

**COMMISSION**

Gwendolyn “Gwen” W. Myers, *Chair*  
Harry Cohen, *Vice Chair*  
Donna Cameron Cepeda  
Ken Hagan  
Pat Kemp  
Michael Owen  
Joshua Wostal



**Executive Director**  
Janet D. Lorton

**General Counsel**  
Ricardo Muratti

**Location**

601 E. Kennedy Blvd., Tampa, Florida  
BOCC Boardroom, County Center, 2<sup>nd</sup> Floor  
*See details below for virtual attendance*

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

**COMMISSION AGENDA**  
**January 18, 2024**

**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**

- a. Recognition of Commissioner Joshua Wostal, past EPC Chair.
- b. Proclamation declaring February 2, 2024, as World Wetlands Day in Hillsborough County.

**6. PUBLIC COMMENT** - *Each speaker is allowed 3 minutes unless the Commission directs differently. If you wish to provide public comment, please see guidance below or on our website at: <https://www.epchc.org/about/meetings-agendas>*

**7. APPROVAL OF CONSENT AGENDA**

**Consent Agenda Items**

- a. Approval of October 19, 2023, Regular EPC Meeting Minutes.....2
- b. Monthly Activity Report FY2024 (Oct., Nov., Dec.).....6
- c. Pollution Recovery Fund (PRF) Budget FY2024.....8
- d. Legal Case Notification.....10
- e. Select Performance Measure Goals for 2023 .....12
- f. Tampa Bay Nitrogen Management Consortium – Declaration of Cooperation.....14

**8. PUBLIC HEARING** (*none*)

**9. REGULAR AGENDA**

- a. Tampa Bay Estuary Program Seagrass Update .....26
- b. Initiation of Rulemaking – Revisions to Chapter V, Basis of Review, Rules of the EPC.....27
- c. EPC Annual Meeting Schedule and Revision to Rules of Order.....29
- d. Revision to Include US Ecology Tampa, Inc. as a Grantee to Pollution Recovery Fund Agreement for Agriculture Pesticide Collection.....30
- e. Legislative Update – 2024 Legislative Session .....31
- 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.

Anyone who wishes to speak either virtually or in-person during the meeting may do so by completing the online Public Comment Form found at: [www.epchc.org/pubcomment](http://www.epchc.org/pubcomment). The form is open 48 hours prior to the start of the meeting. Virtual speakers must submit the online public comment form at least 30 minutes prior to the start of the meeting. In-person speakers will be able to sign up using the same online form 48 hours prior to arrival or can sign up on-site via our kiosk up until the start of the meeting. Visit the EPC webpage for more details on [agendas and public comment](#). This meeting will also 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:** January 18, 2024

**Subject:** Approval of the October 19, 2023, EPC meeting minutes.

**Agenda Section:** Consent Agenda

**Division:** Administration Division

**Recommendation:** Approve the October 19, 2023, EPC meeting minutes.

**Brief Summary:** Staff requests the Commission approve the meeting minutes from the Commission meeting held on October 19, 2023.

**Financial Impact:** No Financial Impact

**List of Attachments:** Draft copy of the October 19, 2023, EPC meeting minutes.

**Background:** None

OCTOBER 19, 2023 - ENVIRONMENTAL PROTECTION COMMISSION

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting and Public Hearing, scheduled for Thursday, October 19, 2023, at 2:00 p.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida, and held virtually.

The following members were present: Chair Joshua Wostal and Commissioners Donna Cameron Cepeda, Harry Cohen, Ken Hagan (via telephone), Pat Kemp, Gwen Myers, and Michael Owen.

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

▶ Chair Wostal called the meeting to order at 2:00 p.m. ▶ Commissioner Cameron Cepeda 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, stated 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. Approval of September 21, 2023, Regular EPC Meeting Minutes
- b. Monthly Activity Report FY 2023 (September)
- c. Pollution Recovery Fund (PRF) Budget FY2023
- d. Select Performance Measure Goals for 2023

▶ Chair Wostal moved for approval of the Consent Agenda. **Commissioner Cohen so moved, seconded by Commissioner Myers, and carried seven to zero.**

THURSDAY, OCTOBER 19, 2023

8. PUBLIC HEARING

- a. Conduct a Public Hearing to consider proposed amendments to the EPC's Noise Pollution Rule, Chapter 1-10, Rules of the EPC

▶ EPC General Counsel Rick Muratti introduced the item. ▶ Mr. Jeffrey Sims, EPC, gave a presentation. Chair Wostal called for public comment. ▶ Mr. Richard Peterika distributed information and opposed the item. Subsequent to remarks, ▶ **Commissioner Kemp moved to return to the originally-proposed map of Palm Avenue, seconded by Commissioner Owen,** who added considerations. Ms. Lorton clarified the accurate noise pollution reading challenges. Commissioner Cohen elaborated on the County/city of Tampa noise prevention efforts. Dialogue occurred. ▶ **The motion carried seven to zero.**

9. REGULAR AGENDA

- a. 2023 PRF Grant Applications and Funding Requests

▶ Ms. Lorton touched on the item. ▶ Mr. Christopher Pratt, EPC, offered a presentation. Commissioner Owen relayed public concerns on the Reed Park Stormwater Restoration Project, to which ▶ Mr. Sam Elrabi, Director, EPC Water Management, responded. Following comments, ▶ **Commissioner Kemp moved for approval for the item, seconded by Commissioner Cohen.** Observing a potential conflict of interest for Commissioner Cepeda with the River Hills Trail project, Attorney Muratti requested a separated vote for the item. ▶ **Commissioner Kemp removed the item with the River Hills as a separate vote, seconded by Commissioner Cohen.** Chair Wostal inquired on the water follow-up process regarding non-native/native plantings. ▶ **The motion carried six to zero.** (Commissioner Hagan was out of the room.)

▶ Chair Wostal sought a motion for Item a.7. **Commissioner Kemp so moved, seconded by Commissioner Owen, and carried five to zero; Commissioner Cameron Cepeda abstained.** (Commissioner Hagan was out of the room.)

- b. 2023 Executive Director Annual Report

▶ Ms. Lorton expounded on a presentation.

THURSDAY, OCTOBER 19, 2023

c. Performance Evaluation of the Executive Director

▶ Ms. Elaine DeLeeuw, EPC, conducted the evaluation. ▶ **Commissioner Owen moved for approval of the evaluation** and added comments. Subsequent to remarks, ▶ **Commissioner Myers seconded the motion, which carried four to zero.** (Commissioners Cohen, Hagan, and Kemp were out of the room.)

d. Executive Director's Report

▶ Ms. Lorton gave the report.

