

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

BILL: SB 1522

INTRODUCER: Senator Stewart

SUBJECT: Implementation of the Recommendations of the Blue-Green Algae Task Force

DATE: March 26, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Rogers	EN	Pre-meeting
2.			AEG	
3.			AP	

I. Summary:

SB 1522, entitled the “Implementation of Governor DeSantis’ Blue-Green Algae Task Force Recommendations Act,” includes legislation intended to implement the recommendations of the Blue-Green Algae Task Force.

The bill includes provisions that require DEP to:

- Implement a stormwater system inspection and monitoring program by January 1, 2022.
- Administer an onsite sewage treatment and disposal system (OSTDS) inspection program to inspect systems at least once every 5 years, beginning on July 1, 2024.
- Assess whether certain pollution reduction projects are effectively reducing nutrient pollution or water use.
- Complete verification of interim measures, best management practices, or other measures adopted by rule at representative sites by July 1, 2024.

The bill requires basin management action plans to address potential future increases in pollutant loading, provide an analysis of options for mitigation or elimination of increases, and identify and prioritize spatially focused suites of projects in areas likely to yield maximum pollutant reductions.

The bill requires agricultural producers that implement best management practices (BMPs) to:

- Include in the notice of intent to implement BMPs an estimate of input reduction and load reduction associated with adopting BMPs.
- For producers receiving a presumption of compliance, report input reductions and initiate sampling programs to assess the effectiveness of BMPs.

The bill requires DACS to provide records to DEP, *promptly and in unadulterated form*, of DACS’ biennial inspection of each agriculture producer enrolled in BMPs.

II. Present Situation:

Blue-Green Algae Task Force

In January of 2019, Governor DeSantis issued Executive Order Number 19-12.¹ The order directed the Department of Environmental Protection (DEP) to establish a Blue-Green Algae Task Force charged with expediting progress towards reducing nutrient pollution and the impacts of blue-green algae (cyanobacteria) blooms in the state.² The task force's responsibilities included identifying priority projects for funding and making recommendations for regulatory changes. The five-person task force issued a consensus document on October 11, 2019.³ The recommendations issued by the task force on topics addressed in this Present Situation are included in the relevant section below.

Stormwater Management

Stormwater is the flow of water resulting from, and immediately following, a rainfall event.⁴ When stormwater falls on pavement, buildings, and other impermeable surfaces, the runoff flows quickly and can pick up sediment, nutrients (such as nitrogen and phosphorous), chemicals, and other pollutants.⁵ Stormwater pollution is a major source of water pollution in Florida.⁶

There are two main regulatory programs to address water quality from stormwater: the federal program that regulates discharges of pollutants into waters of the United States⁷ and the state Environmental Resource Permitting (ERP) Program that regulates activities involving the alteration of surface water flows.⁸ The federal NPDES Stormwater Program regulates the following types of stormwater pollution:⁹

- Certain municipal storm sewer systems;

¹ State of Florida, Office of the Governor, *Executive Order Number 19-12* (2019), available at https://www.flgov.com/wp-content/uploads/orders/2019/EO_19-12.pdf (last visited Mar. 24, 2021).

² *Id.* at 2; Department of Environmental Protection (DEP), *Blue-Green Algae Task Force*, <https://protectingfloridatogether.gov/state-action/blue-green-algae-task-force> (last visited Mar. 24, 2021).

³ DEP, *Blue-Green Algae Task Force Consensus Document #1* (Dec. 2, 2019), available at https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf (last visited Mar. 24, 2021).

⁴ DEP and Water Management Districts, *Environmental Resource Permit Applicant's Handbook Volume I (General and Environmental)*, 2-10 (June 1, 2018), available at https://www.swfwmd.state.fl.us/sites/default/files/medias/documents/Applicant_Hanbook_I_-_Combined.pdf (last visited Mar. 24, 2021).

⁵ DEP, *Stormwater Management*, 1 (2016), available at https://floridadep.gov/sites/default/files/stormwater-management_0.pdf (last visited Mar. 24, 2021). When rain falls on fields, forests, and other areas with naturally permeable surfaces the water not absorbed by plants filters through the soil and replenishes Florida's groundwater supply.

