

US EPA ARCHIVE DOCUMENT



## *Water Quality Standards for the State of Florida's Lakes and Flowing Waters; Proposed Rule; Stay*

### Summary

EPA is proposing to temporarily stay the "Water Quality Standards for the State of Florida's Lakes and Flowing Waters; Final Rule" (inland waters rule) until November 15, 2013.

EPA has approved the Florida Department of Environmental Protection's (FDEP) rules establishing numeric limits on the amount of nitrogen and phosphorus allowed in Florida's waterways. These pollutants, collectively called "nutrients," cause algal blooms and are among the largest contributors to water quality problems in Florida. Following a thorough review of the State's rules and supporting documents, EPA determined they are consistent with the requirements of the Clean Water Act (CWA) and applicable federal regulations for the water bodies they cover.

EPA's goal is for FDEP to adopt appropriate numeric nutrient criteria for all remaining Florida waters that are determined to be Class I, II, and/or III water bodies, thereby eliminating the need for EPA rules. However, court orders resulting from settlement of a 2008 lawsuit with the Florida Wildlife Federation required EPA to propose the federal rules by November 30, 2012.

### Background

Nitrogen and phosphorus pollution (also known as "nutrient pollution") is one of the largest causes of the water quality problems in Florida. Limiting nutrient pollution across the State will help protect the health of Floridians and also preserve Florida's greatest asset—clean water—and the prosperity and jobs that go with it. Florida's tourism industry, the State's top industry, employs nearly one million Floridians and pumps billions of dollars into the State's economy each year, including well over \$3 billion in taxes.

Nitrogen and phosphorus pollution causes harmful algae blooms which produce toxins harmful to both humans and animals, and deplete oxygen needed for fish and shellfish survival. It can also smother vegetation, discolor water and result in the formation of byproducts in drinking water from disinfection chemicals, some of which have been linked with serious human illnesses. Nutrient water pollution originates from stormwater runoff, municipal wastewater treatment, fertilization of crops and livestock manure. Nitrogen also forms from the burning of fossil fuels, like gasoline, and can enter water bodies through rainfall and atmospheric deposition.

### *Consent Decree and EPA's Inland Waters Rulemaking*

The Florida Wildlife Federation filed a lawsuit against EPA in 2008. This was followed by EPA's January 2009 determination under the Clean Water Act that numeric nutrient standards are needed in Florida. A consent decree settling the lawsuit, entered into in December 2009, with subsequent revisions, required the EPA to adopt numeric nutrient pollution standards for waters in the state of Florida.

On December 6, 2010, the final inland waters rule was published in the Federal Register. The final rule established numeric nutrient criteria, or numeric limits on the amount of nutrient pollution allowed in Florida's lakes and flowing waters while still protecting applicable designated uses.

By this action, EPA sought to improve water quality, protect public health and aquatic life, and ensure the long-term recreational uses of Florida's waters, which are a critical part of the State's economy.

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EPA's final inland waters rule was originally scheduled to take effect on March 6, 2012, except for the site-specific alternative criteria provision, which took effect on February 4, 2011. EPA extended the March 6 effective date to July 6, 2012 and again to January 6, 2013.

### About this Rulemaking

This rulemaking proposes to temporarily stay certain sections of the inland waters rule until November 15, 2013. It does not change the February 4, 2011 effective date for the site-specific alternative criteria provision.

EPA's goal is for FDEP to adopt appropriate numeric nutrient criteria for all remaining Florida waters that are determined to be Class I, II, and/or III water bodies, thereby eliminating the need for EPA rules. This proposed stay will allow time for EPA to determine the effect of certain provisions in the newly approved FDEP rules on the implementation of the rules, and the impact of a recent administrative challenge filed in the State of Florida Department of Administrative Hearings. The desired outcome of our continued collaboration with Florida is to eliminate the need to finalize and be able to withdraw the entire federal inland waters rule.

The scope of this proposed rule is limited; it only temporarily delays certain sections of the inland waters rule. Hence, this action is not a new regulation. The proposed rule does not involve technical standards, or impose any economic impact burden on any small entity.

Citizens concerned with water quality in Florida may be interested in this proposed rulemaking. Entities discharging nitrogen or phosphorus to lakes and flowing waters of Florida could be indirectly affected by this rulemaking because water quality standards are used in determining National Pollutant Discharge Elimination System permit limits.

Categories and entities that may ultimately be affected include (1) industry, such as those discharging pollutants to lakes and flowing waters in the State of Florida; (2) municipalities, such as publicly-owned treatment works

discharging pollutants to lakes and flowing waters in the State of Florida, and (3) stormwater management districts, including entities responsible for managing stormwater runoff in Florida.

### For More Information

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