10. DISCUSSION OF FUTURE AGENDA ITEMS

▶ Commissioner Myers inquired on returning to starting the EPC meetings at 9:00 a.m.

ADJOURN

▶ There being no further business, the meeting was adjourned at 3:18 p.m.

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

ATTEST:  
CINDY STUART, CLERK

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

jh



# ENVIRONMENTAL PROTECTION COMMISSION

## AGENDA ITEM COVER SHEET

Agenda Item #7.b.

**Date of EPC Meeting:** January 18, 2024

**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 October, November, and December FY24

**Background:** Select data that is associated with the EPC's five core functions; citizen support, air and water monitoring, permitting, 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**  
**FY24**

		<u>October</u>	<u>November</u>	<u>December</u>	<u>FISCAL YEAR TO DATE</u>
<b>A.</b>	<b>Core Function: Citizen Support</b>				
1	Environmental Complaints Received	113	111	86	310
2	Agency-wide Public Record Request (Note: does not include division-specific record requests)	28	19	13	60
<b>B.</b>	<b>Core Function: Air &amp; Water Monitoring</b>				
1	Air Monitoring Data Completeness (Note: reflects previous month due to data acquisition delay)	92.6%	98.0%	99.2%	N/A
2	Water Quality Monitoring Data Completeness (Note: reflects previous month due to data acquisition delay)	100.0%	99.6%	99.5%	N/A
3	Number of Noise Monitoring Events	4	3	0	7
<b>C.</b>	<b>Core Function: Environmental Permitting</b>				
1	Permit/Authorization Applications Received	165	127	108	400
2	Applications In-house >180 days	20	25	21	N/A
3	Permits/Authorizations Issued	118	144	81	343
4	Petroleum Cleanup Cases	108	119	118	345
<b>D.</b>	<b>Core Function: Compliance Assurance</b>				
1	Compliance Inspections	326	309	227	862
2	Compliance Test Reviews (NOTE: Wetlands reviews included under D.1)	117	151	106	374
3	Compliance Assistance Letters Issued	162	127	133	422
4	Warning Notices Issued	21	25	16	62
<b>E.</b>	<b>Core Function: Enforcement</b>				
1	New Cases Initiated	8	6	4	18
2	Active Cases	59	56	56	N/A
3	Tracking Cases	58	67	63	N/A



# ENVIRONMENTAL PROTECTION COMMISSION

## AGENDA ITEM COVER SHEET

Agenda Item #7.c.

**Date of EPC Meeting:** January 18, 2024

**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 24 POLLUTION RECOVERY FUND  
10/1/2023 through 12/31/2023**

REVENUE		EXPENDITURES		RESERVES		NET PRF
Beginning Balance	\$ 1,367,871	Artificial Reef	\$ 33,852	Minimum Balance	\$ 120,000	
Interest	\$ 9,574	Open Projects	\$ 394,178	Est. FY 25 Budget	\$ 33,852	
Deposits	\$ 55,836			Asbestos Removal	\$ 5,000	
Total	\$ 1,433,280	Total	\$ 428,030	Total	\$ 158,852	\$ 846,398

PROJECT	Project Amount	Project Balance
<b>FY21 Projects</b>		
TBW 2D Island Living Shoreline 10131.102063.582990.5370.1350	\$ 49,560	\$ 5,136.30
UNF Multidrug Resistant Bacteria 10131.102063.581990.5370.1353	\$ 50,000	\$ 33,830.49
USF Fecal Source Detection 10131.102063.581990.5370.1355	\$ 50,000	\$ 28,216.26
ERI MacDill AFB Saltern Restoration 10131.102063.582990.5370.1356	\$ 37,000	\$ 17,650.00
UF/IFAS Florida Friendly Landscaping 10131.102063.581990.5370.1358	\$ 8,600	\$ 6,875.35
	\$ 195,160	\$ 91,708.40
<b>FY22 Projects</b>		
DOH/EPC Radon Study 10131.102063.534990.5370.1359	\$ 20,860	\$ 400.00
DOH/EPC Radon Study 10131.102063.552001.5370.1359	\$ 14,000	\$ 7,320.39
Heckman Petro. Assess. 10131.102063.531001.5370.1297	\$ 15,000	\$ 15,000.00
	\$ 49,860	\$ 22,720.39
<b>FY24 Projects</b>		
Lake Magdalene Grass Carp Barrier 10131.102063.582990.5370.1360	\$ 20,258.72	\$ 20,258.72
H.C. Ext. Svc. - Pesticide Collection 10131.102063.581990.5370.1361	\$ 48,000	\$ 48,000.00
River Hills Nature Trail 10131.102063.582990.5370.1362	\$ 11,869.50	\$ 11,869.50
COT - Invasives Removal 10131.102063.581001.5370.1363	\$ 50,000	\$ 50,000.00
USF - E. Coli Impacts 10131.102063.581990.5370.1364	\$ 50,000	\$ 50,000.00
Reed Park Stormwater Rest. 10131.102063.582990.5370.1365	\$ 49,621	\$ 49,621.00
ERI MacDill AFB Mangrove Rest. 10131.102063.582990.5370.1366	\$ 50,000	\$ 50,000.00
	\$ 279,749.22	\$ 279,749.22



# ENVIRONMENTAL PROTECTION COMMISSION

## AGENDA ITEM COVER SHEET

Agenda Item #7.d.

**Date of EPC Meeting:** January 18, 2024

**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 chart below generically refers to these cases as “Administrative Appeal,” but it could also be an extension of time to file an appeal.

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:**

<b>EPC Case No.</b>	<b>Date Opened</b>	<b>Case Type</b>	<b>Case Style</b>	<b>Division</b>
23-EPC-008	11-07-23	Administrative	Sandra Daniell Trustee and Michael May v. Dustin Franklin and EPC	Wetlands
23-EPC-009	11-20-23	Administrative	Frank Greco v. 6111 Rome LLC and EPC	Wetlands
23-EPC-010	11-20-23	Administrative	Thomas Hooten v. 6111 Rome LLC and EPC	Wetlands
23-EPC-011	11-20-23	Administrative	Linda Parups v. 6111 Rome LLC and EPC	Wetlands
23-EPC-012	11-20-23	Administrative	Gail Harris v. 6111 Rome LLC and EPC	Wetlands
23-EPC-013	11-22-23	Administrative	Michael Addison v. 6111 Rome LLC and EPC	Wetlands
23-EPC-014	11-24-23	Administrative	Steve King v. 6111 Rome LLC and EPC	Wetlands
23-EPC-015	11-14-23	Administrative	Ana King v. 6111 Rome LLC and EPC	Wetlands
23-EPC-016	11-27-23	Administrative	Hank Cramer v. 6111 Rome LLC and EPC	Wetlands
23-EPC-017	11-27-23	Administrative	Peter Foe v. 6111 Rome LLC and EPC	Wetlands
23-EPC-018	11-27-24	Administrative	Riverbend Civic Assoc. v. 6111 Rome LLC and EPC	Wetlands



# ENVIRONMENTAL PROTECTION COMMISSION

## AGENDA ITEM COVER SHEET

Agenda Item #7.e.

