



September 10, 2021

Stormwater Technical Advisory Committee
Florida Department of Environmental Protection
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Re: Draft Stormwater Technical Advisory Committee Summary Report

Dear Stormwater Technical Advisory Committee,

The Florida Water Environment Association (FWEA) Utility Council respectfully submits the following comments regarding the draft Stormwater Technical Advisory Committee (TAC) Summary Report. By way of background, the FWEA Utility Council is the statewide umbrella organization and voice for Florida's domestic wastewater treatment utilities: Florida's trusted source to collect and clean wastewater and to serve as protectors of public health and the environment. Our members responsibly operate domestic wastewater collection, treatment, disposal, and reuse facilities providing essential infrastructure services to over 9 million Floridians. In providing these services, our member utilities across the State have invested millions of dollars developing innovative and reliable wastewater solutions to remove pollutants, including nitrogen and phosphorous, before safely returning that water to the environment or providing it for reuse.

The FWEA Utility Council appreciates the significant efforts of the Stormwater TAC in developing discussion points and policy recommendations to aid the Department in updating stormwater permitting rules. This process is one of the many important regulatory initiatives required by Florida's 2020 Clean Waterways Act, which also notably includes updating regulations applicable to domestic wastewater treatment utilities. One of the domestic wastewater updates includes integrating "wastewater treatment plans" into FDEP's basin management action plan (BMAP) program to ensure nutrient loads from effluent discharges, reuse, or any aspect of domestic wastewater utility operations are appropriately considered and addressed when restoring water bodies. See § 403.067(7)(a)9, F.S. The FWEA Utility Council was proud to support this legislation,¹ which ultimately builds on FDEP's numeric nutrient

¹ The FWEA Utility Council's letter to Governor DeSantis requesting he sign the bill is available [here](#).

criteria program as well as several other state laws addressing reclaimed water use that were enacted over the past decade.

It is with that context that FWEA Utility Council members became concerned when reviewing the draft recommendations pertaining to reclaimed water provided in the Stormwater TAC's draft Summary Report. Simply stated, the draft recommendations appear to seek regulations that either (1) already exist² or (2) had been duly considered over the past few years and rejected due to the negative unintended consequences and infeasibility associated with their adoption.³

Florida's extensive existing domestic wastewater utility environmental regulations, including those governing the use of reclaimed water, are available at the following locations:

Statutory Authority and Rules Comprising FDEP's Comprehensive Domestic Wastewater Disposal and Reuse Program		
Type of Discharge	Legislative Authority, Florida Statutes (F.S.)	Rule Chapter, Florida Administrative Code (F.A.C.)
Direct Discharges Surface Waters (NPDES)	403.051, 403.061, 403.062, 403.064, 403.086, 403.087, 403.088, 403.0885	62-4; 62-302; 62-620; 62-650
Discharges to/through Groundwater	403.061, 403.087	62-520; 62-550
Reuse Of Reclaimed Water & Land Application	403.061, 403.064, 403.086, 403.087, 373.250	62-610
Domestic Wastewater Residuals (Biosolids)	373.043, 403.051, 403.061, 403.062, 403.087, 403.088, 403.704, 403.707	62-640

² For example, the draft report suggests that "[u]tilities should be required to educate their reuse customers concerning the nutrient content of the supplied reuse water and impacts on lawn fertilizer requirements." Educating customers on the nutrient content of reclaimed water is a best practice that is already being implemented by utilities across the state. Also, the draft report recommends "[i]ncorporation of reuse impacts in watershed loading models." Domestic water utilities are already subject to the TMDL program and have invested millions of dollars in reducing nutrient loads when FDEP or EPA TMDL models indicate that reclaimed water is contributing to a nutrient water quality impairment.

³ For example, the draft report recommends that "[c]onservation rules should apply to all reuse as well as potable water." This concept was explored by FDEP and the water management districts several years ago. After lengthy discussions with utilities regarding the intricacies of managing reclaimed water systems and increased understanding as to how applying conservation rules to reclaimed water would in many circumstances result in more ground water withdrawals and increased nonbeneficial discharges to surface waters, this concept was not only withdrawn, but Florida law was also actually amended to restrict the ability of water management districts to apply conservation limits to reclaimed water. See § 373.250(3)(c), F.S.

Underground Injection of Domestic Wastewater	373.309, 403.061, 403.087, 403.704, 403.721	62-528
Numeric Nutrient Criteria, Total Maximum Daily Load, and Basin Management Action Plan Programs	403.061, 403.067	62-302; 62-303; 62-304

As outlined in the above table, FDEP regulates all aspects of domestic wastewater treatment, reuse and disposal, whether by discharge to surface waters, discharge to groundwater after land application, beneficial reuse (e.g. irrigation), or deep well injection. Specifically, recognizing discharges to groundwater may interact with down gradient surface waters, Florida's groundwater program mandates that a "discharge to groundwater shall not impair the designated use of contiguous surface waters." Rule 62-520.310(2), F.A.C. Specific to the reuse of reclaimed water, FDEP implements a comprehensive set of best practices, engineering standards, and water quality-based requirements, including a directive that "reuse and land application projects shall not cause or contribute to violations of water quality standards in surface waters." Rule 62-610.850, F.A.C. These regulations are the result of extensive vetting and a recognition of the unique operational challenges associated with utilizing reclaimed water as an alternative water supply. It is our understanding and our concern that the Stormwater TAC has not discussed this extensive regulatory framework, which would seem to be a prerequisite to recommending new regulations.

Therefore, if the Stormwater TAC feels it is necessary to provide recommendation pertaining to reclaimed water in the Summary Report, the FWEA Utility Council respectfully requests the Stormwater TAC have a detailed discussion of the current EPA, Florida Statute, FDEP, and water management district regulatory regimes governing reclaimed water use programs as well as a consideration as to how utilities operate their reclaimed water systems. Further, this discussion should also consider how any recommendation pertaining to reclaimed water may impact the ability of a domestic wastewater treatment facility to achieve the recent statutory directive and top priority of the Florida Legislature to eliminate nonbeneficial discharges of treated domestic wastewater to surface waters within ten years. While we respect and advocate for the mutually held goal of protecting Florida's waterways, we recommend that the Stormwater TAC refrain from advancing reclaimed water recommendations without engagement of the reclaimed water community as a formal stakeholder in the process.

Sincerely,



David Childs
FWEA Utility Council Legal Counsel

CC: FWEA Utility Council Board of Directors