

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In re: REVISED VERIFIED LIST OF IMPAIRED OGC Nos.: 24-0392 – 24-1250
WATERS FOR GROUPS 1, 2, 3, 4 AND 5 BASINS;
FINAL ASSESSMENT OF WATERS COVERED BY
THE STATEWIDE MERCURY TMDL

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ORDER

Pursuant to Section 403.067(4), Florida Statutes ("Fla. Stat."), and Chapter 62-303, Florida Administrative Code ("F.A.C."), the Florida Department of Environmental Protection ("department") is adopting revisions to the Verified List of Impaired Waters for the state of Florida, which are divided into 29 basins, and finalizing the assessment for waters Covered by the Statewide Mercury Total Maximum Daily Load.

The identification of impaired waters is a critical component of the department's comprehensive process to scientifically assess Florida's surface waters and restore those waterbodies not meeting their designated uses (e.g., recreation; healthy, well-balanced aquatic ecosystem; fish consumption). To facilitate this process, the Division of Environmental Assessment and Restoration assesses all waterbody segments in Florida every two years through a "Statewide Biennial Assessment".

The Statewide Biennial Assessment enables the department to evaluate the state's waters applying the same data assessment period, consistent application of the applicable water quality criteria, and essentially allows for a more up-to-date picture of the state's water quality.

This Order addresses revisions to the previously adopted Verified Lists for all

waters in the State of Florida.¹ These revisions affect waters that have been assessed according to Chapter 62-303, F.A.C., since the last Biennial Assessment, and based on this updated information, waters are being added to the Verified List as impaired or are being delisted.² These assessments resulted in 559 new verified impairments being added to the Verified List and 204 impairments being removed from the Verified List. Newly verified impaired waters within the statewide basins are set forth in Exhibit 1, attached hereto and incorporated herein, and titled, 2024 ADDITIONS TO THE VERIFIED LIST OF IMPAIRED WATERS. Waters that the department is removing from the previously adopted Verified List are included in Exhibit 2, attached hereto and incorporated herein, and titled 2024 WATERS DELISTED FROM THE VERIFIED LIST.

This Order also includes a list of the state's waterbodies that do not attain their designated use for Fish Consumption Use Support because of mercury but had not previously been verified as impaired for mercury. These additions are a result of additional fish tissue data that demonstrates mercury impairment. These newly verified waters are covered by the statewide mercury total maximum daily load (TMDL) and addendums to the TMDL will be submitted to EPA for approval. The additional waters covered by the statewide mercury TMDL are set forth in Exhibit 3 (OGC No. 24-1155), attached hereto and incorporated herein, and titled, BIENNIAL

¹ The department last amended the Verified List with the statewide Biennial Assessment (all basins) in July 2022.

² Assessing the condition of the state's waters involved the evaluation of over 12,400,000 data results for 6,763 waterbodies. The Biennial Assessment was produced with water quality and biological data included in the Impaired Waters Rule Run 64 database.

ASSESSMENT LIST OF WATERS COVERED BY THE STATEWIDE MERCURY
TMDL.

The changes in this Order are made in accordance with Chapter 62-303, F.A.C., and Section 403.067, Fla. Stat., and will be submitted to EPA with the intent of amending Florida's 303(d) list. This Order revises the previously adopted Statelists. TMDLs will be established for waters on the Verified List based on the department's TMDL prioritization schedule and as set forth in Chapter 62-303, F.A.C.

Notice of Rights

The department's proposed agency action shall become final unless a timely petition for administrative hearing is filed under Sections 120.569 and 120.57, Fla. Stat., before the deadline for filing a petition. The procedures for petitioning for a hearing are set forth below.

Persons whose substantial interests are affected by this Order have a right to petition for an administrative hearing to contest this Order pursuant to Sections 120.569 and 120.57, Fla. Stat. 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, MS# 35, Tallahassee, Florida 32399-3000, within 21 days of the date of receipt of this Order, or 21 days of the date of publication of notice of this Order, whichever occurs first. Failure to file a petition within 21 days of the date of publication of notice or receipt of written notice of this Order, whichever occurs first, constitutes a waiver of any rights such person has to an administrative hearing pursuant to Sections 120.569 and 120.57, Fla. Stat. Any subsequent intervention will

only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-106.205, F.A.C.

Extensions of Time

The department may, for good cause shown, grant a request for an extension of time for filing a petition. Requests for extension of time must be filed with the department prior to the applicable deadline. Such requests for extensions of time shall contain a certificate that the moving party has consulted with all other parties, if any, concerning the extension and whether any other parties agree to the extension. A timely request for an extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

Contesting A Water Body or Water Segment Not Listed

A person whose substantial interest has been affected by the department choosing not to include a water segment on the basin Verified Lists must file a petition as directed herein.

Contesting The Listing of A Water Segment

A person whose substantial interest has been affected by the department's listing of a water segment on the basin Verified List must file a petition as directed herein using OGC number listed for that particular water segment.

Contents of Petition for Hearing

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, including the department's identification number (OGC number) for the water segment and the

county in which the subject matter or activity is located; (b) the name, address, any e-mail address, any facsimile number, and telephone number of each 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 how and when each petitioner received notice of this Order; (d) a statement of all the material facts disputed by petitioner. If there are none, the petition must so indicate; (e) a concise statement of the ultimate facts alleged, including the specific facts which petitioner contends warrant reversal or modification of this Order; (f) a statement of the specific rules or statutes petitioner contends require reversal or modification of this Order, including an explanation of how the alleged facts relate to the specific rules or statutes; and (g) a statement of the relief sought by petitioner, stating precisely the action petitioner wants the department to take with respect to this Order. 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 the department's final action may be different from the position taken by it in this notice. Persons whose substantial interests will be affected by any decision of the department with regard to the subject order have the right to petition to become a party to the proceeding.

Mediation

Mediation is not available.

Judicial Review

This Order is final agency action unless a person who is substantially affected by the department's proposed agency action timely requests a hearing under Sections 120.569 and 120.57, Fla. Stat. A party who is adversely affected by this Order has the right to seek judicial review under Section 120.68, Fla. Stat., by filing a notice of appeal under Rule 9.110, 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 13th day of August, 2024, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Digitally signed by Shawn Hamilton
Date: 2024.08.13 09:23:22 -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.

Michelle M.
Knight

Digitally signed by Michelle M.
Knight
Date: 2024.08.16 11:44:55
-04'00'

CLERK

8/16/24

DATE

EXHIBIT 1

2024 ADDITIONS TO THE VERIFIED LIST OF IMPAIRED WATERS

EXHIBIT 2

2024 WATERS DELISTED FROM THE VERIFIED LIST

EXHIBIT 3

BIENNIAL ASSESSMENT LIST OF WATERS COVERED BY THE STATEWIDE
MERCURY TMDL