**Date of EPC Meeting:** January 18, 2024

**Subject:** Select Performance Measure Goals for 2023

**Agenda Section:** Consent Agenda

**Division:** Executive Director Report

**Recommendation:** Informational Report

**Brief Summary:** As part of the EPC staff's strategic planning, the Agency measures key activities and set goals for 2023. These are tabulated and periodically presented to the Commission in the consent agenda.

**Financial Impact:** No Financial Impact

**List of Attachments:** Table Titled 2023 Goals

**Background:** The Agency measures performance for all five of its core functions. These core functions include permitting, compliance assurance, citizen support & outreach, enforcement, and ambient air & water quality monitoring. As part of the Agency's annual evaluation, staff sets goals for select activities and reports them periodically to the Commission. This is an integral part of the continuous improvement required by the Agency's strategic planning.

# 2023 Goals

Core Function	Measure	Pre-Sterling Year (2009)	2020	2021	2022	2023	2023 Goal
Permitting	Average Time to Issue an Intent for State Construction Permits	57 days	28 days	23 days	27 days	23 days	Less Than or Equal to 30 days
	Average Time to Issue an Intent for Tampa Port Authority Permits	56 days	56 days	58 days	47 days	78 days	Less Than or Equal to 60 days
	Average Time EPC Permits were In-house	21 days	36 days	34 days	31 days	32 days	Less Than or Equal to 30 days
Compliance	Timely Resolution of Lower Level Non-Compliance Cases	92%	97%	93%	97%	99%	Greater Than or Equal to 95%
Environmental Complaints	Timely Initiation of Investigation	99% in 5 Days	96% in 3 Days	97% in 3 Days	99% in 3 Days	99% in 3 Days	Greater Than or Equal to 90% in 3 Days
Enforcement	Timely Initiation of Enforcement	73%	98%	98%	98%	100%	Greater Than or Equal to 90%



## ENVIRONMENTAL PROTECTION COMMISSION

### AGENDA ITEM COVER SHEET

Agenda Item #7.f.

**Date of EPC Meeting:** January 18, 2024

**Subject:** Declaration of Cooperation of the Tampa Bay Nitrogen Management Consortium for the Development of the Tampa Bay Reasonable Assurance and Nitrogen Load Allocation Update

**Agenda Section:** Consent Agenda

**Division:** Water Division

**Recommendation:** Approve the Declaration of Cooperation of the Tampa Bay Nitrogen Management Consortium (NMC) for the Development of the Tampa Bay Reasonable Assurance and Nitrogen Load Allocation Update. Authorize the Chair to execute this cooperative agreement. Additionally, authorize the EPC to pay the \$7,500 to the TBEP from the Pollution Recovery Fund. If an additional agreement is needed for payment, authorize the Chair to execute it in consultation with EPC staff.

**Brief Summary:** The Tampa Bay Nitrogen Management Consortium is a unique partnership of regional governments and key industries in Tampa Bay organized under the aegis of the Tampa Bay Estuary Program in 1996. The NMC developed and implemented a collaborative nitrogen management strategy to improve the health of Tampa Bay. This agreement between the EPC and the Tampa Bay NMC confirms EPC's commitment to improving the health of Tampa Bay. The Tampa Bay NMC is a part of the Tampa Bay Estuary Program's overall effort for restoring the health of Tampa Bay. These groups have been successful in meeting their goal of reducing nutrients and restoring seagrass beds in Tampa Bay, however there is additional work to be completed. The cost of this action is \$7,500 to be paid out of the Pollution Recovery Fund.

**Financial Impact:** Financial Impact to the Pollution Recovery Fund is \$7,500 to be paid out of existing funds. No additional funds required.

**List of Attachments:** Declaration of Cooperation of the Tampa Bay Nitrogen Management Consortium for the Development of the Tampa Bay Reasonable Assurance and Nitrogen Load Allocation Update (without Exhibit B for brevity)

#### **Background:**

The Tampa Bay Estuary Program (TBEP) was established in 1991 to help local governments, agencies, and other stakeholders in the Tampa Bay area develop a plan to sustain the recovery of Tampa Bay. The TBEP partners adopted a Comprehensive Conservation and Management Plan that included measurable goals for restoring sea grasses and related targets for reducing nitrogen discharges to the bay. Additionally, in 1996, the TBEP's governmental partners joined with key industries in the Tampa Bay region to create a unique public/private partnership known as the Tampa Bay Nitrogen Management

Consortium (NMC) for the express purpose of developing an Action Plan to meet the nitrogen discharge targets for the bay. In 1998, the U.S. Environmental Protection Agency (EPA) established a total maximum daily load (TMDL) limit for nitrogen loading to the bay, and in 2002, the Florida Department of Environmental Protection (FDEP) determined that the NMC's nitrogen management strategy provided reasonable assurance that the State's water quality criteria for nutrients would be met. Through the NMC's collaborative efforts, Tampa Bay has seen a marked improvement in water quality. However, in 2003, EPA made a determination that the cumulative allowed loadings for all permittees that discharge to the bay could not exceed the established EPA TMDL. This meant that specific nitrogen loading allocations needed to be developed for all entities discharging to the bay, including wastewater and stormwater.

In 2009 the TBEP facilitated and managed the development of nitrogen load allocations for all participants in the NMC for the period of 2008-2012. An update to the reasonable assurance document and allocations was accomplished in 2012 for the period from 2013-2017, and again in 2017 for the period from 2018-2022. It is now time to begin planning for the development of the next five-year update. To that end, the NMC participants, including EPC, agreed in concept to help fund the costs of the reasonable assurance update, with local governments paying \$7,500 to the TBEP for their procurement, facilitation and management of the efforts needed to develop the documentation required. By pooling resources, the NMC participants achieve the work needed for the reasonable assurance update at a much-reduced cost than what it would cost for each entity to respond individually. This agenda item requests the Commission to authorize the Chair to execute this cooperative agreement and also authorizes the EPC to pay the \$7,500 to the TBEP with or without an additional agreement. If an additional agreement is needed, the Commission authorizes the Chair to sign it and allow the payment of the \$7,500. The \$7,500 will be paid from the Pollution Recovery Fund.

