State of Florida
Department of Environmental Protection

IN RE:

Determination Regarding Necessity of Wastewater Treatment Plans and Onsite Sewage Treatment and Disposal System Remediation Plans For Certain Nutrient Basin Management Action Plans, Pursuant to Subparagraph 403.067(7)(a)9, F.S.

OGC Case No. 23-0112 to 0135

Final Order

Subparagraph 403.067(7)(a)9., Florida Statutes, specifies that local governments[1] within a Basin Management Action Plan ("BMAP") must develop a wastewater treatment plan and/or an onsite sewage treatment and disposal system ("OSTDS") remediation plan containing certain information, if the Florida Department of Environmental Protection ("Department") "identifies domestic wastewater treatment facilities or onsite sewage treatment and disposal systems as contributors of at least 20 percent of point source or nonpoint source nutrient pollution or if the Department determines remediation is necessary to achieve the total maximum daily load ("TMDL").

The Department has determined that the domestic wastewater treatment facilities and/or OSTDS sources within the following BMAPs meet the 20 percent contribution threshold and/or remediation of these sources is necessary to achieve the BMAP for a nutrient TMDL, pursuant to subparagraph 403.067(7)(a)9., Florida Statutes:

Alafia River Basin (23-0112)
Banana River (23-0113)
Caloosahatchee River and Estuary Basin (23-0114)
Central Indian River Lagoon (23-0115)
Everglades West Coast Basin (23-0116)
Lake Harney, Lake Monroe, Middle St. Johns, and Smith Canal (23-0117)
Lake Jesup (23-0118)
Lake Okeechobee (23-0119)
Lower St. Johns Main Stem (23-0120)
Manatee River Basin (23-0121)
North Indian River Lagoon (23-0122)
Orange Creek (23-0123)
St. Lucie River and Estuary (23-0124)
Upper Ocklawaha River Basin (23-0125)
Wekiva River, Rock Springs Run, and Little Wekiva Canal (23-0126)
Crystal River/Kings Bay (23-0127)
DeLeon Spring (23-0128)
Gemini Springs (23-0129)
Homosassa and Chassahowitzka Springs Groups (23-0130)
Silver Springs and River and Rainbow Spring Group and River (23-0131)

[1] As used herein, "local governments" refers to county governments and municipalities.

Upper Wakulla River and Wakulla Spring (23-0132)
Volusia Blue Spring (23-0133)
Weeki Wachee (23-0134)
Wekiwa and Rock Springs (23-0135)

Wastewater Treatment Plans

In cooperation with the Department, water management districts, and public and private domestic wastewater facilities, each local government within the above referenced BMAPs that either contains a domestic wastewater facility within its jurisdictional boundaries, or has a demonstrated need to establish a domestic wastewater treatment facility within its jurisdiction to improve water quality in order to achieve the water quality objectives of the BMAP, must develop a wastewater treatment plan containing the following information for each domestic wastewater facility in the local government's jurisdiction:

1) The facility's permitted capacity in average annual gallons per day;
2) The facility's permitted TN and TP effluent limits for the facility;
3) The annual TN and TP loads (showing both flow and concentrations) discharged from the facility over the past five years, estimated if necessary;
4) A capacity analysis for the facility, considering future growth over the next 20 years;
5) A list and ranking of facility construction, expansion, or upgrades necessary to meet applicable nutrient water quality requirements (for example, to meet nutrient effluent limits in BMAPs and TMDLs, section 403.064(17), Florida Statutes, requirements, or other statutory or regulatory requirements), and the estimated costs of these facility improvements; and,
6) A projected timeline of the dates by which the construction of any facility improvements, including new/extended sewer lines, will begin and be completed and the date by which operations of the improved facility will begin.

Within 30 days of the effective date of this Order, any local government within any of the above referenced BMAPs that does not contain a domestic wastewater facility and does not believe it has a demonstrated need to establish a domestic wastewater treatment facility within its jurisdiction to improve water quality in order to achieve the water quality objectives of the BMAP, shall submit to the Department a written explanation along with any information supporting its contention.

The Department encourages counties and municipalities to file joint wastewater treatment plans where possible. By February 1, 2024, each local government must submit to the Department a draft wastewater treatment plan for the Department's review. By August 1, 2024, the local government must submit to the Department a complete wastewater treatment plan that addresses all Department comments on the draft plan.

