

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In re: VERIFIED LIST OF IMPAIRED
WATERS FOR THE GROUP 5 BASINS

OGC No(s) : 12-0014 – 12-0563
12-0619 – 12-0626

ORDER REVISING VERIFIED LIST OF IMPAIRED WATERS FOR
GROUP 5 BASINS

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, a healthy, well-balanced aquatic ecosystem, etc.). To facilitate this process, the Department has divided the surface waters of the State into five groups, with one group being assessed each year. This Order addresses assessment of waterbodies in the Group 5 basins. Group 5 basins include the Perdido, Upper East Coast, Indian River Lagoon, Springs Coast, Everglades and Florida Keys basins.

Assessing the condition of the Group 5 waters involved the evaluation of over 2,500,000 samples for 566 waterbodies. Over six thousand (6,136) waterbody assessments for impairment were conducted during the past year. These assessments resulted in 184 new verified impairments being added to the list and 365 impairments being delisted. Of the 365 delistings, nearly half are related to active water quality management plans that provide reasonable assurance that water quality standards will be achieved (addressed in a separate 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") adopts revisions to the previously adopted Verified Lists for waters in the Group 5 basins, initially adopted on December 12, 2007 and readopted on May 19, 2009, for which Total Maximum Daily Loads ("TMDLs") shall be established. This Order addresses those waters within the Group 5 basins that have been assessed according to Chapter 62-303, F.A.C., since the last Group 5 assessment cycle, and based on this updated information, waters are being added to the Verified List as impaired or are being delisted.

These revisions will be submitted to the United States Environmental Protection Agency ("EPA"), pursuant to Section 303(d) of the federal Clean Water Act, and shall serve to further amend the 1998 Section 303(d) statewide list of Florida waters (the "1998 List") maintained by EPA. The 1998 List was developed and submitted to the EPA prior to the adoption of Section 403.067, Fla. Stat., which authorized the Department to develop its TMDL program, and prior to the Department having adopted a rule methodology for the identification of impaired waters. Waters on the 1998 List remain on the EPA statewide list of impaired waters for Florida until that list is ultimately replaced by the Department's basin-specific verified lists of impaired waters. Any waters previously verified as impaired remain on EPA's 303(d) list, unless they are subject to delisting under this Order.

Newly verified impaired waters within the Group 5 basins are set forth in Exhibit 1, attached hereto and incorporated herein, and titled, 2011 VERIFIED LISTS OF IMPAIRED WATERS, GROUP 5 BASINS. Waters that the Department is removing from the 303(d) List or a previously adopted Verified list are included in Exhibit 2, attached hereto and incorporated herein, and titled 2011 LISTS OF WATERS TO BE DELISTED, GROUP 5 BASINS.

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. 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 right 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 Group 5 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 Group 5 basins Verified List must file a petition as directed herein using the 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, address, and telephone number of each petitioner; the Department's identification number (OGC number) for the water segment and the county in which the subject matter

or activity is located; (b) a statement of how and when each petitioner received notice of this Order; (c) a statement of how each petitioner's substantial interests are affected by this Order; (d) a statement of the material facts disputed by petitioner, if any; (e) a statement of facts which petitioner contends warrant reversal or modification of this Order; (f) a statement of which rules or statutes petitioner contends require reversal or modification of this Order; 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.

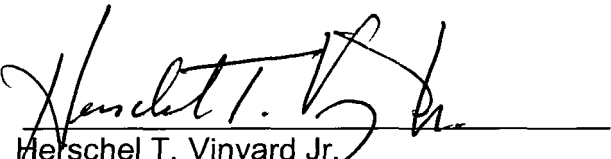
Judicial Review

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 7th day of ~~January~~ ^{February}, 2012, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION


Herschel T. Vinyard Jr.
Secretary

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


CLERK

2/7/12
DATE