# TAMPA BAY

NITROGEN MANAGEMENT CONSORTIUM

A PUBLIC - PRIVATE PARTNERSHIP

## DECLARATION OF COOPERATION OF THE TAMPA BAY NITROGEN MANAGEMENT CONSORTIUM

### CATALYZING NEW COMMITMENTS TO RESTORE THE TAMPA BAY ESTUARY

From the uppermost watershed reaches of Old Tampa Bay and Hillsborough Bay to the mouth of the bay at Egmont Key, the Tampa Bay estuary is made up of a variety of habitats where fish and other wildlife find shelter and food. These essential habitats range from lush underwater seagrass beds to oyster reefs, tidal marshes, mangrove swamps, freshwater wetlands, and upland forests. Abundant and ecologically functional habitats are critical to the overall health of the bay. Without them, Tampa Bay would lack the diversity of fish, birds and other wildlife that contribute to the natural wonder of the region and its economic vitality.

Tampa Bay scientists and resource managers agree that submerged seagrass is among the most important habitats in the estuary because it serves as shelter, nursery, and a food source for a diverse variety of species while also stabilizing bay bottoms and water quality. The extent of seagrass coverage in Tampa Bay has served as a key indicator of the bay's overall ecosystem health. The Tampa Bay Estuary Program (TBEP) established the restoration of seagrass habitat as a priority goal in the mid-1990s. The key to restoring seagrass in Tampa Bay has been improving and then maintaining adequate water clarity that allows light to penetrate the shallow waters of the bay where seagrasses grow. And the key to maintaining water clarity has been preventing excessive nitrogen – a nutrient necessary for plant growth – from entering the bay and stimulating the growth of algae that cloud the water or smother seagrasses and prevent sunlight from reaching bay bottoms.

The Tampa Bay National Estuary Program (NEP) was first established in 1991 to help local governments, agencies, and other stakeholders in the Tampa Bay area develop a plan to restore Tampa Bay. The NEP partners adopted a Comprehensive Conservation and Management Plan in December 1996 that included measurable goals for restoring seagrasses and related targets for reducing nitrogen discharges to the bay. The parties unanimously adopted a “hold the line” target on nitrogen discharges that capped loads at levels that would ensure adequate water clarity and light to sustain seagrass recovery. Local government and agency partners in the NEP reinforced their commitment to achieving the goals through an [Interlocal Agreement adopted in 1998](#) which also redefined the NEP as the Tampa Bay Estuary Program.

In August 1996, governmental partners joined with key industries in the Tampa Bay region to create a unique public-private partnership known as the [Tampa Bay Nitrogen Management Consortium](#) for the express purpose of developing a Consortium Action Plan to meet the “hold the line” nitrogen load targets. The original Action Plan consisted of more than 100 projects which collectively reduced or precluded nitrogen discharges to the bay by an estimated 134 tons/year between 1995 and 1999. The Action Plan, entitled [Partnership for Progress](#), was the core of a



larger nitrogen management strategy that included: the baywide seagrass restoration and preservation goal; chlorophyll and nitrogen reduction targets for each major bay segment; apportionment of responsibility for meeting the nitrogen reduction targets amongst partners; and a process to track whether the targets were being met.

In November 2002, the [Florida Department of Environmental Protection \(FDEP\) concluded](#) that the Tampa Bay Estuary Program's nitrogen management strategy provided reasonable assurance that the state water quality criteria for nutrients would be met. In parallel, the U.S. Environmental Protection Agency (EPA) recognized a 1998 action by FDEP that proposed a total maximum load of nitrogen that could be discharged to the bay annually and still meet state water quality standards. Both FDEP's reasonable assurance determination and the total maximum nitrogen loading recognized by EPA are based on statistical modeling and data analyses performed by the Estuary Program partnerships during the mid-1990s.

Subsequent to the 2002 effort, both a [2007 Reasonable Assurance Update](#) and [2009 Reasonable Assurance Addendum](#) were prepared for FDEP to ensure that the original 2002 determination would be extended. These documents were intended to: 1) provide an update on implementation of the Tampa Bay nitrogen management strategy to FDEP for the 2003-2007 period; 2) provide adequate documentation to allow FDEP a finding of reasonable progress pursuant to rule [62-303.600, F.A.C.](#); 3) provide nitrogen load allocations to categories of nitrogen sources by major bay segment and to facility- and stormwater-specific sources within each major bay segment; and 4) support a subsequent [2010 FDEP water quality based effluent limitation Final Order](#), a [2010 FDEP Reasonable Assurance Determination Final Order](#), and to comply with the federally-recognized TMDL for Tampa Bay. In 2011, FDEP established numeric nutrient criteria for each bay segment utilizing the chlorophyll-a, total nitrogen and total phosphorus assessments developed by the Estuary Program partnerships. Subsequent Reasonable Assurance Updates were submitted in [2012](#) and [2017](#) to extend the Reasonable Assurance determination through 2021.

Over this period, a remarkable recovery of the Tampa Bay ecosystem ensued after decades of decline and despite continuing regional population growth. In 2016, baywide seagrass coverage peaked at 41,655 acres – well exceeding the seagrass recovery goal originally established by the Estuary Program partnerships.

However, during the development of the [2022 Reasonable Assurance Update](#) covering the 2017-2021 period, significant declines in the bay's seagrass resources were documented. Declines in water quality, particularly in the Old Tampa Bay segment, coincided with large losses of seagrass coverage during this period. Furthermore, other confounding stressors were correlated to the declines in water quality and seagrasses within Tampa Bay (e.g. increasing water temperatures, hydrologic inputs, poor tidal circulation, and discrete red tide and wastewater discharge events).

In response to these recent conditions, it is the desire of the Consortium and other partners in the Estuary Program to re-invigorate the successful collaboration that achieved the seagrass recovery goal observed during the 2014-2018 period. At the same time, the Consortium and partners in the Estuary Program recognize that compounding factors, in addition to nitrogen loads, will influence future seagrass recovery in Tampa Bay. Notwithstanding these challenges, it is in the interest of all stakeholders to continue and to expand upon this successful approach to bay management and avoid derailing decades of progress and investments that have been made to restore Tampa Bay.

To help ensure continued recovery of vital seagrass habitat and the successful nitrogen management strategy that makes it possible, local governments, agencies, and industry participants of the Tampa Bay Nitrogen Management Consortium declare their intent to work together over the 2022-2026 period to provide FDEP with an updated 2027 reasonable assurance document, ensuring that state water quality criteria for nutrients will be consistently met and that seagrass recovery towards the 40,000 acre goal will be realized. The partners commit further to collaboratively funding, developing and implementing alternative water quality management strategies and/or actions that may help achieve this end as partners to the Estuary Program and/or Consortium.