⁶ DEP, *Stormwater Support*, <https://floridadep.gov/water/engineering-hydrology-geology/content/stormwater-support> (last visited Mar. 24, 2021); DEP, *Nonpoint Source Program Update*, 10 (2015), available at <https://floridadep.gov/sites/default/files/NPS-ManagementPlan2015.pdf> (last visited Mar. 24, 2021).

⁷ National Pollutant Discharge Elimination System (NPDES), 33 U.S.C. s. 1342 (2019); 40 C.F.R. pt. 122.

⁸ Ch. 373, pt. IV, F.S.; Fla. Admin. Code Ch. 62-330.

⁹ A point source is discernible, confined and discrete conveyance, such as a pipe, ditch, channel, tunnel, conduit, discrete fissure, or container. *See* The Clean Water Act, 33 U.S.C. s. 1362(14) and 40 C.F.R. 122.2; Stormwater can be either a point source or a nonpoint source of pollution. U.S. Environmental Protection Agency (EPA), *Monitoring and Evaluating Nonpoint Source Watershed Projects*, 1-1, available at https://www.epa.gov/sites/production/files/2016-02/documents/chapter_1_draft_aug_2014.pdf (last visited Mar. 24, 2021); DEP, *Nonpoint Source Program Update*, 9 (2015), available at <https://floridadep.gov/sites/default/files/NPS-ManagementPlan2015.pdf> (last visited Mar. 24, 2021).

- Runoff from certain construction activities; and
- Runoff from industrial activities.¹⁰

Florida's ERP Program includes regulation of activities that create stormwater runoff, as well as dredging and filling in wetlands and other surface waters.¹¹ ERPs are designed to prevent flooding, protect wetlands and other surface waters, and protect Florida's water quality from stormwater pollution.¹² The statewide ERP Program is implemented by DEP, the water management districts, and certain delegated local government programs. The ERP Applicant Handbook, incorporated by reference into DEP rules, provides guidance on DEP's ERP Program, including stormwater topics such as the design of stormwater management systems.¹³

DEP and the water management districts are authorized to require permits and impose reasonable conditions:

- To ensure that construction or alteration of stormwater management systems and related structures are consistent with applicable law and not harmful to water resources;¹⁴ and
- For the maintenance or operation of such structures.¹⁵

DEP and the water management districts must require applicants to provide reasonable assurance that state water quality standards will not be violated.¹⁶ If a stormwater management system is designed in accordance with the stormwater treatment requirements and criteria adopted by DEP or the water management districts, then the system design is presumed not to cause or contribute to violations of applicable state water quality standards.¹⁷ If a stormwater management system is constructed, operated, and maintained for stormwater treatment in accordance with a valid permit or exemption, then the stormwater discharged from the system is presumed not to cause or contribute to violations of applicable state water quality standards.¹⁸ If wetland or other surface

¹⁰ See generally EPA, *NPDES Stormwater Program*, <https://www.epa.gov/npdes/npdes-stormwater-program> (last visited Mar. 24, 2021).

¹¹ DEP, *DEP 101: Environmental Resource Permitting*, <https://floridadep.gov/comm/press-office/content/dep-101-environmental-resource-permitting> (last visited Mar. 24, 2021).

¹² South Florida Water Management District, *Environmental Resource Permits*, <https://www.sfwmd.gov/doing-business-with-us/permits/environmental-resource-permits> (last visited Mar. 24, 2021).

¹³ Fla. Admin. Code R. 62-330.010(4); DEP and WMDs, *Environmental Resource Permit Applicant's Handbook Volume I (General and Environmental)*, 2-10 (June 1, 2018), available at https://www.swfwmd.state.fl.us/sites/default/files/medias/documents/Applicant_Hanbook_I_-_Combined.pdf (last visited Mar. 24, 2021); *Environmental Resource Permit Applicant's Handbook Volume II*, available at <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/erp-stormwater> (last visited Mar. 24, 2021).

¹⁴ Section 373.413, F.S.; see s. 403.814(12), F.S.

¹⁵ Section 373.416, F.S.

¹⁶ Section 373.414(1), F.S.; see s. 373.403(11), F.S.; see Fla. Admin. Code Ch. 62-4, 62-302, 62-520, and 62-550.

