

October 19, 2016

Jonathan P. Steverson
Secretary
Florida Department of Environmental Protection
3900 Commonwealth Boulevard
Tallahassee, Florida 32399

Re: Proposed Pollution Incident Reporting Rule

Dear Secretary Steverson,

The undersigned organizations appreciate the opportunity to provide these comments on the proposed pollution incident reporting rule. We share your and Governor Scott's goal of enhanced public awareness of incidents that may threaten human health or the environment. As presently drafted, however, this proposed rule fails to efficiently achieve that objective and would impose a sustained, adverse impact on Florida's economy and job creation. We respectfully request that the Department redraft the proposed rule to avoid these unintended consequences.

Florida law already requires private sector companies and local governments to promptly report pollution incidents to the Department. The shortcoming identified by the Governor is that at times these incidents may pose a public health concern, but the law provides no requirement that the information be made publicly available in any specific manner. As a lower cost regulatory alternative to the proposed rule, we request that you establish a partnership between the regulated community and the Department in which regulated interests continue to promptly report pollution incidents to your agency as required by current law, and then the Department notifies the public when the circumstances dictate.

As the state agency charged with protecting the environment and public health, the Department is best positioned to serve this public notification role. When the Florida Department of Environmental Protection speaks, the people listen. Your agency has trained scientists on staff that can quickly evaluate whether a significant incident poses a health risk or has been contained and addressed such that the risk is negligible. Your agency also has public communication capabilities that can disseminate such information quickly and efficiently. The Department's leadership role would ensure consistent analysis, consistent legal interpretations, consistent communication, and timely and effective public notification. Conversely, the imposition of the proposed rule's analysis and reporting requirements on Florida private sector companies and local governments would give rise to inconsistent application and public messaging, and it would constitute added cost and liability to perform a function that is the Department's core business.

Under the leadership of Governor Scott, our State's economy has turned around. Since December 2010, Florida businesses have gained over 1.19 million jobs. Florida's revitalized business environment, vibrant agricultural base, and world class tourism industry continue to attract growth. We want to maintain this progress. We respectfully request that the Department prepare a statement of estimated

regulatory costs that compares its proposed rule to our recommended approach, and provide this statement for public review and comment. We also ask that the Department conduct a public rule adoption hearing, pursuant to section 120.54(3)(c), Florida Statutes. This process would provide the Department and the public with the information necessary to efficiently meet the objectives of this rulemaking, and afford the administrative rights under sections 120.54(3)(e)2 and 120.56(2)(a), Florida Statutes.

We look forward to continuing to work with you and your colleagues, and we appreciate your consideration of these comments and proposal for a lower cost regulatory alternative.

Sincerely,

American Water Works Association Utility Council
Associated Industries of Florida
Chemours
Florida Association of Counties
Florida Chamber of Commerce
Florida Electric Power Coordinating Group, Inc.
Florida Farm Bureau Federation
Florida Forestry Association
Florida Fruit and Vegetable Association
Florida H2O Coalition
Florida Home Builders Association
Florida League of Cities
Florida Petroleum Council
Florida Petroleum Marketers and Convenience Store Association
Florida Pulp & Paper Association Environmental Affairs, Inc.
Florida Retail Federation
Florida Rural Water Association
Florida Stormwater Association
Florida Water Environment Association Utility Council
Manufacturers Association of Florida
National Waste & Recycling Association – Florida Chapter
RaceTrac Petroleum, Inc.
Speedway LLC
Southeast Florida Utility Council
Southeastern Lumber Manufacturers Association
Treated Wood Council
Wawa, Inc.

Cc: Robert A. Williams, DEP Chief Deputy General Counsel