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EXTERNAL MESSAGE

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FLRules.com comment:

Name: Lawrence Keenan
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Title: Actual compliance should replace presumptive compliance.
Comment: Comment by Lawrence Keenan, Ph.D.
Actual compliance should replace presumptive compliance.

In Rule 62-330.350 the agency is expected to conduct inspections during the operation and maintenance phase of a permit. If there is non-compliance, the permittee holds and saves the agency harmless. The agency must then act against the permittee to protect public health and natural resources.

It appears the proposed Applicant's Handbook is not consistent with the rule. Instead of requiring actual compliance, the agency states there is a presumptive compliance. It is not even stated as a rebuttable presumption, even if the actual water quality might be causing an imbalance of the natural flora or fauna at the discharge point. It seems that it would fall to the public to bring suit against the agency or permittee to obtain corrective action. Also, if the permit has presumptive compliance, corrective action of the impact might fall to the agency and therefore to the taxpayers of Florida.

The simplest way to resolve this inconsistency is to require actual compliance to the rule rather than presumptive compliance.