¹⁷ Section 373.4131(3)(b), F.S. Fla. Admin. Code R. 62-40.432(2); see also DEP, *ERP Stormwater*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/erp-stormwater> (last visited Mar. 24, 2021) (stating that a key component of the stormwater rule is a "rebuttable presumption that discharges from a stormwater management system designed in accordance with the BMP design criteria will not cause harm to water resources").

¹⁸ Section 373.4131(3)(c), F.S.

water impacts will occur, mitigation is usually required to offset adverse impacts to wetland or other surface water functions.¹⁹

The Blue-Green Algae Task Force recommended that DEP revise and update stormwater design criteria and implement an effective inspection and monitoring program.²⁰

The Clean Waterways Act²¹ required DEP to conduct and oversee staff training, including field inspections of publicly and privately owned stormwater structural controls, such as stormwater retention and detention ponds.²² The Act also required DEP and water management districts to initiate rulemaking to update the stormwater design and operation regulations, including updates to the Environmental Resource Permit Applicant's Handbook.²³ The rulemaking process is ongoing.²⁴

Onsite Sewage Treatment and Disposal Systems

Onsite sewage treatment and disposal systems (OSTDSs), commonly referred to as “septic systems,” generally consist of two basic parts: the septic tank and the drainfield.²⁵ Waste from toilets, sinks, washing machines, and showers flows through a pipe into the septic tank, where anaerobic bacteria break the solids into a liquid form. The liquid portion of the wastewater flows into the drainfield, which is generally a series of perforated pipes or panels surrounded by lightweight materials such as gravel or Styrofoam. The drainfield provides a secondary treatment where aerobic bacteria continue deactivating the germs. The drainfield also provides filtration of the wastewater, as gravity draws the water down through the soil layers.²⁶

There are an estimated 2.6 million OSTDSs in Florida, providing wastewater disposal for 30 percent of the state's population.²⁷ In Florida, development in some areas is dependent on OSTDSs due to the cost and time it takes to install central sewer systems.²⁸ For example, in rural areas and low-density developments, central sewer systems are not cost-effective. Less than one percent of OSTDSs in Florida are actively managed under operating permits and maintenance

¹⁹ Section 373.414(1)(b)3., F.S.; *see also* St. Johns River Water Management District, Permitting, <https://www.sjrwmd.com/permitting/#about-erps> (last visited Mar. 24, 2021).

²⁰ DEP, *Blue-Green Algae Task Force Consensus Document #1* (Dec. 2, 2019), available at https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf (last visited Mar. 24, 2021).

²¹ Chapter 2020-150, s. 5, Laws of Fla.

²² Section 373.4131(5), F.S.

²³ Section 373.4131(6), F.S.

²⁴ DEP, *Water Resource Management Rules in Development – ERP Stormwater Rulemaking*, <https://floridadep.gov/water/water/content/water-resource-management-rules-development#erp-sw> (last visited Mar. 24, 2021).

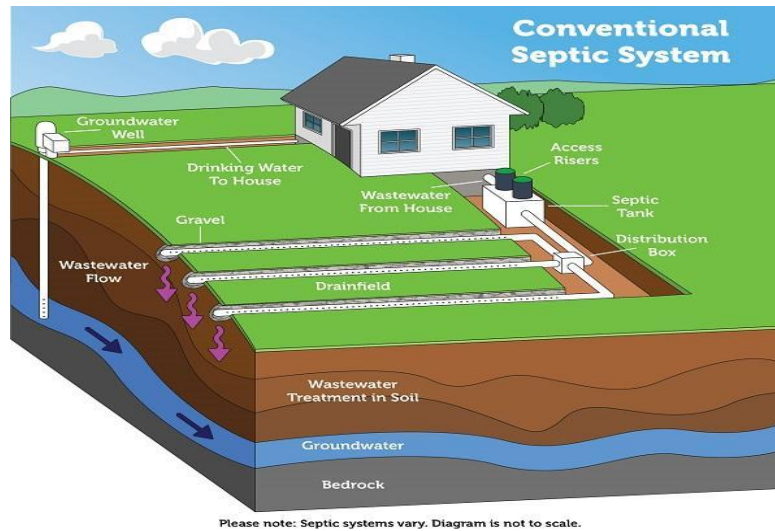
²⁵ DOH, *Septic System Information and Care*, <http://columbia.floridahealth.gov/programs-and-services/environmental-health/onsite-sewage-disposal/septic-information-and-care.html> (last visited Mar. 24, 2021); EPA, *Types of Septic Systems*, <https://www.epa.gov/septic/types-septic-systems> (last visited Mar. 24, 2021) (showing the graphic provided in the analysis).

