



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

RECEIVED AUG 30 2013

AUG 28 2013

Mr. James A. Capp
Watershed Protection Branch Chief
Georgia Environmental Protection Division
4220 International Parkway, Suite 101
Atlanta, Georgia 30354-3902

Dear Mr. Capp:

This letter documents the mutual agreement between the State of Georgia Department of Natural Resources (GADNR or State) and the U.S. Environmental Protection Agency in regard to the State's revised voluntary numeric nutrient criteria development plan, entitled *Georgia's Plan for the Adoption of Water Quality Standards for Nutrients Revision 2.0* (Plan), dated July 2013 and submitted August 8, 2013. Those elements of the Plan regarding the Stoner memo which are outside of the water quality standards program are not included in this action. The EPA mutually agrees with the Plan and recognizes that it represents considerable effort undertaken by the State to address the issue of nutrient over-enrichment. We especially appreciate the close cooperation of your staff with the EPA Region 4 in development of Georgia's Plan.

Based upon our review, we believe that the mutually agreed upon elements of the Plan describe a reasonable process by which the State can develop numeric nutrient criteria for adoption into Georgia water quality standards and that completion of this process should provide increased protection of state waters from the effects of nutrient over-enrichment. By this agreement, the EPA is acknowledging that this revised Plan reflects a reasonable course of action by which the State can proceed to develop numeric nutrient criteria; but this agreement does not, nor should it in anyway be interpreted to, constitute an agency approval or conditional approval of Georgia water quality standards. The EPA's agreement at this time does not reflect an in-depth review or a judgment that the resulting criteria will, or will not, be protective or otherwise consistent with the Clean Water Act (CWA).

According to the timeline projected in your revised Plan, the EPA will expect GADNR to submit numeric water quality standards for nutrient causal and response parameters, for all associated waterbody types, to the EPA for approval during the respective rulemakings. In the interim, we request that the State provide updates to the EPA to document progress according to the Plan through the established section 106 grant process conducted by the EPA. In the event that the Plan needs to be revised, changes can be made with mutual agreement and the EPA will update this letter to document our agreement, when reached, with the revisions.

The EPA will use the Plan to evaluate Georgia's progress and determine whether or not the State is likely to complete numeric nutrient criteria development and adoption within the agreed upon time frames. If the State has not met the milestones as scheduled in the Plan, the EPA will evaluate whether a federal promulgation would be appropriate. At that time, the Administrator may choose to exercise her discretion under CWA § 303(c)(4)(B) to determine that new or revised standards are necessary to meet the requirements of the CWA, and accordingly may choose to promulgate water quality criteria for nutrients applicable to surface waters within Georgia in accordance with § 303. However, the revised Plan submitted by GADNR and agreed to here make this possibility unlikely at this time.

The EPA will make every effort to assist the State in developing nutrient criteria. We expect the continued cooperation and communication between Georgia and the EPA to lead to scientifically defensible and protective nutrient criteria for the State's waters. We applaud the State for making such a significant commitment of time and resources toward completion of this endeavor.

Discussions with State staff have also highlighted the benefit of refining or adding to Georgia's current narrative criteria. Although the current narratives are relevant to the assessment of nutrient and biological impairments, more specific narratives could streamline implementation in assessment, permitting, TMDLs and other CWA programs. The forthcoming triennial review offers an ideal opportunity to consider the adoption of more specific biological and nutrient narratives.

If you have any questions regarding this matter, please feel free to contact me at 404-562-9345 or have a member of your staff contact the Georgia Water Quality Standards Coordinator, Mr. Stephen Maurano at 404-562-9044.

Sincerely,



James D. Giattina
Director
Water Protection Division

cc: Elizabeth Booth, GA EPD
Brad Konwick, GA EPD