge & Fill		12	61
General		2	7
Mangrove Impacts		1	20
Solid & Hazardous Waste		2	2
Unauthorized Discharge/Disposal			1
Unauthorized Seawall/Dock		3	20
Water Pollution/Quality			1
Wetland Clearing		11	50
Wetland Flooding/Drainage			6



ENVIRONMENTAL PROTECTION COMMISSION

AGENDA ITEM COVER SHEET

Agenda Item # 7.c.

Date of EPC Meeting: March 24, 2022

Subject: Pollution Recovery Fund Budget

Agenda Section: Consent Agenda

Division: Administration 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 22 POLLUTION RECOVERY FUND
10/1/2021 through 2/28/2022**

REVENUE		EXPENDITURES		RESERVES		NET PRF
Beginning Balance	\$ 857,373	Artificial Reef	\$ 33,338	Minimum Balance	\$ 120,000	
Interest	\$ (4,756)	Open Projects	\$ 419,246	Est. FY 23 Budget	\$ 33,338	
Deposits	\$ 92,362			Asbestos Removal	\$ 5,000	
Total	\$ 944,979	Total	\$ 452,584	Total	\$ 158,338	\$ 334,057

PROJECT	Project Amount	Project Balance
FY18 Projects		
Audubon Florida Invasive Removal	10131.102063.582990.5370.1293 \$ 50,000	\$ 9,404
TBW MacDill AFB Living Shoreline	10131.102063.582990.5370.1294 \$ 49,324	\$ 11,963
UF Small Farms For Clean Water	10131.102063.581990.5370.1295 \$ 15,750	\$ 14,269
	\$ 115,074	\$ 35,636
FY21 Projects		
TBW 2D Island Living Shoreline	10131.102063.582990.5370.1350 \$ 49,560	\$ 49,560
Eckerd College Microplastic Pollution	10131.102063.582990.5370.1351 \$ 49,450	\$ 49,450
Sun City Audubon Phase 2 Nature Trail	10131.102063.582990.5370.1352 \$ 20,000	\$ 4,000
USF Multidrug Resistant Bacteria	10131.102063.581990.5370.1353 \$ 50,000	\$ 50,000
Tampa P&R Ignacio Haya Park	10131.102063.581001.5370.1354 \$ 50,000	\$ 50,000
USF Fecal Source Detection	10131.102063.581990.5370.1355 \$ 50,000	\$ 50,000
ERI MacDill AFB Saltern Restoration	10131.102063.582990.5370.1356 \$ 37,000	\$ 37,000
ERI FWC Living Shoreline Demo Site	10131.102063.582990.5370.1357 \$ 42,000	\$ 3,500
UF/IFAS Florida Friendly Landscaping	10131.102063.581990.5370.1358 \$ 8,600	\$ 8,600
	\$ 356,610	\$ 302,110
FY21 Projects		
DOH/EPC Radon Study	10131.102063.534990.5370.1359 \$ 21,000	\$ 21,000
DOH/EPC Radon Study	10131.102063.552001.5370.1359 \$ 14,000	\$ 14,000
		\$ 35,000



ENVIRONMENTAL PROTECTION COMMISSION

AGENDA ITEM COVER SHEET

Agenda Item # 7.d.

Date of EPC Meeting: March 24, 2022

Subject: Legal Case Notification

Agenda Section: Consent Agenda

Division: Legal Department

Recommendation: None. Informational.

Brief Summary: This notification is to assist Commissioners in identifying potential conflicts of interest that may exist and that may require disclosure prior to taking action in a quasi-judicial administrative matter. It is also intended to assist Commissioners in avoiding discussing matters with parties during administrative or civil litigation.

Financial Impact: Standard litigation costs are included in the Legal Department's operating budget, but any individual case may require a future budget amendment.