²⁶ *Id.*

²⁷ DOH, *Onsite Sewage*, <http://www.floridahealth.gov/environmental-health/onsite-sewage/index.html> (last visited Mar. 24, 2021).

²⁸ DOH, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, Executive Summary (Oct. 1, 2008), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/research/documents/rrac/2008-11-06.pdf> (last visited Mar. 24, 2021). The report begins on page 56 of the PDF.

agreements.²⁹ The remainder of systems are generally serviced only when they fail, often leading to costly repairs that could have been avoided with routine maintenance.³⁰



The Blue-Green Algae Task Force recommended that DEP should develop a more comprehensive regulatory program to ensure that OSTDSs are sized, designed, constructed, installed, operated, and maintained to prevent nutrient pollution, reduce environmental impact, and preserve human health. The task force also recommended more post-permitting septic tank inspections.³¹

The Clean Waterways Act transferred the Onsite Sewage Program from the Department of Health (DOH) to DEP, effective July 1, 2021.³² Currently, permitting and inspection of OSTDSs is handled by the Environmental Health Section of the Florida Department of Health (DOH) in each county.³³ The section permits, regulates, and inspects the construction of new systems, repairs and modifications to existing systems, existing system approvals, and abandonments of systems.³⁴ DEP has historically had jurisdiction over OSTDSs when: domestic sewage flow exceeds 10,000 gallons per day; commercial sewage flow exceeds 5,000 gallons per day; there is a likelihood of hazardous or industrial wastes; a sewer system is available; or if any system or flow from the establishment is currently regulated by DEP (unless DOH grants a variance).³⁵

²⁹ *Id.*

³⁰ *Id.*

³¹ DEP, *Blue-Green Algae Task Force Consensus Document #1*, 6-7 (Oct. 11, 2019), available at https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf (last visited Mar. 24, 2021).

³² Chapter 2020-150, s. 2, Laws of Fla.

³³ DOH, *Onsite Sewage*, <http://www.floridahealth.gov/environmental-health/onsite-sewage/index.html> (last visited Mar. 24, 2021).

³⁴ *Id.*

³⁵ *Interagency Agreement between the Department of Environmental Protection and the Department of Health for Onsite Sewage Treatment and Disposal Systems*, 6-13 (Sept. 30, 2015), available at https://floridadep.gov/sites/default/files/HOHOSTDS_9_30_15.pdf (last visited Mar. 24, 2021); s. 381.0065(3)(b), F.S.; DEP, *Septic Systems*, <https://floridadep.gov/water/domestic-wastewater/content/septic-systems> (last visited Mar. 24, 2021).

Historically, OSTDSs have not been regulated for nutrient pollution. However, the Clean Waterways Act requires basin management action plans (BMAPs) to include remediation plans if OSTDSs are found to contribute at least 20 percent of point source or nonpoint source nutrient pollution.³⁶

DEP and DOH issued recommendations on the Onsite Sewage Program transfer in response to the Clean Waterways Act and found, in agreement with the Act, that county health departments should continue to have a role in the inspection, permitting, and tracking of OSTDSs, under the direction of DEP.³⁷

Basin Management Action Plans and Best Management Practices

DEP is the lead agency in coordinating the development and implementation of total maximum daily loads (TMDLs), which are scientific determinations of the maximum amount of a given pollutant that can be absorbed by a waterbody and still meet water quality standards.³⁸ BMAPs are one of the primary mechanisms DEP uses to achieve TMDLs. BMAPs address the entire pollution load, including point and nonpoint discharges, for a watershed. BMAPs generally include:

- Permitting and other existing regulatory programs, including water quality based effluent limitations;
- Best management practices (BMPs) and non-regulatory and incentive-based programs, including cost-sharing, waste minimization, pollution prevention, agreements, and public education;
- Public works projects, including capital facilities; and
- Land acquisition.³⁹

BMAPs equitably allocate pollutant reductions to individual basins, to all basins as a whole, or to each identified point source or category of nonpoint sources.⁴⁰ Then, the BMAP establishes the schedule for implementing projects and activities to meet the pollution reduction allocations. The BMAP development process provides an opportunity for local stakeholders, local government and community leaders, and the public to collectively determine and share water quality cleanup responsibilities.⁴¹

BMAPs must include milestones for implementation and water quality improvement. They must also include an associated water quality monitoring component sufficient to evaluate whether

³⁶ Section 403.067(7)(a)9., F.S.