Additional background on the history and documentation of the Tampa Bay nitrogen management strategy may be found in [Exhibit "A"](#). The commitment of Consortium participants to update the reasonable assurance document is provided in greater specificity below.

### **PARTICIPANTS OF THE TAMPA BAY NITROGEN MANAGEMENT CONSORTIUM SPECIFICALLY DECLARE THEIR INTENT TO COOPERATE AS FOLLOWS TO ENSURE CONTINUING RECOVERY OF THE TAMPA BAY ESTUARY:**

Section 1: Participants of the Consortium approved the 2022 Update to Reasonable Assurance Document submitted to FDEP and attached as [Exhibit "B"](#) which documents recent progress toward bay segment-specific nutrient targets and seagrass restoration goals adopted by the TBEP and approved by FDEP on Feb. 3, 2023; and,

Section 2: Participants of the Consortium will assist in developing a 2027 Reasonable Assurance Document that includes a revised assimilative capacity assessment for the Old Tampa Bay segment, as determined necessary in the approved 2022 Update. If supported by the assessment, revised allocations will be developed and technically supported by all participants through development of a 2024 Reasonable Assurance Addendum: Old Tampa Bay Assessment and Allocation Report; and,

Section 3: The Consortium will submit a 2024 Reasonable Assurance Addendum to FDEP and EPA by December 31, 2024, which will include a request that FDEP approve, and EPA concur, that continued implementation of the Tampa Bay nitrogen management strategy as reasonable assurance that potential impairment of designated uses related to nutrient impairments in Tampa Bay are and will continue to be adequately addressed through 2027; and,

Section 4: If necessary, the Consortium will develop and implement a set of guiding principles that will fairly and equitably re-assign allocations for affected entities in the Old Tampa Bay segment. The Consortium will include within the 2024 Reasonable Assurance Addendum revised load allocations that are acceptable to the Consortium participants while acknowledging that the facility-specific wasteload allocations will be re-adopted by FDEP as Water Quality-Based Effluent Limitations; and,

Section 5: The Consortium will continue to identify and implement projects to achieve the cumulative nitrogen management targets and entity-specific allocations for Tampa Bay; and,

Section 6: To encourage voluntary efforts which further the attainment of baywide nitrogen reduction and/or management goals, the FDEP, EPA and the Southwest Florida Water

Management District agree to exercise reasonable flexibility within the framework of their rules and regulations, including serious consideration of petitions for variances from applicants, in processing permit applications for projects implementing the Tampa Bay nitrogen management strategy; and,

Section 7: Consistent with the Consortium's consensus-based approach, each participant will participate in funding the 2027 Reasonable Assurance Update Document. The estimated total cost of \$250,000 will be shared equally among Consortium Participants at a cost not to exceed \$7,500 per participant to be paid by no later than October 31, 2024, or as soon thereafter as possible.

Section 8: Development of the 2024 Reasonable Assurance Addendum will be initially funded through the Tampa Bay Estuary Program at an estimated cost of \$240,000. If additional funding is necessary, Consortium participants will consider an equitable funding strategy to complete its development. To ensure the accuracy and completeness of the Addendum and the [Estuary Program's Action Plan Database](#), each participant of the Consortium further agrees to provide the Estuary Program and contractor responsible for preparing the Addendum with information and data necessary to adequately describe projects with nitrogen load reduction benefits and to provide documentation supporting the estimated nitrogen reductions where additional documentation may be necessary.

This Declaration shall take effect upon the last date of Execution.

# TAMPA BAY

NITROGEN MANAGEMENT CONSORTIUM



A PUBLIC - PRIVATE PARTNERSHIP

## EXAMPLE SIGNATURE PAGE

The [Consortium participant entity] hereby approves the TAMPA BAY NITROGEN MANAGEMENT CONSORTIUM Declaration and attachments herein.

Attested this date: \_\_\_\_\_

Authorized by: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Witnessed by: \_\_\_\_\_

Seal (if appropriate)

## EXHIBIT “A”

### History: Tampa Bay National Estuary Program and Nitrogen Management Consortium

The Tampa Bay National Estuary Program (NEP) was established in 1991 to facilitate development of a clean-up and restoration plan for the 400 square-mile Tampa Bay estuary. The NEP is governed by a Policy Board (formerly the “Policy Committee”) consisting of elected officials from the cities of Tampa, St. Petersburg, and Clearwater, the counties of Hillsborough, Manatee, Pasco, and Pinellas, and appointees from the U.S. Environmental Protection Agency, the Florida Department of Environmental Protection, and the Southwest Florida Water Management District Governing Board. In December 1996, the NEP Policy Board unanimously adopted the first Comprehensive Conservation and Management Plan (CCMP) for Tampa Bay, known as *Charting the Course*. The CCMP includes measurable goals for improving water quality and restoring fish and wildlife habitats vital to the health and productivity of the bay. The NEP involved local government and agency partners together with industry, environmental groups, and other stakeholders in developing the community-based plan for bay restoration. Two successive updates of the CCMP occurred with the latest being the [2017 CCMP Update](#).

Restoration of vital seagrass habitat was and still remains the keystone goal of the CCMP. The key to seagrass recovery is improving water clarity to allow enough light to reach the shallow bottom of the bay to stimulate natural regrowth of seagrasses. And the key to maintaining water clarity is to reduce the amount of nitrogen entering the bay. Excessive loads of nitrogen cloud bay water by stimulating the growth of algae that in turn prevent light from reaching seagrasses rooted on the bay bottom. When adopted in 1996, the original CCMP included a goal of recovering 12,350 acres of seagrass to achieve a baywide coverage of 38,000 acres that would be reached by capping nitrogen loading to the bay at the average 1992-1994 level. “Holding the line” on nitrogen loading required additional projects that reduced or precluded an average of 17 tons/year of nitrogen loading or 85 tons/year at the end of every 5-year period. This load reduction is needed to offset the estimated increase in nitrogen load resulting from the projected population growth in the bay area. In 2020, the baywide seagrass coverage goal was updated to 40,000 acres. As of 2022, an additional 9,863 acres of seagrass needs to be restored to achieve this goal.

In August 1996, local governments and agencies comprising the Tampa Bay NEP Management Committee joined with key industries in the Tampa Bay region to create a unique public/private partnership known as the Tampa Bay Nitrogen Management Consortium. The purpose of the Consortium was to cooperatively develop a plan of action (the Consortium Action Plan) to meet the 85 ton/year nitrogen reduction target over the initial 1995-1999 period, and in subsequent periods thereafter.

