

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In re: Lake Okeechobee
Basin Management Action Plan

OGC Case No. 14-0694

FINAL ORDER ESTABLISHING THE LAKE OKEECHOBEE
BASIN MANAGEMENT ACTION PLAN

Pursuant to Section 403.067(7), Florida Statutes, this Final Order adopts the attached Basin Management Action Plan ("BMAP") for certain Class I surface waterbodies within the Lake Okeechobee Basin. The adopted BMAP, entitled "Final Basin Management Action Plan for the Implementation of Total Maximum Daily Loads for Total Phosphorus by the Florida Department of Environmental Protection in Lake Okeechobee" and dated December 2014, is attached hereto and incorporated herein as Exhibit 1.

The Lake Okeechobee BMAP has been developed as part of the Department's Total Maximum Daily Load ("TMDL") Program, as authorized under the Florida Watershed Restoration Act (Section 403.067, Florida Statutes). Surface waters covered in the Lake Okeechobee BMAP are designated as Class I waters in accordance with Chapter 62-302, Florida Administrative Code ("F.A.C."). Class I waters must have suitable water quality for potable water supply, recreational use and for the propagation and maintenance of a healthy, well-balanced population of fish and wildlife.

The Lake Okeechobee watershed is located in Glades, Hendry, Highlands, Martin, Okeechobee, Orange, Osceola, Palm Beach, and Polk Counties. In May 2001, the Department established a nutrient TMDL for Lake Okeechobee in Rule 62-304.700, F.A.C. Excessive phosphorus is the primary pollutant contributing to the impairment. Section 1.3.5 in the attached Exhibit 1 identifies the applicable TMDL.

The Department worked closely with the affected stakeholders, including local and state agencies, in developing the Lake Okeechobee BMAP to achieve the associated TMDL. Beyond direct work with the affected stakeholders, the Department encouraged public participation to the greatest practicable extent by providing routine updates in technical meetings and requests for comment at technical meetings on the BMAP. The Department held a noticed public meeting in the basin on November 18, 2014, to discuss the BMAP and receive comments.

The Lake Okeechobee BMAP represents the collaborative effort of stakeholders to identify current and planned management actions to achieve pollutant load reductions required by the TMDL. The adopted BMAP documents the management actions that have been, or will be, undertaken by stakeholders to reduce discharge of pollutants in the

watershed. The management actions (completed, ongoing, and planned) identified in the BMAP address known sources of pollutants, facilitate investigation of unknown sources, prevent new sources, and address future loads associated with population growth and land use changes in the basin.

The specific pollutant reduction projects and activities required of individual entities are set forth in Chapter 5 and Appendix A of the BMAP. All projects and activities in Tables 3 - 8 of Appendix A in the BMAP must be completed by the assigned entity within five years of the effective date of this Order. The projects in Tables 9 - 10 of Appendix A must be completed by the specified dates set forth in those Tables. Activities that are ongoing in nature (for instance, street sweeping and stormwater pond maintenance) must be initiated within 120 days of the effective date of this Order, and thereafter continued, unless otherwise indicated in the BMAP.

This Final Order and incorporated BMAP are enforceable pursuant to sections 403.067, 403.121, 403.141, and 403.161, Florida Statutes.

THEREFORE, IT IS ORDERED that the attached Exhibit 1 is hereby adopted as the Lake Okeechobee Basin Management Action Plan.

NOTICE OF RIGHTS

The Lake Okeechobee BMAP shall become final unless a timely petition for an administrative proceeding is filed pursuant to the provisions of Sections 120.569 and 120.57 of the Florida Statutes, before the deadline for filing a petition. The procedures for petitioning for a hearing are set forth below.

A person whose substantial interests are affected by the Department's proposed agency action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57 of the Florida Statutes. 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, Mail Station 35, Tallahassee, Florida 32399-3000.

Petitions must be filed within 21 days of publication of the public notice or within 21 days of receipt of this order, whichever occurs first. Under Section 120.60(3), Florida Statutes, however, any person who asked the Department for notice of agency action may file a petition within 21 days of receipt of such notice, regardless of the date of publication. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an

administrative determination (hearing) under Sections 120.569 and 120.57 of the Florida Statutes, or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

(a) The name, addresses, and telephone number of each petitioner; the Department case identification number and the county in which the subject matter or activity is located;

(b) A statement of how and when each petitioner received notice of the Department action;

(c) A statement of how each petitioner's substantial interests are affected by the Department action;

(d) A statement of the material facts disputed by the petitioner, if any;

(e) A statement of facts that the petitioner contends warrant reversal or modification of the Department action;

(f) A statement of which rules or statutes the petitioner contends require reversal or modification of the Department action; and

(g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wants the Department to take.

A petition that does not disputes 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 that the Department's final action may be different from the position taken by it in this order. Persons whose substantial interests will be affected by any such final decision of the Department on the petition have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Mediation is not available for this proceeding.

A party who is adversely affected by this order has the right to seek judicial review under Section 120.68 of the Florida Statutes, by filing a notice of appeal under Rule 9.110 of the 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 9th day of December, 2014, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Clifford D. Wilson III
Interim Secretary
Marjorie Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

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

Rachel Roopnarine 12/9/14
CLERK DATE