³⁷ DOH and DEP, *Onsite Sewage Treatment and Disposal Systems Program Transfer Process – Recommendations Report* (Dec. 31, 2020), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/variances/documents/ostds-recomm-rep-final12-30-20.pdf> (last visited Mar. 24, 2021).

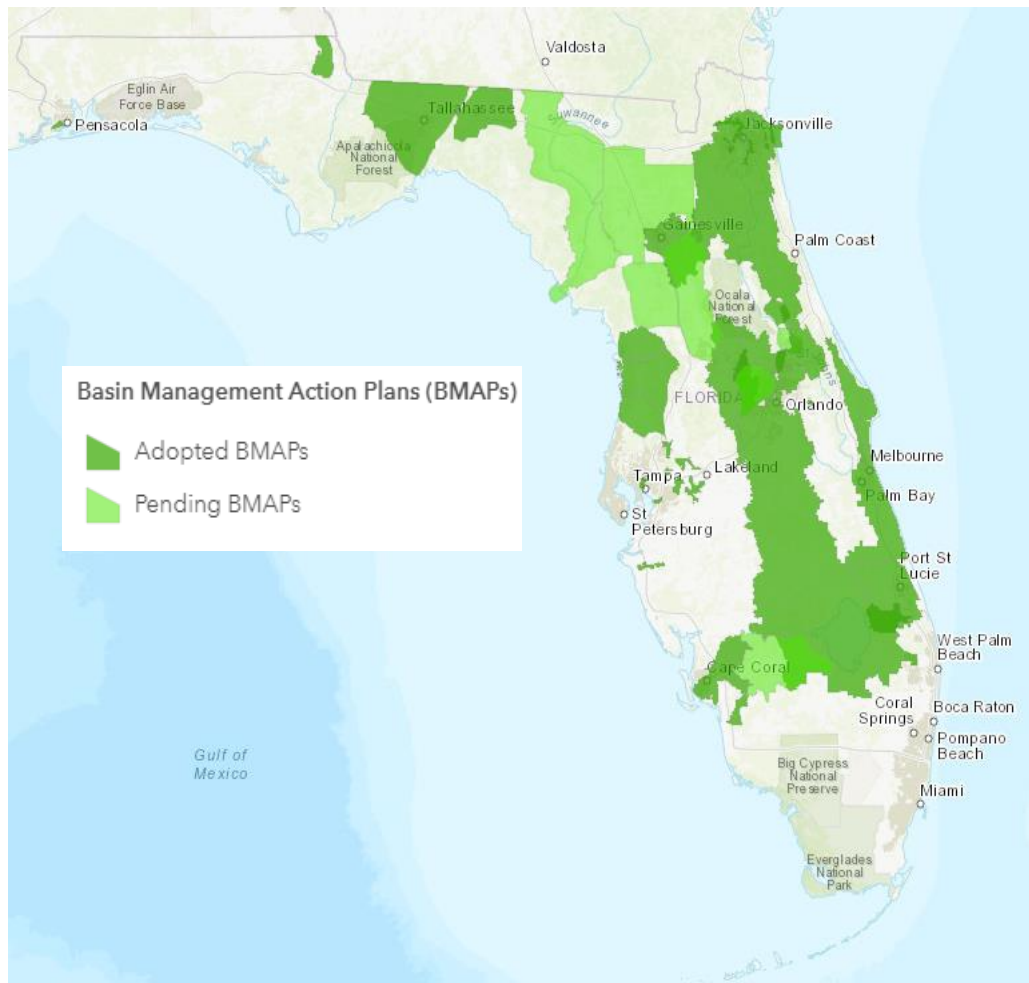
³⁸ DEP, *Total Maximum Daily Loads Program*, <https://floridadep.gov/dear/water-quality-evaluation-tmdl/content/total-maximum-daily-loads-tmdl-program> (last visited Mar. 24, 2021); s. 403.061, F.S. DEP has the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it. Furthermore, s. 403.061(21), F.S., allows DEP to advise, consult, cooperate, and enter into agreements with other state agencies, the federal government, other states, interstate agencies, etc.

