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**EPA'S RULE ON THE AMOUNT OF NUTIRENTS IN FLORIDA'S
WATERS**

BACKGROUND: The U.S. Environmental Protection Agency (EPA) has proposed water quality standards in the State of Florida that would set a series of numeric limits on the amount of phosphorus and nitrogen pollution, also known as "nutrients" that would be allowed in Florida's lakes, rivers, streams, springs and canals.

BOMA was in attendance at one of the public hearings conducted by the EPA and has confirmed that the EPA's rule, and resulting compliance requirements, would apply to lakes and retention ponds on private property that are currently classified as Class III Surface Water by the Florida Department of Environmental Protection (DEP).

On November 14, 2010, EPA Administrator Lisa P. Jackson signed Final "Water Quality Standards for the State of Florida's Lakes and Flowing Waters." The final standards set numeric limits, or criteria, on the amount of nutrient pollution allowed in Florida's lakes, rivers, streams and springs. This final action seeks to improve water quality, protect public health, aquatic life and the long term recreational uses of Florida's waters which are a critical part of the State's economy. The rule will take effect on March 6, 2012 except for the site-specific alternative criteria (SSAC) provision, which is effective February 4, 2011. EPA extended the effective date for the rule for 15 months to allow cities, towns, businesses and other stakeholders as well as the State of Florida a full opportunity to review the standards and develop flexible strategies for implementation.

On December 7, 2010, Florida Attorney General Bill McCollum, Agriculture Commissioner Charles Bronson, Attorney General-elect Pam Bondi and Agriculture Commissioner-elect Adam Putnam announced that the State of Florida has filed a lawsuit against the federal Environmental Protection Agency (EPA) over the agency's intrusion into Florida's previously approved clean water program.

It specifically alleges that the EPA rule and the January 2009 necessity determination by the EPA for promulgating numeric nutrient criteria for Florida's waters were arbitrary, capricious, and an abuse of discretion, and requests the court to enjoin the EPA Administrator from implementing the numeric criteria for Florida in the rule.

BOMA POSITION: BOMA supports to State of Florida's position that the State is responsible for the control of water quality with oversight by the EPA. BOMA Florida members support clean water for Florida and believe that scientifically sound and responsible numeric nutrient criteria will improve efforts to achieve this goal. BOMA also recognizes that property owners do not always control what nutrients are in or may enter lakes or retention ponds on their properties and should not bear the responsibility or liability for such nutrients.

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