

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

**CHAPTER 1-9
POLLUTION RECOVERY FUND**

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1-9.01 STATEMENT OF INTENT

a. It is the intent of the Commission to use the Pollution Recovery Fund for the restoration of polluted areas, the mitigation of the effects of pollution and to otherwise enhance pollution control activities within the county. It is the Commission's intent that the monies be used so as to accomplish an improvement in the purity of the waters, soils or air of the county consistent with public health and enjoyment thereof, and the propagation and protection of wildlife, birds, game, fish and other aquatic life. Where the monies are not needed to restore polluted areas, they shall be used to enhance pollution control activities which will avoid or minimize future pollution problems within the County.

b. Chapter 84-446, Laws of Florida, as amended, authorizes the use of up to 50% of the annually collected funds for the Artificial Reef Program and up to 10% of the average annual balance for monitoring past restoration or mitigation. These amounts shall be established annually by the Commission.

c. It is the Commission's intent to obtain all correction necessary from the person's responsible for the pollution through enforcement. Where sufficient correction cannot be obtained, then appropriate monies for correction shall be obtained in addition to other appropriate penalties or costs to the greatest extent possible. Where initial use of the fund reserves prior to securing monies from the responsible parties would prevent or minimize an imminent harm or danger of pollution, such use may be authorized on condition that reimbursement from the responsible party shall be pursued when and in the manner appropriate. Where responsible parties cannot be found or sufficient monies obtained, the Commission may allocate monies from the balance of the fund as they deem appropriate.

1-9.02 DEFINITIONS

a. "commission action or enforcement action" means any confirmed violation for which a Notice of Violation or Citation issued, or for which the Commission filed suit.

b. "polluted area" means an identified geographic area, including its soils, waters, air and other physical characteristics which have been destroyed, altered or contaminated by an emission or discharge and which destruction, alteration or contamination poses an actual threat or reasonably expected threat to the health, safety or welfare of the public or to wildlife, birds, game, fish or other aquatic life.

c. "pollution control activity" means any program or undertaking specifically designed and intended to prevent, minimize, mitigate or correct the identified effects of pollution, or to determine the extent of the effects of or the primary causes of identified pollution.

d. "restoration" means to modify the physical conditions of a polluted area such that the effects of the pollution are eliminated, reduced, or contained or in the reasonable passage of time will be eliminated, reduced, or contained and no longer pose a threat or potential threat to the health, safety or welfare of any

member of the public or to wildlife, birds, game, fish or other aquatic life.

e. "mitigate or mitigation" means activity designed and technologically demonstrated as practical to restore, create, or replace the environmental functions provided by an area before pollution occurred.

1-9.03 ARTIFICIAL REEF PROGRAM

During the budget process, the annually collected fund amount for the past fiscal year shall be identified. The Director shall include in his proposed budget use of some percent not to exceed 50% of said amount for the artificial reef program for the following year. Salaries and capital expenditures may be included. Approval by the Commission of the proposed budget shall constitute approval of the designated expenditure of monies from the Pollution Recovery Fund. Any monies budgeted but not used for this program at the end of the fiscal year shall revert back to the Pollution Recovery Fund.

1-9.04 MONITORING PROGRAM

During the budget process, the average annual balance of the fund shall be identified. The Director shall then include in his proposed budget use of up to 10% of said amount for the monitoring program of past restoration and mitigation activities for the following year. This program shall include monitoring of restoration and mitigation activities currently in progress by private enterprise and may include necessary salary and capital expenditures. Approval by the Commission of the proposed budget shall constitute approval of the designated expenditure of funds from the Pollution Recovery Fund. Any monies budgeted but not used for this program at the end of the fiscal year shall revert back to the Pollution Recovery Fund.

1-9.05 PROCEDURE FOR RESTORATION / MITIGATION OR ENHANCEMENT OF POLLUTION CONTROL ACTIVITIES

a. The Commission must first determine that there exists a polluted area, that harmful effects of past pollution are continuing to occur, or that known pollution harmful to the public welfare will occur unless adequate controls are implemented. In a proceeding to consider such determination, the Commission shall consider:

- (i) the degree and severity of the actual or potential harm that may occur to the public, wildlife, birds, game, fish, and other aquatic life;
- (ii) the casual relationship of the pollution to the actual or potential harm; and
- (iii) the time over which the situation has existed or is likely to exist before any harm can be demonstrated.

b. Upon such determination of a polluted area or harmful situation, there shall be a review of the appropriate applicable restoration/mitigation or pollution control activities, their respective costs and the practicality of achieving the desired results. Upon motion of the Director, or request of the Commission, the Commission shall consider in its discretion at a regular public meeting, the use of Pollution Recovery Fund monies for a portion or all of the funds necessary to ensure the health, safety and welfare of the public, or affected wildlife, birds, game, fish or other aquatic life.

c. The Commission shall give the following priority to identified and reasonable uses of the available fund monies:

- (i) polluted areas which were the subject of Commission action or enforcement action but for which restoration or mitigation could not be obtained from the responsible party;
- (ii) polluted areas for which adequate restoration or mitigation could not be obtained through enforcement but for which monies were contributed to the fund;
- (iii) polluted areas for which adequate restoration or mitigation could not be obtained through enforcement and for which no monies were contributed to the fund; and
- (iv) polluted areas for which pollution control activities are designed to prevent, minimize, mitigate or correct the effects of the pollution, or to determine the extent of the effects of or the primary causes of the

pollution so that restoration or mitigation can occur.

d. The Commission may assign, certain amounts of the fund to be used for educational programs designed to alleviate existing pollution. However, the Commission shall insure that there is always, except in emergencies, a reasonable balance to cover unexpected or emergency situations.

Rule History:

Adopted 3/8/1989