³⁹ Section 403.067(7), F.S.

⁴⁰ Section 403.067(7)(a)2., F.S.

⁴¹ DEP, *Basin Management Action Plans (BMAPs)*, <https://floridadep.gov/dear/water-quality-restoration/content/basin-management-action-plans-bmaps> (last visited Mar. 24, 2021).

reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones must be conducted every five years, with revisions to the BMAP made as appropriate.⁴²



Currently, BMAPs are adopted or pending for a significant portion of the state and will continue to be developed as necessary to address water quality impairments. The graphic above shows the state’s adopted and pending BMAPs.⁴³

Producers of nonpoint source pollution included in a BMAP must comply with established pollutant reductions by either implementing appropriate BMPs or by conducting water quality monitoring.⁴⁴ BMPs are designed to reduce the amount of nutrients, sediments, and pesticides that enter the water system and to help reduce water use. BMPs are developed for agricultural

⁴² Section 403.067(7)(a)6., F.S.

⁴³ DEP, *Impaired Waters, TMDLs, and Basin Management Action Plans Interactive Map*, <https://floridadep.gov/dear/water-quality-restoration/content/impaired-waters-tmdls-and-basin-management-action-plans> (last visited Mar. 24, 2021).

⁴⁴ Section 403.067(7)(b)2.g., F.S.

operations as well as for other activities, such as nutrient management on golf courses, forestry operations, and stormwater management.⁴⁵

The Blue-Green Algae Task Force recommended that DEP develop a more targeted approach to project selection and evaluate project effectiveness through monitoring.⁴⁶

Agricultural BMPs

Agricultural best management practices (BMPs) are practical measures that agricultural producers undertake to reduce the impacts of fertilizer and water use and otherwise manage the landscape to further protect water resources. BMPs for agriculture include activities such as managing irrigation water to minimize losses, limiting the use of fertilizers, and waste management. BMPs are developed using the best available science with economic and technical consideration and, in certain circumstances, can maintain or enhance agricultural productivity.⁴⁷

BMPs are developed and adopted by the Department of Agriculture and Consumer Services (DACS), and are implemented by the agricultural producer, along with DEP, the appropriate water management district, and DACS.⁴⁸ Since the BMP program was implemented in 1999,⁴⁹ DACS has adopted ten BMP manuals that cover nearly all major agricultural commodities in Florida. According to the annual report on BMPs prepared by DACS, approximately 56 percent of agricultural acreage is enrolled in the DACS BMP program statewide.⁵⁰

To enroll in the BMP program, agriculture producers must meet with the Office of Agricultural Water Policy (OAWP) and submit a notice of intent to implement BMPs.⁵¹ These producers are subject to inspection and recordkeeping requirements.⁵² After verification by DEP, producers implementing BMPs receive a presumption of compliance with state water quality standards for the pollutants addressed by the BMPs⁵³ and those who enroll in the BMP program become eligible for technical assistance and cost-share funding for BMP implementation. Within a BMAP, management strategies, including BMPs and water quality monitoring, are enforceable.⁵⁴

⁴⁵ DEP, *NPDES Stormwater Program*, <https://floridadep.gov/Water/Stormwater> (last visited Mar. 24, 2021).

⁴⁶ DEP, *Blue-Green Algae Task Force Consensus Document #1, 2-4* (Oct. 11, 2019), available at https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf (last visited Mar. 24, 2021).

⁴⁷ Florida Department of Agriculture and Consumer Services (DACS) Office of Agricultural Water Policy (OAWP), *Status of Implementation of Agricultural Nonpoint Source Best Management Practices*, 3 (Jul. 1, 2020), available at <https://www.fdacs.gov/ezs3download/download/92076/2598590/Media/Files/Agricultural-Water-Policy-Files/BMP-Implementation/Status-of-Implementation-of-BMPs-Report-July-2020/6120Status-of-Implementation-of-BMPs-Report-v3.pdf> (last visited Mar. 25, 2021).

