

Notice of Proposed Rule

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO: RULE TITLE

[62-304.325](#): Choctawhatchee River Basin TMDLS (Choctawhatchee River).

PURPOSE AND EFFECT: The purpose of the rule is to adopt new and update existing Total Maximum Daily Loads (TMDLs), and their allocations, for fecal coliforms in the Choctawhatchee River Basin. Also, the Department is repealing the subsection related to "total coliform concentrations."

SUMMARY: These TMDLs address fecal coliform impairments in the Choctawhatchee River Basin. Specifically, the TMDL rules being proposed for adoption are for Alligator Creek, Minnow Creek, Camp Branch, and Sikes Creek. These waterbodies were verified as impaired using the methodology established in Chapter 62-303, F.A.C., Identification of Impaired Surface Waters. The methodology used to develop these TMDLs was the percent reduction method. Also, the existing TMDL for the Choctawhatchee River from the state line to Wrights Creek is being updated for consistency with other TMDLs, and also to remove the subsection regarding "total coliform concentrations," as this criterion no longer exists. This rulemaking has been given OGC Case Number 10-1283.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: [403.061](#), [403.067 FS](#).

LAW IMPLEMENTED: [403.061](#), [403.062](#), [403.067 FS](#).

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Friday, July 9, 2010, 2:00 p.m.

PLACE: Florida Department of Environmental Protection, Bob Martinez Center, 2600 Blair Stone Road, Room 609, Tallahassee, FL 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Ms. Pat Waters at (850)245-8449. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jan Mandrup-Poulsen, Division of Environmental Assessment and Restoration, Bureau of Watershed Restoration, Mail Station 3555, Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, telephone (850) 245-8448

THE FULL TEXT OF THE PROPOSED RULE IS:

62-304.325 Choctawhatchee River Basin TMDLs. (~~Choctawhatchee River.~~)

(1) ~~Choctawhatchee River. Fecal Coliform TMDL.~~ The fecal coliform Total Maximum Daily Load (TMDL) for the Choctawhatchee River from the state line to Wrights Creek is an annual median of 4.913×10^{13} colonies/day, and is allocated as follows:

(a) The Wasteload Allocation (WLA) for wastewater point sources is for each facility to meet its permit limits for fecal coliform,

(b) The WLA for discharges subject to the Department's National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permitting Program is not applicable,

(c) ~~(b)~~ The Load Allocation (LA) for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the average measured concentrations for the year the Secretary adopted the verified list that first listed the waterbody as impaired for fecal coliform, will require a 60 percent reduction of in-stream fecal coliform concentrations, and

(d) ~~(c)~~ The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain

the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(2) Alligator Creek. The TMDL for Alligator Creek is 400 counts/100mL for fecal coliform, and is allocated as follows:

(a) The WLA for wastewater sources is not applicable;

(b) The WLA for discharges subject to the Department's National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permitting Program is not applicable;

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2002 to 2009 period, will require a 94 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA for fecal coliform has been expressed as the percent reduction needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

~~Total Coliform TMDL. The total coliform Total Maximum Daily Load for the Choctawhatchee River from the state line to Wrights Creek is an annual median of 2.948×10^{14} colonies/day, and is allocated as follows:~~

~~(a) The Wasteload Allocation for wastewater point sources is for each facility to meet its permit limits for coliform;~~

~~(b) The Load Allocation for nonpoint sources is a 62 percent reduction of in-stream total coliform concentrations, and~~

~~(c) The Margin of Safety is implicit.~~

(3) Minnow Creek. The TMDL for Minnow Creek is 400 counts/100mL for fecal coliform, and is allocated as follows:

(a) The WLA for wastewater sources is not applicable.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is not applicable;

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2002 to 2009 period, will require an 81 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA for fecal coliform has been expressed as the percent reduction needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

~~(3) Unless specifically stated, "in-stream fecal coliform concentrations" and "in-stream total coliform concentrations" shall be the average concentrations for the year the Secretary adopted the verified list that first listed the waterbody as impaired for the parameter of concern.~~

(4) Camp Branch. The TMDL for Camp Branch is 400 counts/100mL for fecal coliform, and is allocated as follows:

(a) The WLA for wastewater sources must meet the facility's permit condition. The WLA is granted to the City of Bonifay Wastewater Treatment Facility (WWTF);

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is not applicable;

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2002 to 2009 period, will require an 88 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(5) Sikes Creek. The TMDL for Sikes Creek is 400 counts/100mL for fecal coliform, and is allocated as follows:

(a) The WLA for wastewater sources is not applicable.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is not applicable:

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2002 to 2009 period, will require a 48 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA for fecal coliform has been expressed as the percent reduction needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

Rulemaking Specific Authority 403.061, 403.067 FS. Law Implemented 403.061, 403.062, 403.067 FS. History--New 8-3-06, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Drew Bartlett, Deputy Director, Division of Environmental Assessment and Restoration

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Michael Sole, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 26, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 5, 2010