List of Attachments: None

Background: The EPC Legal Department primarily handles litigation in administrative and civil forums. A list of new cases the EPC opened since the previous Commission meeting is provided below. Occasionally, a new case or cases, may be disposed of in between the prior and current EPC meetings, yet this list will still be provided for continuity and consistency.

Administrative appeals (a/k/a administrative hearings, petitions, challenges, or Section 9 Appeals) involve challenges to agency actions such as permit application decisions or administrative enforcement actions (e.g. – citation or consent order). These proceedings are conducted before an appointed hearing officer who enters a recommended order after an evidentiary hearing. After the hearing officer issues the recommendation, the administrative appeal is transferred back to the Commission to render a final order. Acting in this quasi-judicial capacity, the Commission and all parties are subject to ex-parte communication restrictions. After receipt of an appeal or a request for an extension of time to file an appeal, the Commission should avoid discussing those cases.

The purpose of providing notice of new cases is to assist Commissioners in identifying persons or entities that may present a conflict of interest. Certain conflicts may require the Commission to recuse themselves from voting on a final order. Please note, the Legal Department provides notice of sufficient appeals to the Commission via e-mail to assist in the conflict check process and as a reminder to limit

communications; therefore, the Commission may have already received prior notification of the administrative case(s) listed below.

If the EPC becomes a party in civil litigation either through an approved Request for Authority to Initiate Litigation or by receipt of a lawsuit, the case will also be listed below. Any attorneys representing opposing party(ies) must communicate through the EPC counsel and should not contact the Commission directly. It also recommended that the Commissioners avoid discussing litigation prior to consulting with EPC counsel.

Please direct any calls or e-mails concerning administrative or civil litigation to the EPC Legal Department.

NEW LITIGATION CASES OPENED SINCE LAST EPC COMMISSION MEETING:

EPC Case No.	Date Opened	Case Type	Case Style	Division
22-EPC-002	02-10-22	Administrative	Glen Guillow v. EPC	Wetlands
22-EPC-003	03-01-22	Administrative	Angela Duncan, Wayne Duncan, John Joseph Duncan and Duncan Land Development, Inc. v. EPC	Wetlands
22-EPC-004	03-11-22	Administrative	Madsen Isles LLLP v. EPC	Wetlands



ENVIRONMENTAL PROTECTION COMMISSION

AGENDA ITEM COVER SHEET

Agenda Item # 7.e.

Date of EPC Meeting: March 24, 2022

Subject: Initiation of revisions to Chapter 1-7 Waste Management Rule

Agenda Section: Consent Agenda

Division: Waste Division

Recommendation: Informational. No vote required to initiate rulemaking.

Brief Summary: Within the next few months, EPC staff will propose to the Commission amendments to the EPC Waste Management Rule Chapter 1-7, Rules of the EPC. Although there were minor changes made to the Rule in August 2012, it has not been significantly amended in almost 20 years.

Financial Impact: No Financial Impact

List of Attachments: None

Background: In October 2002, the EPC Commission made its last significant amendments to the EPC Waste Management Rule Chapter 1-7, Rules of the EPC. Chapter 1-7 is the EPC rule, which addresses various waste management issues, including but not limited to activities needing a Director's Authorization for the operation of a solid waste management facility and activities concerning development in former solid waste disposal areas (old landfills). The EPC staff intends to update the rule to address historic changes in state and local laws concerning various waste matters. Many proposed changes are non-substantive and are intended to simply update citations, definitions, and other issues that have occurred over in the past twenty years.

The main issues for consideration in the proposed rule amendment that are substantive in nature concern the following subjects:

- Codifying and implementing a long-term landfill gas remediation program with engineering and institutional controls for the redevelopment of historic solid waste filled areas.
- Codifying a definition for the application of processed yard waste to be defined as solid waste.
- Codifying changes to the financial assurance requirements for solid waste management facilities.
- Addressing the re-use of recovered screen materials in the redevelopment of solid waste filled areas.
- Adopting standards for the management of used oil and used oil filters.