⁴⁸ Section 403.067(7)(c), F.S.

⁴⁹ The program was voluntary from 1999-2005. In 2005 the Florida Legislature modified the law requiring agricultural producers to adopt BMPs or conduct water quality monitoring.

⁵⁰ DACS OAWP, *Status of Implementation of Agricultural Nonpoint Source Best Management Practices*, 2, (Jul. 1, 2020), available at <https://www.fdacs.gov/ezs3download/download/92076/2598590/Media/Files/Agricultural-Water-Policy-Files/BMP-Implementation/Status-of-Implementation-of-BMPs-Report-July-2020/6120Status-of-Implementation-of-BMPs-Report-v3.pdf> (last visited Mar. 25, 2021).

⁵¹ Section 403.067(7)(c)2., F.S.; see Fla. Admin. Code. R. 5M-8.002, 5M-8.004, 5M-8.006

⁵² Section 403.067(7)(c)2., F.S.; see Fla. Admin. Code. R. 5M-8.006.

⁵³ Section 403.067(7)(c)3., F.S.

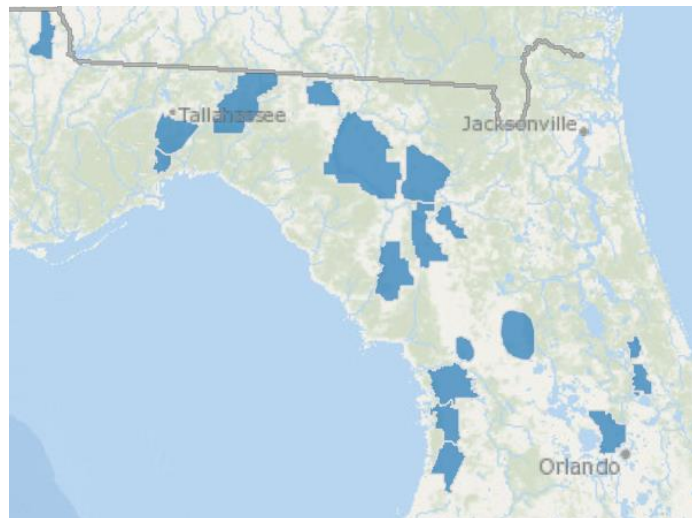
⁵⁴ Section 403.067(7)(d), F.S.

For agricultural BMPs, the Blue-Green Algae Task Force recommended increasing BMP enrollment and improving records and additional data collection.⁵⁵

Under the Clean Waterways Act, DACS is required to perform onsite inspections of agricultural producers enrolled in BMPs, at least every 2 years, to ensure that the BMPs are being properly implemented.⁵⁶ The Act also required DACS to collect and retain nutrient application records.⁵⁷ DACS is required to provide these records to DEP.⁵⁸ DACS is conducting rulemaking to standardize record retention and recordkeeping processes across the various BMP manuals.⁵⁹

Priority Focus Areas for Springs

Pursuant to the Florida Springs and Aquifer Protection Act,⁶⁰ DEP delineates priority focus areas for each Outstanding Florida Spring⁶¹ that is impaired by excessive nutrient pollution.⁶² DEP uses the best available data to delineate these areas, considering groundwater travel time to the spring, hydrogeology, nutrient loads in the springshed, and other factors. These areas are effective upon incorporation into a BMAP.⁶³ The delineated priority focus areas are shown in the map below.⁶⁴



⁵⁵ *Id.*

⁵⁶ Section 403.067(7)(d)3., F.S.; *see* ch. 2020-150, s. 13, Laws of Fla.

⁵⁷ *Id.*

⁵⁸ Section 403.067(2)(c)5., F.S.

⁵⁹ Florida Administrative Register, Notice of Proposed Rule 5M-1.001, 1.008, and 1.009, Volume 47, Number 04 at 89 (Jan. 7, 2021), available at <https://www.flrules.org/Faw/FAWDocuments/FAWVOLUMEFOLDERS2021/4704/4704doc.pdf> (last visited Mar. 26, 2021).

⁶⁰ Sections 373.801-813, F.S.