In March 1998, the local governments and non-federal agencies represented on the TBNEP Policy Board entered into an Interlocal Agreement adopting the goals and priorities of the CCMP and defining the responsibilities of the parties including the development of action plans to achieve the CCMP goals. The US Army Corps of Engineers executed a joinder to the Interlocal Agreement and the US EPA executed a separate Memorandum of Understanding setting forth their commitments to the implementation of the CCMP. [Article 4.4 of the current Interlocal Agreement](#) includes a commitment from Consortium participants who are also party to the Interlocal Agreement (the Policy Board participants) to meet the nitrogen management strategies and entity-

specific allocations defined in subsequent Reasonable Assurance documentation submitted to FDEP.

Also in March 1998, the first Consortium Action Plan (for the years 1995-1999) was finalized and approved by the Consortium participants. The Consortium Action plan included project summaries (existing and future) and estimated nitrogen load reductions submitted by the Consortium partners, and a Resolution signed by the Consortium participants adopting the 1995-1999 Nitrogen Management Action Plan and committing to its implementation. In addition to the commitment from the government partners of the Interlocal Agreement as noted above, the non-governmental participants of the Consortium pledged to exercise their best efforts to implement in a timely manner, either individually or in cooperation with other Consortium participants, the projects they offered to undertake as part of the Consortium Action Plan. During each successive 5-year Reasonable Assurance update submitted to FDEP and EPA since 2002, updates to the Consortium Action Plans are cataloged through an [Action Plan Database](#) and incorporated as new or future nitrogen load reduction project commitments of partners.

### Federally-recognized TMDL for Tampa Bay

In 1998, FDEP submitted a TMDL for nitrogen for Tampa Bay to USEPA Region 4 as was required by the federal Clean Water Act. USEPA approved the submitted TMDL on June 18, 1998. The TMDL is based on the 1992-1994 annual average total nitrogen loading to major bay segments, as estimated by TBNEP. The TMDL also includes an “allocation” to major sources, which is also based on the 1992-1994 nitrogen loading to each bay segment as estimated by TBNEP ([Janicki and Wade 1996](#)). Comments in the TMDL note that “The TMDL is based on an adopted five-year nitrogen management strategy to “hold the line” at existing annual nitrogen loadings to each segment of the bay in order to protect and restore seagrass meadows,” and “The nitrogen load targets were developed for the major bay segments and not individual sources. This allows flexibility in the way the loads are controlled.”

The 1998 federally-recognized TMDL allocations (in tons/year) are shown in Table 1. Note that these are not loading *reductions*, but total nitrogen loadings. The loading estimates were developed from the 1992-1994 period ([Janicki and Wade 1996](#)). EPA considered the assimilative capacity (TMDL) of each bay segment to be the total annual load to that segment (e.g., 486 tons/year for Old Tampa Bay, etc).

**Table 1:** Existing conditions (1992-1994) annual total nitrogen loadings by source and bay segment.  
Source: Federally-recognized TMDL document for nutrients in Tampa Bay, 1998.

Source	Old Tampa Bay	Hillsborough Bay	Middle Tampa Bay	Lower Tampa Bay
Atmospheric deposition	227	115	306	288
Point sources	85	300	78	1
Material losses	0	233	0	24
Nonpoint sources	174	596	415	36
Groundwater and springs	0	207	0	0
<b>TOTAL</b>	<b>486</b>	<b>1451</b>	<b>799</b>	<b>349</b>

## Tampa Bay Reasonable Assurance

The Florida State 1999 legislative session produced a TMDL bill, called the Florida Watershed Restoration Act, which established the TMDL process for the state. A provision approved in the Watershed Restoration Act recognized: *“If existing pollution control programs including the National Estuary Program or the Everglades restoration are deemed sufficient to achieve water quality compliance, no TMDL calculation is required.”*

Pursuant to the Florida Watershed Restoration Act, the TBEP and Consortium developed and submitted a [Reasonable Assurance document to FDEP and for concurrence with EPA in 2002](#), based on the Consortium’s original Action Plan: *Partnership for Progress*. The document provided FDEP with a complete description of the Tampa Bay nitrogen management strategy and enabled FDEP to conclude that “the nitrogen management plan developed by TBEP for Tampa Bay provides reasonable assurance that impairment of designated uses related to nutrients in Tampa Bay will be adequately addressed.” Based on the submitted documentation, FDEP concluded that “there is sufficient reasonable assurance that:

- 1). Completed and proposed management actions in the nitrogen management plan will result in the continued attainment of the narrative nutrient criteria within Tampa Bay, and
- 2). Reasonable progress towards continued attainment of the narrative nutrient criteria and associated designated uses will be made through 2007, which is the year when the next 303(d) list of impaired waters for Tampa Bay is due to be submitted to the Environmental Protection Agency (EPA).” ([letter to H. Greening from D. Joyner, dated November 5, 2002](#)).

Also in the letter, the FDEP concluded that the uncorrected, chlorophyll-a thresholds identified for each of the 4 main bay segments by the TBEP’s nitrogen management strategy would be used to assess future nutrient impairment. Since 2002, these thresholds have served as the primary numeric nutrient criteria to assess impairment in the mainstem estuary.

In preparation of the 2007 Reasonable Assurance Update, the FDEP and EPA informed the Consortium that wasteload and load allocations would need to be further allocated to comply with the federally-recognized TMDL. The [2007 Reasonable Assurance Update](#) and [2009 Reasonable Assurance Addendum](#) were prepared for FDEP to ensure that the original 2002 determination would be extended and to fully comply with the federally-recognized TMDL. The documents led to a [2010 FDEP water quality based effluent limitation Final Order](#) and a [2010 FDEP Reasonable Assurance Determination Final Order](#) which adopted entity- and source-specific allocations within the Old Tampa Bay, Hillsborough Bay, Middle Tampa Bay, Lower Tampa Bay and Remainder of Lower Tampa Bay (southern Boca Ciega Bay, Terra Ceia Bay, and Manatee River) segments. An annual, compliance assessment framework was also established and relied on the bay segment specific chlorophyll-a thresholds previously adopted by FDEP and hydrologically-normalized bay segment loadings to further comply with the federally-recognized TMDL (see [Section VIII, 2009 Reasonable Assurance Addendum](#)).

Subsequent Reasonable Assurance Update Documents were submitted in [2012](#) and [2017](#) to extend the Reasonable Assurance determination through 2021. Most recently, the [2022 Reasonable Assurance Update](#) was submitted to the FDEP on December 29, 2022.

