



FWEA Utility Council

Protecting Florida's Clean Water Environment

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June 21, 2012

Eric Shaw, Environmental Manager
Standards and Assessment Section
Florida Department of Environmental Protection
2600 Blair Stone Road, MS 6511
Tallahassee, Florida 32399-2400

Re: Florida Water Environment Association, Utility Council
Initial Comments – Triennial Review, Human Health Criteria

Dear Mr. Shaw:

The following comments are provided by the Florida Water Environmental Association Utility Council (FWEAUC) in response to the Department's proposed human health criteria as presented during DEP's initial set of triennial review rule development workshops (held May 15th – 17th).

FWEAUC members include wastewater utilities across the State of Florida. Many if not most Utility Council members discharge treated wastewater to surface waters as authorized by Department issued NPDES discharge permits. To ensure that such discharges do not cause or contribute to a violation of applicable water quality standards, NPDES permits contain strict effluent limitations based upon the Department's surface water quality criteria.

The adoption of new surface water criteria, or the amendment of existing criteria, have the potential to significantly impact utilities and increase costs to their customers. Further, the health benefits, if any, associated with the proposed criteria have not been demonstrated. Because its members are expected to maximize treatment with limited and most often public funding, the Utility Council must be ever vigilant to ensure that state and federal water quality rules and regulations are based upon sound science and rational environmental policy.

To that end, the FWEAUC's primary mission is to support achievement of sound public health and environmental goals for the millions of users we serve in an efficient and cost-effective manner. Accordingly, the FWEAUC appreciates this opportunity to provide comments on behalf of its member utilities.

The Utility Council's most immediate concern is the Department's accelerated rulemaking schedule for the implementation of human health water quality criteria. The Department has proposed to amend its 36 existing criteria and adopt an additional 43 criteria as requested by EPA. At the same time, DEP has moved away from a deterministic approach for establishing new and amended human health criteria, as proposed during triennial review in 2009, and is now pursuing a probabilistic approach using Monte Carlo simulation. This new approach has been applied to propose new or amended criteria for all 79 parameters.

For each of the 79 parameters, wastewater facility operators must assess, at a minimum: whether the regulated substance might be associated with its waste stream; the potential source or sources of the pollutant; whether the chemical or compound can be measured using existing, accurate and acceptable analytic methods; the amount of the substance in the facility's discharges; whether the facility has the ability to treat its discharges to remove the substance; whether, if it is possible to treat the substance, is it reasonable in light of cost, removal efficiency, and ancillary consequences (disposal of RO reject, energy costs); and, whether the source of the pollutant may be controlled or eliminated. Based on our preliminary assessment, many of the proposed criteria are well below detection limits using accepted testing methods.

In addition, for each of the 79 parameters, it is unclear how the new or proposed criteria are intended to minimize human health risk. Further, it is unclear what data and science the proposed criteria are based on. Review of the data and science will take a significant amount of time given that 43 of the proposed criteria are new and each of the 79 criteria is based on risk assessments unique to that parameter (some of which are considerably dated EPA analyses).

As of the date of this correspondence, in the latter half of June, the Department has released no supporting materials explaining how the human health criteria were derived but for a Power Point presentation. The Department's Fact Sheet sets forth a schedule that includes ERC approval as early as September 2012. Given the complexity of this issue, and potential environmental and economic impacts, this goal is not reasonable.

The FWEAUC and its members need time to fully understand the regulatory implications of each new and amended criterion, to fully understand the Department's probabilistic approach to deriving the criteria, and to assess what measures may be necessary to comply with the new and amended criteria once adopted. DEP has released no technical support document or other supporting materials to allow analysis of the proposed rule. While the Department has performed a preliminary assessment of the potential impacts of the new and amended criteria on a number of industrial and domestic wastewater facilities, that study is not conclusive and must be thoroughly reviewed. Consequently, the FWEAUC requests that the proposed rulemaking schedule be modified to allow for a more deliberative review.

The FWEAUC (and its members) has always worked closely with the Department to resolve regulatory issues in pursuit of the Department's and the FWEAUC's shared mission to protect Florida surface waters. Accordingly, we request that a meeting be arranged with the Department's technical staff (perhaps Ken Weaver and Russ Frydenborg) to allow Department scientists to "walk" FWEAUC members and representatives through the Department's criteria development process. While the meeting may take several hours due to the fact that the

Department is proposing several dozen new and amended criteria, the walk-through should go a long way toward increasing our understanding of the proposed criteria.

The Utility Council appreciates the Department's time and attention devoted to this matter and looks forward to working with the Department to address FWEAUC member concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "David Richardson", with a horizontal line extending to the right.

David Richardson, President
Florida Water Environment Association Utility Council

Copy to:

Jeff Littlejohn, Deputy Secretary, FDEP
Drew Bartlett, Division Director, FDEP DEAR
Trina Vielhauer, Deputy Division Director, FDEP DEAR
Winston Borkowski, Hopping Green & Sams
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