The EPC Act only requires the EPC to conduct a public hearing at the time of rule adoption, but EPC staff will conduct non-mandatory stakeholder workshops as needed. The EPC staff is informing the Commission that it will conduct public workshop(s) and set a public hearing before the Commission to consider amendments to Chapter 1-7 – Waste Management Rule in the future.



ENVIRONMENTAL PROTECTION COMMISSION

AGENDA ITEM COVER SHEET

Agenda Item # 9.a.

Date of EPC Meeting: March 24, 2022

Subject: FY23 Budget Presentation

Agenda Section: Regular Agenda

Division: Administration Division

Recommendation: Approve of EPC FY23 budget requests to the County Administrator to be considered for inclusion in the FY23 Recommended Budget.

Brief Summary: Staff will brief the Commission regarding the upcoming FY23 EPC budget submittal.

Financial Impact: No Financial Impact at this time. Possible future budget enhancements for FY23.

List of Attachments: None

Background:

EPC staff have been interacting with the County Administrator staff regarding the FY23 budget process and EPC's proposed needs. For next year we are requesting approval of budget decision units to improve our processes and databases and to allow for increases in operating expenses. This includes costs to update our Lab database, which needs to be redeveloped to function with current technology. Staff also proposes funding for a public portal so people can search for records/information across our operational division databases. See decision unit chart below for additional requests and details.

Staff will preview these areas for the Commission and seek approval regarding staff's budget submittal to the County Administrator.

Decision Unit Chart:

DU #1	Cost
Cyber security updates	\$ 50,000
Credit card vendor fees	\$ 5,000
Laboratory operating	\$ 45,000
Waste Division	\$ 123,000
Air Capital equipment	\$ 44,000
MIS Capital equipment	\$ 72,000
Laboratory Capital equipment	\$ 20,000
Total	\$ 359,000
DU #2	Cost
Database - Laboratory Info. System	\$ 350,000
Database - public access interface	\$ 250,000
Total	\$ 600,000
DU #3	Cost
Air Capital equipment (TAG FEE)	\$ 99,000
DU #4	Cost
Air Capital equipment	\$ 32,000



ENVIRONMENTAL PROTECTION COMMISSION

AGENDA ITEM COVER SHEET

Agenda Item # 9.b.

Date of EPC Meeting: March 24, 2022

Subject: Presentation Regarding Ozone

Agenda Section: Regular Agenda

Division: Air Division

Recommendation: Informational Report

Brief Summary: This presentation will give an overview of what ozone is, how EPC staff monitors for it, and its environmental and human impact.

Financial Impact: No Financial Impact

List of Attachments: None

Background: In the 1970s, the U. S. Environmental Protection Agency created National Ambient Air Quality Standards for several air pollutants to better protect human health and the environment. For over 40 years, EPC staff has monitored for these pollutants, of which ground-level ozone is the most pervasive. Unlike stratospheric ozone which protects us from the sun's harmful rays, ozone is a lung irritant at ground-level. This informational presentation will provide an understanding of what ozone is, why and how EPC staff monitors for it, and ways persons can protect themselves from its effects.



ENVIRONMENTAL PROTECTION COMMISSION

AGENDA ITEM COVER SHEET

Agenda Item # 9.c.

Date of EPC Meeting: March 24, 2022

Subject: Overview of Wetland Division's Development Services Reviews

Agenda Section: Regular Agenda

Division: Wetlands Division

Recommendation: None. Informational Report.

Brief Summary: The purpose of this presentation is to provide a brief overview of the EPC Wetlands Division's review of land development applications that are submitted to Hillsborough County Development Services for review. The presentation will highlight how EPC coordinates with Hillsborough County Development Services and the other Hillsborough County municipalities to achieve minimal impacts to wetland resources, while streamlining multiple review processes.

