

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
February 17, 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**
- 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. Monthly Activity Report FY2022 (January)..... 2
 - b. Pollution Recovery Fund Budget FY2022 5
 - c. Legal Case Notification..... 7
 - d. Voice over Internet Protocol Service Agreement Delegation..... 9
- 8. PUBLIC HEARING** (*none*)
- 9. REGULAR AGENDA**
 - a. Overview of Florida Department of Environmental Protection 404 Assumption Program..... 10
 - b. Initiation of Revisions to Chapter V of the Basis of Review..... 11
 - c. Legislative Update 13
 - e. 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: February 17, 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 January 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

		<u>January</u>	<u>FISCAL YEAR TO DATE</u>
A.	<u>Core Function: Citizen Support & Outreach</u>		
1	Environmental Complaints Received (see attached Divisional breakdown)		see attached
2	Number of Presentations/Outreach Events	2	8
3	Citizen Support (walk-ins, file reviews, email/letter correspondence, etc.)	348	1266
B.	<u>Core Function: Air & Water Monitoring</u>		
1	Air Monitoring Data Completeness (Note: reflects previous month due to data acquisition delay)	95.0%	N/A
2	Water Quality Monitoring Data Completeness (Note: reflects previous month due to data acquisition delay)	83.3%	N/A
3	Number of Noise Monitoring Events	1	9
C.	<u>Core Function: Environmental Permitting</u>		
1	Permit/Authorization Applications Received	163	605
2	Applications In-house >180 days	0	N/A
3	Permits/Authorizations Issued	128	592
4	Petroleum Cleanup Cases	92	394
D.	<u>Core Function: Compliance Assurance</u>		
1	Compliance Inspections	263	1121
2	Compliance Test Reviews (NOTE: Wetlands reviews included under D.1)	128	425
3	Compliance Assistance Letters Issued	217	668
4	Warning Notices Issued	12	78
E.	<u>Core Function: Enforcement</u>		
1	New Cases Initiated	7	24
2	Active Cases	78	N/A
3	Tracking Cases	46	N/A



Citizen Support & Outreach

Environmental Complaints Received for FY2022

02/08/2022 01:36 PM

Environmental Complaints Received		Jan	FY2022
Agency Total		125	513
Air Division		52	235
General		4	25
Noise		26	153
Open Burning		19	44
Pollution		3	13
Waste Division		10	41
General		2	2
Pollution		1	1
Solid & Hazardous Waste		4	26
SQG		3	11
Water Pollution/Quality			1
Water Division		29	107
General		4	7
Unauthorized Discharge/Disposal		5	25
Wastewater		19	65
Water Pollution/Quality		1	10
Wetlands Division		34	130
Dredge & Fill		17	46
General		1	5
Mangrove Impacts		5	17
Solid & Hazardous Waste			2
Unauthorized Discharge/Disposal		1	1
Unauthorized Seawall/Dock			15
Water Pollution/Quality		1	1
Wetland Clearing		7	37
Wetland Flooding/Drainage		2	6



ENVIRONMENTAL PROTECTION COMMISSION

AGENDA ITEM COVER SHEET

Agenda Item # 7.b.

Date of EPC Meeting: February 17, 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 1/31/2022**

REVENUE		EXPENDITURES		RESERVES		NET PRF
Beginning Balance	\$ 857,373	Artificial Reef	\$ 33,338	Minimum Balance	\$ 120,000	
Interest	\$ (2,137)	Open Projects	\$ 419,246	Est. FY 22 Budget	\$ 33,338	
Deposits	\$ 63,072			Asbestos Removal	\$ 5,000	
Total	\$ 918,308	Total	\$ 452,584	Total	\$ 158,338	\$ 307,386

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	\$ 42,000
UF/IFAS Florida Friendly Landscaping	10131.102063.581990.5370.1358 \$ 8,600	\$ 8,600
	\$ 356,610	\$ 340,610
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.c.

Date of EPC Meeting: February 17, 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-001	1-20-22	Administrative	Eric Marich v. EPC	Wetlands



ENVIRONMENTAL PROTECTION COMMISSION

AGENDA ITEM COVER SHEET

Agenda Item #7.d.

Date of EPC Meeting: February 17, 2022

Subject: Voice over Internet Protocol Service Agreement Delegation

Agenda Section: Consent Agenda

Division: Administration Division

Recommendation: Authorize the Executive Director to procure and execute any necessary agreement for services related to Voice over Internet Protocol.

