

**Florida Department of
Environmental Protection**

Memorandum

TO: Noah Valenstein
Secretary

THROUGH: Trina Vielhauer
Interim Deputy Secretary

FROM: Tom Frick, Director
Division of Environmental Assessment and Restoration

DATE: July 22, 2019

SUBJECT: Request to 1) Publish a Notice of Proposed Rulemaking for Total Maximum Daily Loads for Nutrients in the Peace River Basin (62-304.625, OGC No. 19-1245), and Withlacoochee River Basin TMDLs (62-304.640, OGC No. 19-1246), and 2) File the Certification Package if there are No Subsequent Substantive Changes to the Rule as Initially Proposed.

ISSUE: The Division of Environmental Assessment and Restoration has prepared for your review and approval this request for publication of a proposed rule. In addition, the Division is requesting that you provide approval, pursuant to section 120.54(3)(e), Florida Statutes, to file the associated rule certification package, if there are no subsequent substantive changes to the rule as reflected in the Notice of Proposed Rulemaking and no objections are received from the Joint Administrative Procedures Committee (JAPC). In addition, we have included for your review the information required by the Office of Fiscal Accountability and Regulatory Reform.

REQUEST: The Division requests 1) permission to publish the attached Notice of Proposed Rulemaking to create new Total Maximum Daily Loads (TMDLs) in Chapter 62-304, F.A.C., and 2) approval to file the rule certification package with the Department of State, provided that there are no subsequent substantive modifications to the rule as initially proposed and no JAPC objections are received. A rule adoption hearing will be held for the Peace River Basin TMDLs and Withlacoochee River Basin TMDLs which will constitute site specific numeric interpretations of the narrative nutrient criterion set forth in Paragraph 62-302.530(48)(b), F.A.C.

We also request that you sign and certify the attached "Proposed Rule: Is a SERC Required" form and provide approval to transmit the required information to the Office of Fiscal Accountability and Regulatory Reform. Department staff will not submit the Notice of Proposed Rule until one week after the Office of Fiscal Accountability and Regulatory Reform has been notified, as required by the Governor's Executive Order 11-211.

BACKGROUND: The Proposed Rule creates new nutrient TMDLs for Lake Lulu, Lake Eloise, Lake Shipp, Lake May, Lake Howard, Lake Cannon, Lake Hartridge, Lake Idylwild, and Lake Jessie. These waters are in the Peace River Basin. The Proposed Rule also creates new nutrient TMDLs for Wilson Head Spring, Blue Spring (Citrus County), and Gum Springs. These waters are in the Withlacoochee River Basin. A Notice of Proposed Rulemaking will be published in the Florida Administrative Register upon your approval and concurrence by the Office of Fiscal Accountability and Regulatory Reform. Public workshops have been held at a location in the vicinity of the affected waterbody. Several entities submitted written comments during the public comment period for the waterbody. If JAPC files any objections to the proposed rule, or if the Division files a Notice of Change that modifies the rule as set forth in the Notice of Proposed Rulemaking, then the Division will seek Secretarial approval to file the rule certification package separate from the authorization contained herein. TMDL rules do not have to be presented to the Environmental Regulation Commission, however a non-ERC public hearing will be held for all nutrient TMDLs.

In accordance with paragraph 62-302.531(2)(a), F.A.C., nutrient TMDLs for Lake Thonotosassa and Flint Creek will constitute a site-specific numeric interpretations of the narrative nutrient criterion set forth in paragraph 62-302.530(48)(b), F.A.C., that will supersede the otherwise applicable numeric nutrient criteria in subsection 62-302.531(2) for these surface water segments.

SERC Applicability: SERCs have been prepared for this rule. Pursuant to paragraph 403.067(6)(c), Florida Statutes, legislative ratification will not be needed for the proposed rule.

If you need additional information on this rulemaking, please contact Erin Rasnake at 850-245-8338.

CONCURRENCE WITH DIVISION
RECOMMENDATION AND GRANT
OF AUTHORIZATION TO PUBLISH
THE NOTICE OF PROPOSED RULE
AND FILE CERTIFICATION PACKAGE:

Noah Valenstein
Secretary
DATE: _____

TF/dear/kh
cc: Greg DeAngelo
Erin Rasnake