

TMDLS AND AGRICULTURAL BMPs

2/12/07

STATUTORY AUTHORITY

(Florida Watershed Restoration Act)

403.067(7)(c) - DACS may develop and adopt by rule interim measures, BMPs, or other measures necessary to achieve TMDL pollutant reduction allocations. **Or (11)(b)** - for any waterbody that does not have a TMDL or allocation. In this case, BMP programs may be considered by DEP in determining whether water quality problems can be addressed adequately without establishing a TMDL.

- Where BMPs, etc., are adopted by rule, DEP shall verify, at representative sites, their effectiveness in achieving TMDL pollutant reduction allocations.
- DEP shall use Best Professional Judgment (BPJ) in making the initial verification that BMPs are reasonably expected to be effective, and shall notify DACS of initial verification prior to rule adoption, as applicable.

The adopted measures may be implemented by those responsible for agricultural pollutant sources. DEP, the WMDs, and DACS shall assist with implementation.

Implementation of rule-adopted BMPs or other measures initially verified by DEP to be effective, or verified to be effective by monitoring at representative sites, provides a presumption of compliance with state water quality standards for those pollutants addressed by the practices.

403.067(7)(b) -

- Nonpoint source dischargers included in a basin management action plan (BMAP) must either implement appropriate BMPs established by DACS, or conduct water quality monitoring prescribed by DEP or a WMD.
- Failure to implement BMPs or prescribed water quality monitoring may subject the nonpoint source discharger to DEP or WMD enforcement.
- Responsible parties who implement applicable BMAP strategies shall not be required to implement additional strategies.

403.067(7)(c) - Where water quality problems are demonstrated despite implementation, operation, and maintenance of rule-adopted BMPs or other measures, DACS, in consultation with DEP, shall re-evaluate the measures and, as necessary, revise the applicable rules to require implementation of modified practices within a reasonable time period.

RELATED ACTIONS

DACS develops and adopts by rule interim measures, BMPs, or other measures for TMDL or non-TMDL waterbodies, with stakeholder involvement.

- DEP participates in DACS BMP development. Based on information gathered during the process, DEP uses BPJ to make initial verification; sends letter notifying DACS.
- DEP works with DACS to prioritize and design confirmatory verification projects on representative sites; letter to DACS when BMP effectiveness is established.

DACS contracts to provide cost-share, education, technical assistance to farmers; funds are leveraged with WMD, state, federal financial partnerships.

- Farmers submit NOIs, implement BMPs.
- DEP is precluded from recovering costs or damages under s. 376.307(5), F.S., related to the pollutants addressed by the BMPs.

- DACS and private agriculture participate in BMAP development to identify applicable BMP programs and include actions to promote participation.
- DACS conducts surveys and randomly selected site visits to determine proper BMP implementation, with follow-up as needed.
- In consultation with DACS, DEP/WMD determines need to require monitoring or take enforcement.

- As part of BMP confirmatory verification efforts, DACS in consultation with DEP/WMD/IFAS, etc. determines need to modify BMPs and revise rules.
- DACS rule revision as necessary, with a reasonable timeframe for implementation.

TOTAL MAXIMUM DAILY LOADS - OVERVIEW FOR AGRICULTURE

WHAT IS A TMDL?

Total Maximum Daily Load

- A TMDL is the maximum amount of a given pollutant that a water body can absorb and still maintain its designated uses (e.g., drinking water, fishing, swimming, shellfish harvesting). One water body may have several TMDLs, one for each targeted pollutant. Some pollutants for which TMDLs have been set include: total phosphorus, total nitrogen, iron, etc.
- Under Section 303(d) of the federal Clean Water Act and section 403.067, Florida Statutes (the Florida Watershed Restoration Act), TMDLs must be developed for all waters that are not meeting their designated uses and, consequently, are defined as “impaired waters.”

HOW ARE TMDLS DEVELOPED AND IMPLEMENTED?

TMDLs are developed and adopted by the Department of Environmental Protection (DEP), through a **watershed-based management approach** (managing water resources within their natural boundaries) that addresses the state’s major hydrologic basins organized into in five groups.

MAJOR HYDROLOGIC BASINS BY GROUP AND DEP DISTRICT OFFICE

DEP District	Group 1 Basins	Group 2 Basins	Group 3 Basins	Group 4 Basins	Group 5 Basins
NW	Ochlockonee-St. Marks	Apalachicola-Chipola	Choctawhatchee-St. Andrews Bay	Pensacola Bay	Perdido Bay
NE	Suwannee	Lower St. Johns		Nassau-St. Marys	Upper East Coast
Central	Ocklawaha	Middle St. Johns	Upper St. Johns	Kissimmee	Indian River Lagoon
SW	Tampa Bay	Tampa Bay Tributaries	Sarasota Bay-Peace-Myakka	Withlacoochee	Springs Coast
S	Everglades West Coast	Charlotte Harbor	Caloosahatchee	Fisheating Creek	Florida Keys
SE	Lake Okeechobee	St.Lucie-Loxahatchee	Lake Worth Lagoon-Palm Beach Coast	Southeast Coast Biscayne Bay	Everglades