Financial Impact: No Financial Impact

List of Attachments: None

Background:

Late last year, Commissioner Overman requested a briefing to better understand how EPC Wetlands Division interacts with County Development Services. The presentation will provide an overview of the EPC Wetlands Division reviews and the role they play in the Development Services land development review process. This will be accomplished by outlining the processes involved with wetland development services reviews, focusing on Hillsborough County Development Services projects and highlighting EPC's part in those processes. Topics for the presentation will include the EPC Wetlands Division participation in Pre-Submittal meetings, and the Division's reviews of Rezoning applications, Preliminary Plans, Construction Plans, Final Plats, and As-Builts. The purpose of the environmental reviews is for EPC Wetlands staff to provide guidance to applicants and County partners regarding the presence and position of wetlands on a parcel of land that may raise development concerns.



ENVIRONMENTAL PROTECTION COMMISSION

AGENDA ITEM COVER SHEET

Agenda Item # 9.d.

Date of EPC Meeting: March 24, 2022

Subject: Legislative Update on Environmental and Administrative Bills

Agenda Section: Regular Agenda

Division: Legal Department

Recommendation: Informational Report

Brief Summary: The regular session of the Florida Legislature convened on January 11, 2022 and closed on March 14, 2022. EPC staff is providing this final update on various environmental and administrative bills that may impact the EPC or may be of interest to the EPC.

Financial Impact: No Financial Impact

List of Attachments: None

Background: The regular session of the Florida Legislature convened on January 11, 2022, and adjourned on Monday, March 14, 2022. The Commission approved a 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, among other things, bills that impact the functions of the EPC. Annually, EPC staff reviews environmental and administrative bills to determine if they may impact the EPC's functions and budget. Although EPC tracks numerous bills, included below is a summary of just a few notable bills regarding environmental regulation or administrative matters that may impact EPC functions or otherwise may be of interest:

PASSED:

Business Damages Caused by Local Governments / Local Government HB 569 / SB 620

Sponsored by Representative McClure and Senator Hutson

This bill provides entities an avenue to sue local governments for business damages if an ordinance or charter provision has or will reduce the business' profit by at least 15%. Certain pre-suit procedures are required such as notifying the government with a written offer of settlement, and the impacted business must be in operation for 3 or more years. The amount of damages that a business may recover are limited to future lost profits for the lesser of 7 years or the number of years the business has been in operation before the ordinance. Certain ordinances are exempted such as those required to comply with other laws, fire code, budget, emergency management, etc. Attorney's fees may be awarded to the prevailing party. Senate Bill 620 has passed and will be sent to the Governor.

Private Property Rights to Prune, Trim, and Remove Trees SB 518

Sponsored by Senator Brodeur

This bill proposes to modify the tree trimming pre-emption law in section 163.045, Florida Statutes. This bill modifies the threshold for the trimming or removal activity from “dangerous” instead to “unacceptable risk.” The bill would create a more standardized method to determine the unacceptable risk by requiring the application of International Society of Arborists (ISA) Best Management Practices. Additionally, the bill would clarify that it only applies to single-family detached home on a separate lot. This bill passed and will be sent to the Governor.

Critical Wetlands Acquisition HB 761 / SB 882

Sponsored by Representative Truenow and Senator Brodeur

These bills would require each water management district to identify critical wetlands in cooperation with local governments. The wetlands are identified so that they may be acquired under the Land Acquisition Trust Fund. When designating a wetland, the boards shall consider certain criteria such as the ecological value of the wetland, the effect the wetland has on flood control and water quality, and susceptibility of development due to location. Senate Bill 882 has passed and will be sent to the Governor.

Pollution Control Standards and Liability HB 909 / SB 1210

Sponsored by Representative Payne and Senator Albritton

House Bill 909 provides that FDEP has exclusive jurisdiction in setting standards or procedures for evaluating environmental conditions and assessing potential liability for the presence of contaminants on land that is classified as agricultural land pursuant to s. 193.461, F.S. This bill would not preempt the enforcement authority of a local government through a local pollution control program. Companion bill SB 1210 in addition to the preemption described above includes a broader preemption of development activities on lands that were or are classified as agriculture. House Bill 909 passed and will be sent to the Governor.