Brief Summary: Voice over Internet Protocol (VoIP) is used by EPC for phone calls via broadband Internet connection (instead of a regular phone line) at the office, inter-agency messaging, remote work phone services, and video conferencing. The EPC's current VoIP services agreement is scheduled to expire on March 31, 2022. The EPC staff requests that the Commission authorize the Executive Director to procure and enter into any necessary VoIP agreement to allow for seamless communication services.

Financial Impact: Funds for purchase are within existing budgets. No additional funds required. Funds would be paid monthly over 3 years and are anticipated to not exceed \$125,000.

List of Attachments: None

Background: Voice over Internet Protocol (VoIP), is a technology that allows one to make voice calls using a broadband Internet connection instead of a regular phone line. EPC's VoIP plan allows the EPC staff to use communication products such as inter-agency messaging, on location and remote office phone services, and video conferencing. EPC's current VoIP services agreement is scheduled to expire on March 31, 2022. The current licensed vendor of the product is Mitel, but Mitel is no longer renewing these services to its customers. To continue seamless operation of the EPC's VoIP/phone system, a new services agreement is required. Most services offer a 3-year agreement.

Pursuant to EPC policy, the Commission must authorize purchases in excess of \$100,000. This continued need for service and future agreement was anticipated and funds were allocated by the BOCC within the FY22 budget. Staff request the Commission authorize the Executive Director to procure and execute an agreement for VoIP services. It is anticipated that the service will not exceed \$125,000 for three years.



ENVIRONMENTAL PROTECTION COMMISSION

AGENDA ITEM COVER SHEET

Agenda Item # 9.a.

Date of EPC Meeting: February 17, 2022

Subject: Overview of Florida Department of Environmental Protection (FDEP) 404 Assumption Program

Agenda Section: Regular Agenda

Division: Wetlands Division

Recommendation: Informational Report

Brief Summary: On December 22, 2020, the U.S. Environmental Protection Agency (EPA) delegated the responsibility of permit issuance for dredging and filling within assumed Waters of the United States located in Florida from the U.S. Army Corps of Engineers (ACOE) to the Florida Department of Environmental Protection (FDEP). The purpose of this presentation is to provide a brief overview of the assumption program and how EPC continues to coordinate with both FDEP and ACOE.

Financial Impact: No Financial Impact

List of Attachments: None

Background:

Section 404 of the Clean Water Act regulates the discharge of dredge and fill materials in the Waters of the US (WOTUS) at the federal level. On December 22, 2020, the EPA delegated the responsibility of permit issuance for dredging and filling within assumed Waters of the United States located in Florida from the ACOE to the Department of Environmental Protection. FDEP assumption of the 404 Program provides a streamlined permitting procedure within which both federal and state requirements are addressed by State permits. The State 404 Program is a separate program from the existing State wetland regulatory program, referred to as Environmental Resources Permit (ERP) program. The purpose of the ERP program is to ensure there are no adverse environmental impacts from certain proposed land alteration activities. Projects within State-assumed waters require both an ERP and a State 404 Program authorization. Assumed waters are generally those with wetlands that are non-navigable and non-tidally influenced. Prior to delegation, review of dredge and fill activities proposed in assumed waters were reviewed by ACOE. These reviews are now conducted by FDEP. The ACOE continues to conduct reviews of activities proposed in navigable and tidally influenced waters, referred to as retained waters. While EPC does not conduct a 404 review, EPC maintains jurisdiction over all wetlands with Hillsborough County per Chapter 1-11 Wetlands Rule and coordinates with both FDEP and ACOE per the respective delegation and coordination agreements.



ENVIRONMENTAL PROTECTION COMMISSION

AGENDA ITEM COVER SHEET

Agenda Item #9.b.

Date of EPC Meeting: February 17, 2022

Subject: Initiation of revisions to Chapter V of the Basis of Review of the Wetlands Rule

Agenda Section: Regular Agenda

Division: Wetlands Division

Recommendation: Informational. No vote required to initiate rulemaking, but Commission may give a vote of support at their discretion.

Brief Summary: Within the next few months, EPC staff will propose to the Commission minor rule revisions to the Wetlands Rule Basis of Review Chapter V, which contains the criteria for certain “Miscellaneous Activities” permits and exemptions that occur in wetlands and other surface waters. The Commission most recently revised this rule in May of 2021. Since the revised rule was implemented, staff and stakeholders have noted a few areas that could be clarified.

