

# Florida's NNC Stormwater Ditches



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# Florida's NNC – Approved by EPA

- December 2011, the Florida Environmental Regulation Commission (ERC) approved the Florida Dept. of Environmental Protection's (FDEP) Numeric Nutrient Criteria (NNC).
- March 2013, the Environmental Protection Agency (EPA) accepted the NNC including Implementation Document.
- March 2014, Judge approved EPA modified consent decree saying EPA NNC no longer necessary.
- As part of the rule, the NNC apply to, among other things, “streams”.
- Stormwater practitioners want to know: Is a stormwater ditch considered a stream for the purposes of NNC?



# Definition of What a Stream Is

- Stream means, for the purpose of interpreting the narrative standard:
  - Predominantly fresh water
  - Perennial flow in a defined channel with banks during typical (regional) climatic and hydrologic conditions
    - During periods of drought, portions have a dry bed, but wetted pools still present

Rule 62-302.200(36)

# Criteria for Streams

- Rule 62-302.530(47)(a)

The discharge of nutrients shall continue to be limited as needed to prevent violations of other water quality standards contained in this chapter. Man-induced nutrient enrichment (total nitrogen or total phosphorus) shall be considered degradation in relation to the provisions in 62-302.300 [Findings & Antidegradation], 62-302.700 [Special Protection, OFW] and 62-4.242 [Antidegradation, OFW, ONRW, Equitable Abatement ].

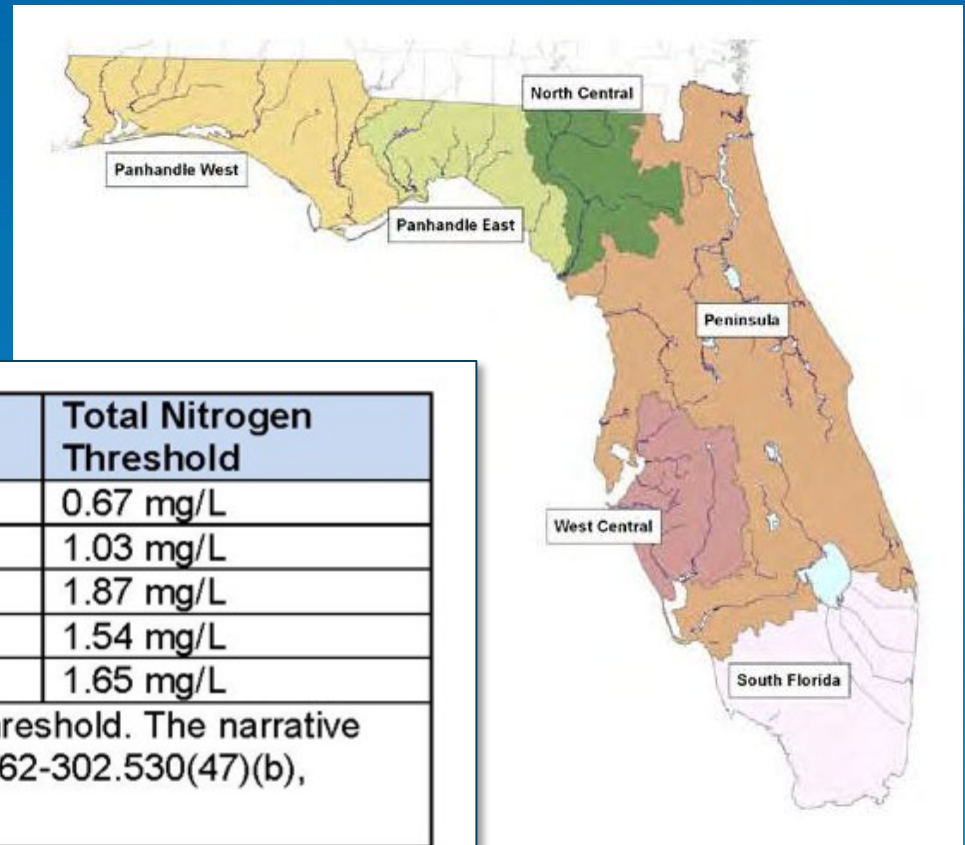
- Rule 62-302.530(47)(b)

In no case shall nutrient concentrations of a body of water be altered so as to cause an imbalance in natural populations of aquatic flora or fauna.”