Golf Course Best Management Practices Certification HB 967 / SB 1556

Sponsored by Representative Truenow and Senator Gruters

These bills direct the FDEP to work and cooperate with the turfgrass science program at the University of Florida Institute of Food and Agricultural Sciences to administer a certification for golf course best management practices and provide and approve certification training and testing programs. EPC Ch. 1-15, Rules of the EPC, provides an exemption to golf courses so long as they follow FDEP’s published Best Management Practices. This bill passed and will be sent to the Governor.

Soil and Groundwater Contamination (PFAS) SB 1418 / HB 1475

Sponsored by Senator Albritton and Representative McClure

This bill addresses site cleanup for perfluoroalkyl and polyfluoroalkyl substances (PFAS). A Senate staff analysis describes PFAS as follows:

“... a group of thousands of man-made compounds developed to provide oil and water repellency, chemical and thermal stability, and friction reduction. Perfluorooctane sulfonic acid (PFOS) and perfluorooctanoic acid (PFOA) are the most common and the best-studied of these compounds. PFAS were widely used since the 1950s, with applications in many industries, including the aerospace, semiconductor, medical, automotive, construction, electronics, and aviation industries, as well as in consumer products (e.g., carpets, clothing, furniture, outdoor equipment, food packaging) and firefighting applications. While U.S. manufacturers have voluntarily phased out the use of the chemicals, they persist in the environment, particularly at fire colleges, airports, and military installations.”

PFAS-only contaminated sites are problematic for the Brownfields program and redevelopment of contaminated property. If a property is only contaminated by PFAS, they may not qualify for the Brownfields program because there is no exceedance of a cleanup target level (CTL) because current State rules have no CTL for PFAS, only screening levels. Among other things, the bill includes changes for the following items that would allow them to qualify for the program:

1. Rulemaking to establish cleanup target levels for PFAS compounds;
2. Liability protection to parties working with the FDEP on PFAS sites;
3. Approval of municipal code as institutional controls for site closure; and
4. Requiring FDEP to notify the Water Management Districts of contaminated areas.

House Bill 1475 passed and will be sent to the Governor.

Related bills that failed are HB 1151 and SB 7012, which would have created a task force within FDEP that would provide recommendations for clean-up target levels and waste management methods.

Real Property Rights

HB 219 / SB 1380

Sponsored by Representative Tuck, Representative Fabricio and Senator Rodriguez

These bills revise the Marketable Record Title Act (MRTA), sections 712.03 and 712.04, F.S. regarding what interests in real property become extinguished after 30 years. Specifically, the bills propose a bright-line rule to clarify MRTA's effect in light of the Third DCA opinion. Among other things, the bills provide an exemption from extinguishment for "any recorded covenant or restriction that states on the face of the document's first page that it was accepted by a governmental entity as part of ... [a] regulatory approval." This appears to protect from extinguishment EPC's interests in real property where EPC has been conveyed a conservation easement or other interest as part of an EPC permit. Senate Bill 1380 passed and will be sent to the Governor.

FAILED:

Local Ordinances

SB 280 / HB 403

Sponsored by Senator Hutson and Representatives Giallombardo and Morales

This bill would have required local governments to create a business impact statement detailing how a proposed ordinance would impact businesses prior to adopting an ordinance. The prevailing party could have been awarded attorney's fees if the law violates existing preemption or is determined to be arbitrary or unreasonable. Among other things, these bills would have affected local government rulemaking procedures. Senate Bill 280 has passed the Senate but both bills have since been withdrawn from consideration.

