FWEA Utility Council

Protecting Florida's Clean Water Environment

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October 13, 2015

Eric Shaw
Environmental Manager
Standards Development Section
Florida Department of Environmental Protection
2600 Blair Stone Road, MS 6511
Tallahassee, FL 32399-2400
Transmitted Electronically

Re: Triennial Review Draft Rule Comments

Dear Mr. Shaw,

The Florida Water Environment Association (FWEA) Utility Council appreciates the opportunity to provide the enclosed comments on the Florida Department of Environmental Protection's triennial review process.

By way of background, the FWEA Utility Council is the voice of Florida's domestic wastewater treatment community. Our members operate domestic wastewater collection, treatment, disposal, and reuse facilities. Utility Council members provide essential infrastructure services to over 9 million Floridians. Utilities across the State have invested millions of dollars upgrading wastewater treatment systems to remove pollutants, including nitrogen and phosphorous, before safely discharging or reusing the treated effluent.

The FWEA Utility Council requests that the Department reevaluate the current interplay among the method detection limit (MDL), the practical quantification limit (PQL), and water quality criteria in the National Pollutant Discharge Elimination System (NPDES) permitting process. Specifically, the Utility Council requests that the Department reconsider the following requirements:

(1) FDEP rules require the use of "less than" MDL when results are below the MDL, and MDL is equal to or greater than the water quality criterion. This creates the perception of a problem and in the absence of the non-rule guidance and would create an exceedance for a number of parameters. For instance, again using the cyanide as an example, if the cyanide test result falls below 5 µg/L, <5 µg/L is reported, which is above the water quality criterion. A simple fix to this problem would be to add the following language to FDEP Rule 62-4.246(6), F.A.C.: "….for the purposes of

regulatory reporting results less than the regulatory MDL shall be reported by entering a less than sign "<" followed by water quality standard or effluent limit, whichever is lower. A value of one-half the Department-established MDL or one-half the effluent limit, whichever is lower, shall be used for that result when necessary to calculate an average for that parameter. Values less than the Department-established MDL are considered to demonstrate compliance with an effluent limitation." Codifying the guidance language would eliminate the perception and concerns of the guidance being challenged. The language proposed above provides additional clarity by reporting less than water quality criterion instead of the MDL which is above the water quality criterion limit and for parameters without a water quality criterion limit allows the use of one-half the Department-established MDL.

(2) FDEP Rule 62-4.246 also occasionally creates reporting problems in situations where the water quality criterion is between the Department-established MDL and PQL. For example, copper has a marine water criterion of 3.2 µg/L, MDL of 1 µg/L, and PQL of 4 µg/L. The guidance indicates that results between 1 and 4 µg/L should be reported as 1 µg/L, e.g. PQL= 4 µg/L and MDL = 1 µg/L and result is 3.3 µg/L the permittee would report 1 µg/L, but if the permittee's laboratory has a PQL= 3.0 µg/L and MDL = 1 µg/L and result is 3.3 µg/L the permittee would report 3.3 µg/L, an exceedance. The concern being that the permittee is penalized for using a more accurate lab. A possible solution for the purposes of the regulatory reporting would be that if the permittee's laboratory MDL/PQL are less than or equal to the Department-established MDL and PQL, then a permittee may utilize the Department-established PQL.

(3) FDEP Rule 62-4.246(6)(a) could benefit from clarification of what is meant by "the laboratory's MDLs and PQLs" and MDLs and PQLs incorporated in the permit. Confusion arises when dilution results in increases to the specific sample run MDL and/or PQL. While the intent appears to be that the laboratory's instrument MDL and PQL be utilized, this is unclear. A possible solution would be to modify 62-4.246(6)(a) as follows "…. The Department-established MDLs and PQLs at the time of permit issuance shall constitute the minimum reporting levels for each parameter for the life of the permit unless otherwise specified. The Department shall not accept results for which the laboratory's instrument MDLs or PQLs are greater than those incorporated in the permit. All results with laboratory instrument MDLs and PQLs lower than those established in the permit shall be reported to the Department. Unless otherwise specified, all subsequent references to MDL and PQL pertain to the Department-established MDLs and PQLs applicable to the permit at the time of issuance."

The FWEA Utility Council also requests that the Department modify chapters 62-302 and 62-303 to facilitate the Department's hierarchical interpretation of the narrative nutrient criterion. Presently, the only specified approach that FDEP can set a site specific interpretation of the narrative criterion through the impaired waters rule is by setting a nutrient total maximum daily load (TMDL). In some circumstances, however, an evaluation of water body may lead to a conclusion that the water body has biological limitations, but those limitations are not due to nutrient loadings. For instance, hydrologic modifications may lead to failing stream condition index or a water body may be naturally eutrophic. In such circumstances, a nutrient TMDL is not an appropriate outcome, because the water body is not nutrient-impaired. In the alternative,

the Utility Council suggests that Department rules direct the Department to set a site specific interpretation of the narrative criterion. Water bodies that have site specific numeric criteria set in accordance with this process could be assimilated and have their applicable criteria adjusted as part of the subsequent triennial review process. The Utility Council believes that these suggested amendments will protect state water resources while taking into account the natural variability of Florida waters.

Lastly, the FWEA Utility Council requests that the Department consider approaches to streamline the implementation of the proposed freshwater ammonia standard. As you know, the ammonia criterion is expressed as a formula in which the standard varies based on temperature and pH. Assessing compliance with the standard may require a cumbersome and costly evaluation by surface water dischargers. The FWEA Utility Council believes that the Department should give dischargers the flexibility to make conservative assumptions regarding the temperature ranges and anticipated pH variability of a receiving water body and that these assumptions could be used to set discharge limits in National Pollutant Discharge Elimination System (NPDES) permits. This approach would allow a discharger to demonstrate compliance with toxic-based and chronic-based numeric total ammonia targets, instead of utilizing the formula. In other words, the formula would be translated into a protective, site-specific numeric water quality based effluent limitation instead of relying upon the application of the formula to the discharge.

The FWEA Utility Council appreciates your consideration of these comments as well as your efforts to protect Florida's water resources through the triennial review process. We would be pleased to discuss these suggestions at your convenience.

Kind Regards,

Brian Wheeler
FWEA Utility Council President

CC: Jeff Greenwell