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LETTER TO EPA: TOXICS RULE TO ARRIVE DOA

Tallahassee, FL – Tallahassee attorney David A. Ludder put the US Environmental Protection Agency (EPA) on notice today that the newly adopted “toxics rule” that the Florida Dept. of Environmental Protection will soon submit for approval, will arrive with a toe tag reading: Death by Disregard for Public Participation.

Representing the Florida Clean Water Network and the Conservancy of Southwest Florida, Mr. Ludder’s letter alerts EPA to Florida’s disregard for federal rules that require states to give adequate notice and information to the public before holding a formal adoption hearing.

“Recent attention has focused on the DEP’s questionable notices and whether they followed Florida’s legal requirements. However, there are federal requirements under the Clean Water Act that states they must adhere to as well,” said Ludder. “These requirements have been ignored and EPA has a mandatory duty to disapprove the new rule,” said Ludder.

Specifically, federal rule at 40 C.F.R. § 25.5 provides: * * *

(b) Notice. A notice of each hearing shall be well publicized, and shall also be mailed to the appropriate portions of the list of interested and affected parties required by §25.4(b)(5). Except as otherwise specifically provided elsewhere in this chapter, these actions must occur **at least 45 days prior to the date of the hearing.** * * * Reports, documents and data relevant to the discussion at the public hearing shall be available to the public **at least 30 days before the hearing.**

These requirements were not met by the Florida DEP.

“The state is playing fast and loose with the law and with the health of humans and wildlife in Florida’s waters,” said Linda Young of the Florida Clean Water Network. “Fortunately, federal law requires that the public has a fair chance to participate in important decision making.”

"Lowering water quality standards for numerous pollutants including cancer-causing chemicals is obviously an issue of great public interest and importance." said Jennifer Hecker, Director of Natural Resource Policy, adding "The state needs to go back to renotece and hold more public hearings now that it is clear they did not meet the appropriate noticing requirements."

The Conservancy of Southwest Florida and the Florida Clean Water Network are calling for additional workshops, including several in South Florida, to be followed by a new formal adoption hearing before the Environmental Regulation Commission (ERC). Additionally, there is a widespread public outcry for the Governor to fill all seven seats on the ERC with appropriate representatives from public sectors, as required by Florida Statutes. Appointments must be approved by the Florida Senate as well.

Link to letter: http://www.enviro-lawyer.com/2016.09.20_Fla_HHC_Comment.pdf