Financial Impact: No Financial Impact

List of Attachments: None

Background:

In 2008, the EPC Commission adopted the “Basis of Review for Authorization of Activities Pursuant to Chapter 1-11 – Wetlands” (BOR). The BOR was adopted by the Commission to expand on how a person can apply for and qualify for certain wetland permits. Chapter V of the BOR is entitled “Miscellaneous Activities in Wetlands” (MAIW) and it explains criteria to qualify for an MAIW permit. As described in the introduction of Chapter V, MAIWs are those activities that constitute development within wetlands or other surface waters that are considered to have a minor impact on those wetlands or other surface water functions thus qualifying them for a permit under Chapter 1-11 (the EPC Wetlands Rule) and the associated BOR. An MAIW permit does not require traditional wetland mitigation but may have conditions such as replanting and erosion control. Examples of MAIWs include but are not limited to nuisance vegetation control, swimming access, boat ramps, fences, docks, marginal structures, elevated boardwalks, docks, and shoreline stabilization.

In May of 2021, at request of the staff, the Commission adopted substantial changes to Chapter V of the BOR to help bring clarity and efficiency to the permitting process. The rule changes have been very effective; nonetheless, having implemented the rule revision for almost a year, staff and stakeholders have identified additional recommendations to improve the rule. The changes are not intended to be extensive and they further the initial goal of providing clarity to applicants seeking to obtain an MAIW authorization. Among other things, the proposed revisions will better address fencing criteria in wetlands, government proposed vegetation control activities, and marginal structure criteria.

The EPC Act only requires the EPC to conduct a public hearing at the time of rule adoption, but EPC staff will also 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 V of the adopted “Basis of Review for Authorization of Activities Pursuant to Section 1-11 – Wetlands.”



ENVIRONMENTAL PROTECTION COMMISSION

AGENDA ITEM COVER SHEET

Agenda Item # 9.c.

Date of EPC Meeting: February 17, 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. EPC staff will provide updates 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 will adjourn on Friday, March 11, 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 may be of interest:

Local Ordinances

SB 280 / HB 403

Sponsored by Senator Hutson and Representatives Giallombardo and Morales

This bill would require local governments to create a business impact statement detailing how a proposed ordinance would impact businesses prior to adopting an ordinance. After adoption and upon challenge, enforcement of the ordinance would be suspended if the challenge meets certain criteria. The prevailing party may be awarded attorney's fees if the law violates existing preemption or is determined to be arbitrary or unreasonable. Among other things, these bills would affect local government rulemaking procedures. Senate bill 280 has passed the Senate and is in House messages.

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 the Senate and is in House messages.

Preemption of Tree Pruning, Trimming, and Removal

SB 316 / HB 6025

Sponsored by Senator Stewart and Representative Eskamani

These bills propose to repeal section 163.045, Florida Statutes. This is the 2019 law that pre-empts 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.

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.

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. House Bill 761 has passed all committee referrals without committee substitute and will be heard by the House on second reading.

Residential Property Riparian Rights

SB 840 / HB 841

Sponsored by Senator Albritton and Representative DiCeglie

These bills make 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 would not apply to "littoral waters, such as a lake, an ocean, or a gulf." There is no apparent effect on EPC regulatory authority. However, if passed, the new law will provide EPC staff guidance when reviewing Minor Work Permits under our Delegation Agreement with Port Tampa Bay. Senate bill 840 has passed all three committee referrals without committee substitute and is placed on Senate special order calendar for second reading.

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 1210 in addition to the preemption described above includes a broader preemption of development activities on lands that were or are classified as agriculture. Both bills have passed 1 of the their 3 referred committees.

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, if passed, may only affect what BMPs are implemented by golf courses.

Sovereign Immunity

SB 974

Sponsored by Senator Gruters

Senate bill 974 proposes 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 require 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.

Phosphogypsum Stacks

HB 1339 / SB 1744

Sponsored by Representative Diamond and Senator Brandes

In response to growing phosphogypsum concerns, House Bill 1339 requires 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 requires the FDEP to provide immediate notification of certain imminent hazards to the Governor, Legislature, emergency management officials, and the local BOCC. Senate Bill 1744 directs FDEP to conduct an analysis of phosphogypsum stacks in the state and submit the report to the Legislature. These bills have not been heard in any committee.

Soil and Groundwater Contamination (PFAS)

SB 1418 / HB 1475

Sponsored by Senator Albritton and Representative McClure

This bill proposes to amend a provision of the brownfields law to address 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.

Related are HB 1151 and SB 7012, which create a task force within FDEP that would provide recommendations for clean-up target levels and waste management methods. This task force would submit an annual report to the Governor.

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.

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 clarify 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. This change appears to only affect SSL owned by the Board of Trustees and would not affect those submerged lands owned by Port Tampa Bay.

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