EACH GROUP UNDERGOES A CYCLE OF FIVE PHASES ON A ROTATING SCHEDULE:

Phase 1: Preliminary Evaluation of water quality

Phase 2: Strategic Monitoring and Assessment to verify water quality impairments

Phase 3: Development and Adoption of TMDLs for waters verified as impaired

Phase 4: Development of Basin Management Action Plan (BMAP), or other implementation mechanism, to achieve the TMDL

Phase 5: Implementation of the BMAP and monitoring of results

BASIN ROTATION SCHEDULE FOR TMDL DEVELOPMENT AND IMPLEMENTATION

YEAR	00/01	01/02	02/03	03/04	04/05	05/06	06/07	07/08	08/09	09/10
	PHASES									
GROUP 1	1	2	3	4	5	6	7	8	9	10
GROUP 2		1	2	3	4	5	6	7	8	9
GROUP 3			1	2	3	4	5	6	7	8
GROUP 4				1	2	3	4	5	6	7
GROUP 5					1	2	3	4	5	6
	1 st Five-year Cycle – High-priority Waters					2 nd Five-year Cycle – Medium-Priority Waters				

**Projected years for phases 3, 4, and 5 may change due to accelerated local activities, length of plan development, legal challenges, etc*

TOTAL MAXIMUM DAILY LOADS - OVERVIEW FOR AGRICULTURE

WHO IS AFFECTED AND HOW?

Pollutants can enter a water body through point source discharges (generally from a specific facility) or nonpoint discharges (e.g., stormwater runoff, septic tanks). Government agencies, businesses, organizations, and individuals who contribute to these discharges will be asked to share the responsibility of attaining TMDLs through load allocations (the amount of a specified pollutant allotted for discharge) that are based on an established TMDL. The actions to achieve TMDLs will be identified on a basin level, in collaboration with affected stakeholders.

THE ROLE OF AGRICULTURE

DACS is charged with developing Best Management Practices (BMPs) and facilitating their implementation to help achieve TMDLs, including providing assistance in obtaining funding. The DACS Division of Forestry has the lead in ensuring that any allocations to silviculture are met. The DACS Office of Agricultural Water Policy has the lead for non-forestry agriculture.

Under the Florida Watershed Restoration Act (s. 403.067, F.S.), agricultural nonpoint sources included in a TMDL Basin Management Action Plan must either implement DACS-adopted BMPs to achieve reductions that help meet a TMDL, or must conduct water quality monitoring prescribed by DEP or the applicable water management district. Implementation of BMPs that DEP has verified as effective and DACS has adopted by rule provides a presumption of compliance with state water quality standards. DEP is then precluded from recovering costs or damages for contamination related to the target pollutants. Maintaining BMPs is part of implementation.

DEP and DACS will work with agricultural interests during the BMAP development process to identify appropriate existing or new measures to help achieve applicable TMDLs.

HOW DO I GET ADDITIONAL INFORMATION?

For information on TMDLs and BMAP development, contact these watershed coordinators in the DEP Bureau of Watershed Management:

- ✦ *Southwest FL and Lake Okeechobee* – **Pat Fricano** (850)245-8559
- ✦ *Southeast FL, Northeast FL, and Suwannee Basin* - **Jennifer Gihring** (850)245-8418
- ✦ *Northwest and Central FL* – **Mary Paulic** (850)245-8560
- ✦ *West Central FL and Tampa Bay Region* – **Tom Singleton** (850)245-8561

For Information on agricultural BMP programs, contact the following staff in the DACS Office of Agricultural Water Policy:

- ✦ *Within the Northwest Florida WMD* – **Charlie Rosborough** (850)482-9915
- ✦ *Within the Suwannee River WMD* – **Darrell Smith** (800)226-1066
- ✦ *Within the St. Johns River WMD* – **Jody Lee** (386)329-4812
- ✦ *Within the Southwest FL WMD* – **Noel Marton** (941)377-3722, ext. 6516
- ✦ *Within the South FL WMD* – **Bo Griffin** (863)462-5881

TMDL- RELATED WEBSITES

- ✦ **Florida Department of Environmental Protection**
www.dep.state.fl.us/water/watersheds/index.htm
Total Maximum Daily Load Program: <http://www.dep.state.fl.us/water/tmdl/>
The 2000 305(b) Report: <http://www.dep.state.fl.us/water/305b>
Stormwater/Nonpoint Source Pollution: <http://www.dep.state.fl.us/water/stormwater>
- ✦ **Florida Department of Agriculture and Consumer Services**
Office of Agricultural Water Policy: <http://www.floridaaqwaterpolicy.com>
- ✦ **US Environmental Protection Agency**
Total Maximum Daily Load Program: <http://www.epa.gov/owow/TMDL>