- Rule 62-302.531 Numerically Interprets Rule 62-302.530(b) – this is really what we call the NNC

# Numeric Interpretation of Narrative

If it is a “stream” then these thresholds apply if no other site-specific ones are defined.



Nutrient Region	Total Phosphorus Threshold	Total Nitrogen Threshold
Panhandle West	0.06 mg/L	0.67 mg/L
Panhandle East	0.18 mg/L	1.03 mg/L
North Central	0.30 mg/L	1.87 mg/L
Peninsula	0.12 mg/L	1.54 mg/L
West Central	0.49 mg/L	1.65 mg/L
South Florida	No numeric nutrient threshold. The narrative criterion in paragraph 62-302.530(47)(b), F.A.C., applies. <sup>2</sup>	

Annual Geometric Mean Exceeded No More Than Once in 3 Consecutive Years

# Definition of What a Stream Is Not

- Streams do not include:
  - “Non-perennial segments where fluctuating hydrologic conditions” usually result in:
    - Wetland and/or terrestrial taxa;
    - Wetlands;
    - Exhibit lake characteristics (e.g., long residence time); OR
    - Tidally influenced (fluctuate between marine and freshwater).

Rule 62-302.200(36)(a)



# Definition of What a Stream Is Not

- AND Streams do not include:
  - Ditches, Canals and Other Conveyances
    - Man-made OR Predominantly Channelized OR Predominately Physically Altered; AND
      - Primarily used for water management purposes (e.g., flood protection, stormwater management, irrigation or water supply) AND
      - Have marginal or poor stream habitat (e.g., lack of habitat or biologically limited substrate) because the conveyance :
        - » Is predominantly trapezoidal
        - » Has armored banks OR
        - » Maintained primarily for water conveyance.

Rule 62-302.200(36)(b)

# May Not Be “Streams” for NNC Purposes



Hickory Ditch, Brevard Co.



Ditch #5,  
Pinellas Co.



McCord Park  
Tributary,  
Tallahassee



# Ditch Exclusion

- Define Segments for Exclusion (Map)
- Pictures
  - Man-made, or
  - Predominantly Channelized, or
  - Predominantly Physically Altered
- Primary Use = Water Management
  - Options: Flood Protection, Irrigation, Water Supply, etc.
  - Design Drawings, Permits, Maintenance Plans/Agreements
- Alteration Limits Habitat
  - DEP SOP FT3000 – Habitat Assessment is Poor or Marginal
  - Photography

<http://www.dep.state.fl.us/water/sas/sop/sops.htm>

# Does a Waterbody Meet the Exclusion from the Streams Definition for Conveyances?

## Demonstration Needed

No

Is the waterbody man-made, or

Provide historical and current photos (aerial if available) or topographic maps showing that the

Provide information on current primary purpose of the conveyance. This can include a narrative description, photos, operational protocols, local and regional water quality data, and other information that indicate how the waterbody is maintained. Provide historical and current photos (aerial if available) or topographic maps showing that the waterbody is either manmade or predominantly channelized or straightened. Provide information on current primary purpose of the conveyance. This can include a narrative description, photos, operational protocols, local and regional water quality data, and other information that indicate how the waterbody is maintained. Provide historical and current photos (aerial if available) or topographic maps showing that the waterbody is either manmade or predominantly channelized or straightened. Provide information on current primary purpose of the conveyance. This can include a narrative description, photos, operational protocols, local and regional water quality data, and other information that indicate how the waterbody is maintained.

Provide historical and current photos (aerial if available) or topographic maps showing that the waterbody is either manmade or predominantly channelized or straightened.

banks, or is maintained primarily for water conveyance?

Yes

Segment excluded from stream numeric nutrient standard in Rule 62-302.531(2)(c), F.A.C., and narrative standard applies

8190 to inquire whether FDEP has HA data for the waterway in question.

## FDEP's Process

# Now What?

- Watch for Other Community Ditch Exemptions
- Check Any Nutrient Data Compared to NNC Thresholds and Downstream TMDLs
- Prepare:
  - Map
  - Take Pictures
  - Define Use (Plans, Permits, Agreements)
  - Do Habitat Assessment
- Beware
  - “Waters of the United States” Changes
  - Narrative Criteria Applies



# Questions?

