



# Audubon OF FLORIDA

It is time to revise the EAA BMP Rule (40E-63, F.A.C.)

April, 2010

**All Parties to the Everglades Settlement Agreement and Consent Decree agree that there are repeated violations of long term phosphorus levels in the Loxahatchee National Wildlife Refuge (Judge Moreno’s Order, 3/31/2010). Remedies under consideration are expansion of the STAs and implementation of improved “Source Controls”, otherwise known as Best Management Practices.**

- The EAA BMP Rule (40E-63, FAC) became effective in January, 1992. *The rule is essentially unchanged since first implemented.*
- Control of Phosphorus in the EAA is best envisioned in an analogy to the emission control system on a car. In automobile emission control, devices on the engine control the burn rate and air/fuel mixture and modify the exhaust gasses leaving the engine. (This is analogous to EAA BMPs). The Catalytic Converter (Analogous to the Stormwater Treatment Areas) on the tail pipe removes pollutants through thermal reaction. If the emission control devices on the engine are not present or are not operating properly, then the catalytic converter will overload and fail.
- Similarly, if the BMPs in the EAA are inadequate, then the STAs will fail due to overloading.

**STA Performance is related to phosphorus inflow concentrations.**

**Water Year 2009 Data**

STA 1 West	STA 2	STA 3/4	STA 5	STA 6
Inflow 246 ppb	Inflow 122 ppb	Inflow 96 ppb	Inflow 254 ppb	Inflow 264 ppb
Outflow 36 ppb	Outflow 18 ppb	Outflow 13 ppb	Outflow 56 ppb	Outflow 96 ppb

**On-Farm Phosphorus Removal under current BMP Rule Varies Widely**

**Water Year 2009 Permit Level Data Random Examples:**

Permit No.	Acres	PPB
50-041-02	300.4	109.5
50-042-01	320.0	82.1
50-044-01	2168.8	205.4
50-045-01	281.8	1077.0
50-045-02	160.6	140.1
50-046-01	35.0	91.2

More than 200 individual farm measurements show phosphorus levels in water leaving farms ranges from less than 50 ppb to over 1000 ppb. The current BMP rule allows farmers to select among a table of different BMPs, some of which are much more effective than others. Compliance is measured by averaging the whole EAA and requires only a 25% reduction below a baseline number.

**Audubon believes that the District’s BMP rule should be revised. The district should open a rulemaking proceeding to revise 40E-63 FAC.**

This is a quick, cost effective way to reduce phosphorus inflow concentrations to the STAs resulting in much lower phosphorus outflows. Specific BMP rule changes should increase reliance upon and requirements for the particular BMP strategies found to be most effective – “Water Management” BMPs that retain water on farms and reduce discharges and “Sediment Control” BMPs which require more intense management of on-farm ditches and canals. EAA-wide averaged compliance should also be reconsidered in favor of compliance by farm or sub-basin. The 25% reduction below baseline compliance threshold should be raised significantly.