OSTDS Remediation Plans

In cooperation with the Department, the Department of Health, water management districts, and public and private domestic wastewater facilities, each local government within the above referenced BMAPs must also develop an OSTDS remediation plan containing the following information:

7) An inventory of the OSTDS (including locational information, such as GIS shape files, if available, or an excel spreadsheet with addresses and/or latitude and longitude) within the local government's jurisdiction or service area based on the best information available;
8) An estimate of future growth in new OSTDS over the next 20 years in the local government's jurisdiction or service area (including locational information, such as GIS shape files, if available, or an excel spreadsheet with addresses and/or latitude and longitude);
9) An inventory of OSTDS that are expected to be eliminated over the next 20 years through connection to central sewer lines of a domestic wastewater facility or other distributed wastewater system with additional nutrient reduction (including locational information, such as GIS shape files, if available, or an excel spreadsheet with address and/or latitude and longitude);
10) Identification of deadlines and interim milestones for the planning, design, and construction of new/extended central sewer lines and replacement of OSTDS by connection to the new/extended lines (including locational information, such as GIS shape files, if available, or an excel spreadsheet with address and/or latitude and longitude)
11) The estimated costs associated with the projects in 10) above;
12) For OSTDS that are not expected to be eliminated over the next 20 years through connection to central sewer lines, an estimate of the number of these OSTDS that will require upgrading to enhanced nutrient-reducing OSTDS or participating in a distributed wastewater treatment system with additional nutrient reduction (including locational information, such as GIS shape files, if available, or an excel spreadsheet with addresses and/or latitude and longitude) within the local government's jurisdiction, in order to meet the water quality objectives of the BMAP;
13) The estimated costs associated with upgrading to enhanced nutrient-reducing OSTDS that are identified in 12); and,
14) Any other cost-effective and financially feasible projects necessary to achieve the nutrient load reductions for OSTDS in order to meet the water quality objectives of the BMAP with estimated costs, timelines, and locational information.

Within 30 days of the effective date of this Order, any local government within any of the above referenced BMAPs that does not believe it has a demonstrated need to create an OSTDS remediation plan to improve water quality in order to achieve the water quality objectives of the BMAP, shall submit to the Department a written explanation along with any information supporting its contention.

The Department encourages counties and municipalities to file joint OSTDS remediation plans where possible. By February 1, 2024, each local government must submit to the Department a draft OSTDS remediation plan for the Department's review. By August 1, 2024, the local government must submit to the Department a complete OSTDS remediation plan that addresses all Department comments on the draft plan.

Submittals to the Department

All submittals required herein shall be transmitted electronically to Moira Homann at BMAPProgram@floridadep.gov.

Notice of Rights

The action shall become final unless a timely petition for an administrative proceeding is filed pursuant to the provisions of Sections 120.569 and 120.57 of the Florida Statutes, before the deadline for filing a petition. The procedures for petitioning for a hearing are set forth below.

A person whose substantial interests are affected by the department's proposed agency action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received) in the department's Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

Petitions must be filed within 21 days of publication of the public notice or within 21 days of receipt of this order, whichever occurs first. Under Section 120.60(3), Florida Statutes, however, any person who asked the department for notice of agency action may file a petition within 21 days of receipt of such notice, regardless of the date of publication. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57 of the Florida Statutes, or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

A petition that disputes the material facts on which the department's action is based must contain the following information:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts on which the department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301, F.A.C.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the department's final action may be different from the position taken by it in this

order. Persons whose substantial interests will be affected by any such final decision of the department on the petition have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Mediation is not available for this proceeding.

A party who is adversely affected by this order has the right to seek judicial review under Section 120.68 of the Florida Statutes, by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the clerk of the department in the Office of the General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida, 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within thirty days after this order is filed with the clerk of the department.

DONE AND ORDERED this 12th day of June, 2023, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Digitally signed by
Shawn Hamilton
Date: 2023.06.12
14:21:29 -04'00'

Shawn Hamilton
Secretary

FILED ON THIS DATE PURSUANT TO § 120.52, FLORIDA STATUTES, WITH THE DESIGNATED DEPARTMENT CLERK, RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED.

Lea Crandall Digitally signed by Lea Crandall Date: 2023.06.12 15:55:13 -04'00'

CLERK

June 12, 2023

DATE