

MEMORANDUM

To: Anne Murray

From: Edward P. de la Parte and Kristin Melton

Date: January 8, 2012

**RE: Update to December 5, 2012 Memo on EPA's November 30, 2012 Actions Regarding Florida's Proposed NNC Rules**

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The following is an update to a prior memo dated December 5, 2012 regarding the EPA's November 30, 2012 actions regarding Florida's Proposed Numeric Nutrient Criteria Rules. These actions included the EPA's approval of the DEP's Inland Water rule in its entirety the EPA's proposed Remanded Inland Waters Rule, and EPA's proposed Coastal Waters Rule.

The December 5, 2012 Memo also contained information regarding the implementation of the EPA's approval of the state rule and the two EPA proposed rules. This information included a discussion on the delayed implementation of the DEP's Inland Water Rule until a number of contingencies are resolved. Given these contingencies, the EPA had proposed to postpone the applicability of the Inland Water Rule for lakes and springs from January 6, 2013 until November 15, 2013, in order to allow time to gain clarity on the implementation of Florida's rule.

On January 4, 2013, the EPA filed a motion with the District Court requesting to delay the effective date of the Inland Waters Rule for lakes and springs. However, Judge Hinkle did not issue an order granting or denying the motion prior to the January 6, 2013 effective date currently in place. Therefore, the lakes and springs criteria contained in EPA's December 6, 2010 final Inland Water Rule went into effect on January 6, 2013 and will remain in effect unless the Judge issues an order approving the EPA's request to delay the effective date until November 15, 2013 or the state rule becomes effective. Notably, the recently approved DEP state rules for springs and lake criteria is not applicable because the state rules have not become effective and are subject to the contingencies described above. If the Judge approves the EPA's motion to delay the effective date, the narrative criteria will again apply until the new effective date of November 15, 2013.

Finally, it is important to note these dates do not apply to the stream criteria contained in the EPA's December 6, 2010 final Inland Water Rule, which was determined to be arbitrary and capricious. The stream criteria are part of the Remanded Inland Waters Rule, which was discussed in more detail in the December 5, 2012 Memo. The EPA will host additional public comment opportunities for the proposed Remanded Inland Waters Rule and the Coastal Waters Rule at two "open-house" session public workshops scheduled for January 17 and 18, 2013 in Tampa, Florida and via web-based public hearings on January 22-24, 2013. By court order, the EPA must finalize the Remanded Inland Water Rule by August 31, 2013 and the Coastal Waters Rule by September 30, 2013.