## Establishment of Numeric Nutrient Criteria for the Tampa Bay Estuary

From 2010-2013, several EPA and FDEP actions were undertaken in response to lawsuits to redefine the narrative nutrient criteria for estuaries and other waterbodies in Florida. The Tampa Bay Estuary Program, in coordination with the Consortium and TBEP Technical Advisory Committee, developed recommended numeric nutrient criteria for the Tampa Bay estuary based on prior and refined nitrogen management strategy analyses and Reasonable Assurance determinations made by FDEP through 2012 (Janicki Environmental, Inc. [2011a](#) & [2001b](#)).

In summary, the recommended estuarine numeric nutrient criteria for Tampa Bay included the chlorophyll-a thresholds previously defined for each bay segment and the expression of the total nitrogen (TN) and total phosphorus (TP) loads to each bay segment relative to total hydrologic loads from the baseline period (i.e. 1992-1994 loadings that were used to establish the federally-recognized TMDL). Thus, the TN and TP estuarine numeric nutrient criteria for Tampa Bay were defined as TN and TP delivery ratios (Table 2).

**Table 2:** Recommended estuarine numeric nutrient criteria for the Tampa Bay estuary. Source: [Subsection 62-302.532 Florida Administrative Code](#).

Bay Segment	Chlorophyll-a Threshold (ug/L)	Total Nitrogen Delivery Ratio (tons / million m <sup>3</sup> of water)	Total Phosphorus Delivery Ratio (tons / million m <sup>3</sup> of water)
Old Tampa Bay	9.3	1.08	0.23
Hillsborough Bay	15.0	1.62	1.28
Middle Tampa Bay	8.5	1.24	0.24
Lower Tampa Bay	5.1	0.97	0.14
Boca Ciega Bay North	8.3	1.54	0.18
Boca Ciega Bay South	6.3	0.97	0.06
Terra Ceia Bay	8.7	1.10	0.14
Manatee River	8.8	1.80	0.37

Through separate actions, both the FDEP and EPA adopted the recommended estuarine numeric nutrient criteria, as outlined above. Currently, these criteria are contained in [Subsection 62-302.532, Florida Administrative Code](#). These criteria remain the basis for tracking nutrient-related impairments by FDEP and EPA in the estuary proper.



# EXHIBIT “B”

[Tampa Bay Nitrogen Management Strategy  
2022 Update to Reasonable Assurance Document](#)



# ENVIRONMENTAL PROTECTION COMMISSION

## AGENDA ITEM COVER SHEET

Agenda Item #9.a.

**Date of EPC Meeting:** January 18, 2024

**Subject:** Tampa Bay Seagrass Update

**Agenda Section:** Regular Agenda

**Division:** Water Division

**Recommendation:** Informational Report

**Brief Summary:** Ed Sherwood, Tampa Bay Estuary Program Executive Director, will provide a presentation on the state of seagrass beds in Tampa Bay, and the results of the annual seagrass assessment for Tampa Bay. Commissioner Owen requested a presentation on seagrass at the April 20, 2023, EPC meeting.

**Financial Impact:** No Financial Impact

**List of Attachments:** None

**Background:** Seagrass is an important habitat for fish and other marine animals. It stabilizes sediment, produces oxygen, and reduces shoreline erosion. The coverage, species, and condition of seagrass are significant indicators of ecosystem health in Tampa Bay. Ed Sherwood, Tampa Bay Estuary Program Executive Director, will provide a presentation on the state of seagrass beds in Tampa Bay, and the results of the annual seagrass assessment for Tampa Bay.



# ENVIRONMENTAL PROTECTION COMMISSION

## AGENDA ITEM COVER SHEET

Agenda Item #9.b.

**Date of EPC Meeting:** January 18, 2024

**Subject:** Initiation of Rulemaking - Revisions to Chapter V of the Basis of Review

**Agenda Section:** Regular Agenda

**Division:** Wetlands Division

**Recommendation:** Informational. No vote required to initiate rulemaking, but the 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 2022. 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, MAIW 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 MAIW 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, with minor revisions adopted in May of 2022, to help bring clarity and efficiency to the permitting process. The rule changes have been very effective; nonetheless, having implemented the rule revision for over 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 activities exempt from MAIW permits and shoreline stabilization methods, including native based shoreline solutions.

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 the adopted “Basis of Review for Authorization of Activities Pursuant to Section 1-11 – Wetlands,” including but not limited to Sections 5.1, 5.3.5, and 5.4.



# ENVIRONMENTAL PROTECTION COMMISSION

## AGENDA ITEM COVER SHEET

Agenda Item #9.c.

**Date of EPC Meeting:** January 18, 2024

**Subject:** EPC Annual Meeting Schedule and Revision to Rules of Order

**Agenda Section:** Regular Agenda

**Division:** Administration Division

**Recommendation:** Adjust EPC annual meeting schedule for 2024 and vote to amend the EPC Rules of Order accordingly.

**Brief Summary:** At a BOCC meeting on November 1, 2023, there was a discussion about reducing the number of EPC meetings per year. If the decision is to meet four times during the year, EPC staff recommends meetings be held in January, April, August, and October.

**Financial Impact:** None

**List of Attachments:** None

**Background:** Pursuant to Rule 14 of the Rules of Order of the Environmental Protection Commission (EPC), the Commission is to meet on the third Thursday of each month at 9 a.m. Each year, the BOCC sets up an annual calendar for the BOCC, Land Use, EPC, and other meetings. For the EPC meetings, that calendar generally conforms to the third-Thursday guidance.

At the BOCC meeting on November 1, 2023, there was a discussion about reducing the number of EPC meetings per year. If the decision is to meet quarterly or four times a year, EPC staff recommends January, April, August, and October based on historical and contractual agency needs. Alternatively, if the Commissioners prefer to meet six times per year, EPC staff recommends meeting in January, March, May, August, September, and October. There was a suggestion to move the meetings to a later start time. The Commission could vote for a 9:30 a.m. or 10 a.m. start time instead of 9 a.m. if preferred.

The Executive Director received confirmation from County Administration that, if needed, the Commissioners can convene as the EPC during a BOCC meeting.

The EPC Rules of Order must also be revised by vote at two separate meetings, but the annual calendar can still be adjusted at this meeting. A vote to amend the rules during this meeting would be considered the first vote. A second vote will be scheduled for the following meeting.



# ENVIRONMENTAL PROTECTION COMMISSION

## AGENDA ITEM COVER SHEET

Agenda Item #9.d.