Preemption of Tree Pruning, Trimming, and Removal

SB 316 / HB 6025

Sponsored by Senator Stewart and Representative Eskamani

These bills proposed to repeal section 163.045, Florida Statutes which pre-empted local governments from regulating tree pruning, trimming, and removal of "dangerous" trees on "residential" properties if a certified arborist or licensed landscape architect determines the tree is dangerous. These bills are no longer under consideration.

Residential Property Riparian Rights

SB 840 / HB 841

Sponsored by Senator Albritton and Representative DiCeglie

These bills would have made a requirement that when land surveyors are determining a property owner's riparian rights along a channel, they give preference to using the prolongation-of-property-line method. This method is one of eight methods proscribed in FDEP's guidelines for allocating riparian rights. If a civil action arises regarding the

riparian boundaries and riparian rights, the bills require courts to award reasonable attorney fees and costs to a prevailing party. These bills are withdrawn and no longer under consideration.

Sovereign Immunity

SB 974

Sponsored by Senator Gruters

Senate Bill 974 proposed to increase the statutory limits on liability for tort claims against the state and its agencies and subdivisions from the \$200,000 and \$300,000 thresholds (depending on the facts) to \$1 million. Among other things, this bill would have required the Department of Financial Services to adjust the limitations on tort liability every 10 years after a specified date and publish the adjustments on its website. This bill failed and is withdrawn from consideration.

Phosphogypsum Stacks

HB 1339 / SB 1744

Sponsored by Representative Diamond and Senator Brandes

In response to growing phosphogypsum concerns, House Bill 1339 would have required FDEP to submit an annual report to the Governor, Legislature, and certain other entities regarding phosphogypsum stacks in the State and provide details of imminent hazards, risk assessments, etc. Also, the bill would have required the FDEP to provide immediate notification of certain imminent hazards to the Governor, Legislature, emergency management officials, and the local BOCC. Senate Bill 1744 would have directed FDEP to conduct an analysis of phosphogypsum stacks in the state and submit the report to the Legislature. These bills have failed and are withdrawn from consideration.

Water Resources Management

SB 198 / HB 349

Sponsored by Senator Rodriguez, Representative Sirois, and Representative Overdorf

The proposed bills authorize the Board of Trustees of the Internal Improvement Trust Fund to grant easements over sovereignty submerged lands (SSL) for seagrass mitigation banks and require the Florida Department of Environmental Protection (FDEP) to modify the SSL rules accordingly. Among other things, the bills would have clarified that an easement holder can build an exempt dock and that the Board of Trustees authorizes the exempt dock on SSL. This modified easement holder language would expand the exemption in Ch. 18-21, F.A.C., allowing an easement shorter than the entire shoreline to qualify for its own dock exemption. These bills failed and are withdrawn from consideration.

In the event the Commission or the Executive Director propose a letter of support or opposition to the Governor for any of these or other pending bills, staff will work with the Chair to issue it.



ENVIRONMENTAL PROTECTION COMMISSION

AGENDA ITEM COVER SHEET

Agenda Item # 9.e.

Date of EPC Meeting: March 24, 2022

Subject: Lead Advisory Update

Agenda Section: Regular Agenda

Division: Air Division

Recommendation: Informational Report

Brief Summary: Recently, EPC staff issued an Air Pollution Precautionary Statement due to elevated lead emission levels around the Gopher Resources' lead recycling plant. Today's presentation will update the Commission on its status and provide additional information related to the plant's operating requirements.

Financial Impact: None

List of Attachments: None

Background: On February 18, 2022, EPC staff issued an Air Pollution Precautionary Statement due to elevated lead emission levels around the Gopher Resources lead recycling plant. EPC air monitors showed lead concentrations higher than the expected daily limit. However, subsequent monitoring data later revealed the concentrations had declined to levels below the expected daily limit. In response, EPC staff rescinded the statement based on this new information. Today's presentation will summarize the current emissions status of the facility, detail additional requirements placed on the facility by EPC staff and announce the creation of a publicly accessible lead monitoring data webpage.