



FLORIDA STORMWATER ASSOCIATION

Leadership in Stormwater Management and Utilities

PO Box 13688 - Tallahassee, FL 32317 - www.florida-stormwater.org - 888/221-3124 - info@florida-stormwater.org

Via Electronic Mail

April 15, 2022

Mr. Ken Weaver, Acting Assistant Director
Division of Environmental Assessment and Restoration
Florida Department of Environmental Protection
2600 N Blair Stone Road
Tallahassee, FL 32399

RE: Bacteria TMDLs

Dear Mr. Weaver:

Thank you for the opportunity to make these initial comments on the March 2022 draft Fecal Indicator Bacteria (FIB) Total Maximum Daily Loads (TMDLs) for certain waterbodies in southwest Florida. The Florida Stormwater Association (FSA) recognizes the need to update the FIB TMDLs in the State and we pledge to remain engaged in the rule development process as the Department moves forward over the next several months.

Unlike TMDL development and related water quality improvement programs for nutrients, FIB TMDLs (and subsequent implementation strategies that a permit holder may undertake) are much more complex: There is a much lower correlation between bacterial best management practices (BMPs) and actual FIB reductions; it is much more difficult and expensive to determine the actual source of FIB; and, it is much more difficult to accurately allocate pollutant reduction responsibilities among various stakeholders. Thus, in this case, we are not convinced that the consolidated statewide approach to the adoption of FIB TMDLs is the best approach.

Due to the cost and uncertainty surrounding the issue of bacterial TMDLs (especially for municipal separate storm sewer systems [MS4s]) and the implementation thereof, FSA urges the Department to take a measured, methodical approach to TMDL adoption and implementation. We urge FDEP to take an active role in identifying the sources of FIB and the relative responsibility of implementing FIB-related activities prior to assigning stormwater entities specific responsibilities for waters not meeting FIB standards. The process to implement FIB TMDLs should give the

Elliot Shoberg, PE
President
City of Clearwater

Elizabeth Perez, PE
Vice President
Collective Water Resources

Shane Williams, PhD, PE
Secretary-Treasurer
Alachua County

Danielle Hopkins, CMP
Executive Director

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Department, stakeholders, and the public certainty that the bacteria problem is being responsibly addressed in an equitable manner.

We feel it important to remember that (in most cases) MS4s do not generate bacterial pollution and do not have operational control over other sources. The Department's FIB policy should not rely on nor require that the MS4 bear a disproportionate responsibility for determining sources of bacterial contamination when there are natural sources and other permittees (e.g., domestic wastewater collection systems and sanitary sewer overflows, failed septic systems, restaurants, aquaculture, confined animal feeding operations) that may be entirely responsible for the elevated bacteria levels.

We believe that FIB TMDLs should be adopted on a local or regional watershed scale in a predictable, methodical manner, which allows both the Department and local stakeholders the opportunity to understand the local watershed in a more comprehensive manner.

Related to the above, we also recommend that implementation of a new, specific FIB TMDL via an MS4 permit be delayed by at least two years after adoption by the Department and not until the jurisdiction's existing permit has expired and is up for renewal.

As FDEP moves forward with this effort, and given the potential extensive ramifications to MS4 permittees, we are very willing to meet further with DEP (and other representative groups, as needed) to provide additional input on the approach that will promote TMDL implementation, FIB reductions, and fairly assign responsibility to MS4s, when appropriate.

We look forward to working with the Department over the next several months in the development and implementation of an improved FIB policy in Florida.

Sincerely,

FLORIDA STORMWATER ASSOCIATION, Inc.

A handwritten signature in black ink that reads "Danielle Hopkins". The signature is written in a cursive, flowing style.

Danielle Hopkins