**Date of EPC Meeting:** January 18, 2024

**Subject:** Revision to include US Ecology Tampa, Inc. as a Grantee to the Pollution Recovery Fund Agreement for Agriculture Pesticide Collection

**Agenda Section:** Regular Agenda

**Division:** Water Division

**Recommendation:** Name US Ecology Tampa, Inc. as Co-awardee to PRF Agreement for Agriculture Pesticide Collection

**Brief Summary:** Hillsborough County, through its Extension Department, was awarded \$48,000.00 in Pollution Recovery Funds by the EPC Commission on October 19, 2023, for the project entitled "Agriculture Pesticide Collection." Hillsborough County requests to have the PRF funds paid directly to US Ecology Tampa, Inc. which is Hillsborough County's contracted vendor for the collection and disposal of the pesticides.

**Financial Impact:** No Financial Impact

**List of Attachments:** None

**Background:** Hillsborough County, through its Extension Department, was awarded \$48,000.00 in Pollution Recovery Funds (PRF) by the EPC Commission on October 19, 2023 for the project entitled "Agriculture Pesticide Collection." Hillsborough County has indicated that they will utilize US Ecology Tampa, Inc. as their contracted vendor for the collection and disposal of the pesticides planned for early 2024. Thus, the awardee, Hillsborough County, requested after the Commission vote that the EPC arrange to pay the budgeted PRF funds directly to US Ecology Tampa, Inc. on a reimbursement basis. In order to directly pay the vendor with PRF funds, the EPC Act requires that the Commission approve the use of PRF funds for US Ecology Tampa, Inc. There is no change to the cost of the project. The PRF agreement has not been executed yet, thus EPC staff will add US Ecology Tampa, Inc. as a partner in the agreement and then deliver the agreement to the EPC Chair for execution.



# ENVIRONMENTAL PROTECTION COMMISSION

## AGENDA ITEM COVER SHEET

Agenda Item #9.e.

**Date of EPC Meeting:** January 18, 2024

**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 9, 2024. 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 9, 2024, and will adjourn on March 8, 2024. 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:

### **Mangrove Planting and Restoration**

#### **SB 32**

*Sponsored by Senator Garcia*

This bill directs the Florida Department of Environmental Protection to adopt rules for mangrove replanting and restoration with specific criteria the rules would need to include such as addressing significant erosion, protection of barrier and spoil islands, promote public awareness of mangrove importance, and identification of vulnerable properties along the coastline which may be ripe for local government partnerships. SB 32 has also been heard favorably by one of its three referred committees.

### **Saltwater Intrusion Vulnerability Assessment**

#### **SB 298 / HB 1079**

*Sponsored by Senator Polsky and Representative McFarland*

These bills amend the Resilient Florida Grant Program to provide funds for coastal counties to conduct saltwater intrusion vulnerability assessments. The information obtained from the assessments shall be used to update the comprehensive statewide flood vulnerability and sea level rise data and to analyze effects and threats to a coastal county's water supply. The Florida Department of Environmental Protection (FDEP) would provide 50% cost-sharing for the assessments, except for coastal counties with a population of 50,000 or less that would be exempt from

contributing to the cost-share. HB 1079 differs by adding language that prohibits FDEP from delegating authority for permitting coastal construction zoning and building code exemptions.

### **Agritourism**

#### **HB 339 / SB 696**

*Sponsored by Representative Roth and Senator Rodriguez*

These preemption bills prohibit local governments from requiring certificates of use for lands classified as agriculture including their land use, ag-related facilities, and agritourism venues unless allowed by general law. Further, the bills propose language that automatically terminates and expires local government ordinances, rules, or other measures that require certificates of use. Lastly, the bills propose definitions for brewery, distillery, farm stand, fruit and vegetable stand, winery, and mobile food service. The bills codify and clarify that those activities would all be considered agritourism activities.

### **Environmental Management**

#### **SB 738 / HB 789**

*Sponsored by Senator Burgess and Representative Overdorf*

These bills would entitle the prevailing parties in legal challenges against the FDEP or any water management district to recover costs and attorney fees. Further, they also specify that stormwater ponds cannot exceed a steepness of 4:1, unless it is sufficiently fenced. Lastly, the bills establish a requirement for FDEP and the water management districts to review coastal permitting processes with the goal of identifying ways to increase efficiency and allow for improved storm recovery. There is a similar bill, SB 406 proposed by Senator Rodriguez, which includes the 4:1 steepness limitation language.

### **Sovereign Immunity (SB 472) / Suits Against the Government (HB 569)**

*Sponsored by Representative McFarland and Senator Brodeur*

Both bills propose to increase statutory limits on liability for tort claims against the State and its agencies and subdivisions from \$200,000/\$300,000 per incident to \$400,000/\$600,000 per incident, respectively and require the Department of Financial Services to adjust the limitations on tort liability every year based on the Consumer Price Index or successor index. Further, HB 569 proposes additional language to 1) allow local governments to settle a claim in excess of the waiver limits provided without legislative action; 2) remove the requirement for local governments to seek a claim bill prior to accepting a settlement; 3) reduce from three years to 18 months the time period for a claimant to give notice of a claim to the government prior to filing suit; and 4) proposed additional statute of limitation timeframes based on the claim type.

### **Land and Water Management**

#### **HB 527 / SB 664**

*Sponsored by Representative Maggard and Senator Burgess*

These similar bills both propose language that requires a county or municipality to acquire buffer zones established around land or water delineations by the State. Further, both bills preempt dredge and fill activities under Chapter 373, F.S. to the FDEP, with allowance of delegation to the Water Management Districts. If passed, this preemption would affect EPC's authority to authorize development within wetlands and other surface waters.

### **Management and Storage of Surface Waters**

#### **HB 863 / SB 986**

*Sponsored by Representative Killebrew and Senator Burton*

These proposed bills expand an existing exemption for certain environmental habitat creation, restoration, and enhancement activities and water quality improvements located on classified agricultural lands and government-owned lands. The exempt activities must result in a "net increase in wetlands resource functions." Originally the statutory exemption language required notice to the water management districts or FDEP for review of such projects, but this requirement is removed in both bills.



## **Development Permits and Orders**

### **HB 791 / SB 1150**

*Sponsored by Representative Overdorf and Senator Esposito*

HB 791 and SB 1150 require local governments to identify minimum information necessary for certain zoning applications to be determined as complete. They further set maximum timeframes for approval of development permits and orders and provide for refunds where a local government doesn't meet these specified timeframes. HB 791 also defines that a change in the application that decreases or increases the project intensity (square footage, number of lots, etc.) by 15% is considered a substantive change, which restarts the review period.

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.