

## Notice of Proposed Rule

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

RULE NO: RULE TITLE

62-304.805: Charlotte Harbor Basin TMDLs

PURPOSE AND EFFECT: The purpose of the rule is to adopt Total Maximum Daily Loads (TMDLs), and their allocations, for fecal coliforms in the Charlotte Harbor Basin.

SUMMARY: These TMDLs address fecal coliform impairments in the Charlotte Harbor Basin. Specifically, the TMDL rules being proposed for adoption are for Gottfried Creek and the North Prong of Alligator Creek. These waterbodies were verified as impaired using the methodology established in Chapter 62-303, F.A.C., Identification of Impaired Surface Waters. The methodology used to develop the TMDL was the percent reduction method. This rulemaking has been given OGC case number 10-1286.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 403.061, 403.067 FS.

LAW IMPLEMENTED: 403.061, 403.062, 403.067 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Friday, July 9, 2:00 p.m.

PLACE: Florida Department of Environmental Protection, Bob Martinez Center, 2600 Blair Stone Road, Room 609, Tallahassee, FL

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Ms. Pat Waters at (850)245-8449. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jan Mandrup-Poulsen, Division of Environmental Assessment and Restoration, Bureau of Watershed Restoration, Mail Station 3555, Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, telephone (850) 245-8448

THE FULL TEXT OF THE PROPOSED RULE IS:

62-304.805 Charlotte Harbor Basin TMDLs.

(1) Coral Creek – East Branch. The Total Maximum Daily Loads (TMDLs) to address the low dissolved oxygen condition for Coral Creek – East Branch are 0.74 mg/L total nitrogen (TN), 0.044 mg/L total phosphorus (TP), and 2.0 mg/L five-day biochemical oxygen demand (BOD<sub>5</sub>), and are allocated as follows:

(a)(+) The Wasteload Allocation (WLA) for wastewater sources is not applicable;

(b)(2) The WLA for discharges subject to the Department's National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permitting Program to address anthropogenic sources in the basin such that in-stream concentrations meet the dissolved oxygen criteria, based on the measured concentrations from the January 2007 to December 2007 period, will require a 31 percent reduction of TN, a 36 percent reduction of TP, and a 33 percent reduction of BOD<sub>5</sub> at sources contributing to exceedances of the criteria;

(c)(3) The Load Allocation (LA) for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the dissolved oxygen criteria which, based on the measured concentrations from the January 2007 to December 2007 period, will require a 31 percent reduction of TN, a 36 percent reduction of TP, and a 33 percent reduction of BOD<sub>5</sub> at sources contributing to exceedances of the criteria; and

(d)(4) The Margin of Safety is implicit.

(e)(5) While the LA and WLA for TN and TP have been expressed as the percent reduction needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that

will result in the required reduction of in-stream TN and TP concentrations. However, it is not the intent of the TMDL to abate natural background conditions.

(2) Gottfried Creek. The TMDL for Gottfried Creek is 400 counts/100mL for fecal coliform, and is allocated as follows:

(a) The WLA for wastewater sources is not applicable.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2005 to 2008 period, will require a 74 percent reduction of sources contributing to exceedances of the criteria.

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2005 to 2008 period, will require a 74 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(3) North Prong of Alligator Creek. The TMDL for the North Prong of Alligator Creek is 400 counts/100mL for fecal coliform, and is allocated as follows:

(a) The WLA for wastewater sources is not applicable.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2005 and 2007 period, will require a 72 percent reduction of sources contributing to exceedances of the criteria.

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2005 and 2007 period, will require a 72 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class I criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.061, 403.062, 403.067 FS. History—New 10-15-09, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Drew Bartlett, Deputy Director, Division of Environmental Assessment and Restoration

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Michael Sole, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 26, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 5, 2010