⁶¹ *See* s. 373.802, F.S., Outstanding Florida Springs include all historic first magnitude springs, including their associated spring runs, as determined by DEP using the most recent Florida Geological Survey springs bulletin, and De Leon Springs, Peacock Springs, Poe Springs, Rock Springs, Wekiwa Springs, and Gemini Springs, and their associated spring runs.

⁶² Section 373.803, F.S.

⁶³ *Id.*

⁶⁴ DEP, *Springs Priority Focus Areas*, https://geodata.dep.state.fl.us/datasets/8a6f9e78959d48849e65f96c628eb883_1?geometry=-90.108%2C27.975%2C-76.232%2C31.316 (last visited Mar. 25, 2021).

III. Effect of Proposed Changes:

The bill includes a series of whereas clauses stating that:

- Governor Ron DeSantis created the Blue-Green Algae Task Force (task force) in 2019, to “improve water quality for the benefit of all Floridians,” the task force issued a consensus report in October 2019, with multiple recommendations for basin management action plans (BMAP), agriculture, human waste, stormwater, technology, public health, and science;
- In June 2020, Governor DeSantis signed SB 712, the Clean Waterways Act, which implemented many of the recommendations of the task force; and
- Full implementation of the task force’s recommendations will require enactment of additional substantive legislation.

Section 1 titles the bill the “Implementation of Governor DeSantis’ Blue-Green Algae Task Force Recommendations Act.”

Section 2 amends s. 373.4131, F.S., relating to statewide environmental resource permitting. The bill requires the Department of Environmental Protection (DEP) to implement a stormwater system inspection and monitoring program with the goal of identifying improperly functioning or failing systems so that corrective action may be taken to reduce nutrient pollution and other negative environmental impacts.

Section 3 amends s. 381.0065, F.S., relating to regulation of onsite sewage treatment and disposal systems (OSTDS). Beginning July 1, 2024, the bill requires periodic inspections of OSTDSs. The bill specifies that the owner of an OSTDS, excluding a system required to have an operating permit, must have the system inspected at least once every 5 years to assess the fundamental operational condition of the system, prolong the life of the system, and identify any failure within the system.

The bill requires DEP to administer an OSTDS inspection program, including implementing program standards, procedures, and requirements. The bill requires DEP to adopt rules, including, at a minimum, all of the following:

- A schedule for a 5-year inspection cycle;
- A county-by-county implementation plan phased in over a 10-year period with first priority given to those areas within a springshed protection area identified by DEP;
- Minimum standards for a functioning OSTDS;
- Requirements for the pumpout or repair of a failing OSTDS; and
- Enforcement procedures for the failure of an OSTDS owner to obtain an OSTDS inspection and failure of a contractor to timely report inspection results to DEP and the owner.

Section 4 amends s. 403.067, F.S., relating to the development of basin management action plans (BMAP). The bill replaces the requirement that BMAPs identify the mechanisms that will address potential future increases in pollutant loading, instead requiring BMAPs to:

- Describe, in specific quantitative terms, potential future increases in pollutant loading;
- Provide a comprehensive analysis of options for mitigating or eliminating these increases, accounting for increased pollutant loading from population growth, as estimated by the University of Florida’s Bureau of Economic and Business Research, and for increased

pollutant loading from agricultural growth, as informed by agricultural water use estimates projected by the Department of Agriculture and Consumer Services (DACS);

- Include identification and prioritization of spatially focused suites of projects in areas likely to yield maximum pollutant reductions;
- For pollution reduction projects with a total cost exceeding \$1 million, include an assessment by DEP of whether the project is working to reduce nutrient pollution or water use.

The bill requires DEP to assess, through integrated and comprehensive monitoring, whether a pollution reduction project is working to reduce nutrient pollution or water use, or both, as intended, and complete the assessment expeditiously.

The bill requires agriculture producers that implement BMPs to include an estimate of input reduction and load reduction associated with adopting BMPs in a notice of intent to implement BMPs. All operations receiving a presumption of compliance must initiate reporting of input reductions and initiate sampling programs to assess the effectiveness of sector-specific BMPs intended to reduce nutrient loading to adjacent water bodies.

The bill requires DEP to complete verification of interim measures, best management practices, or other measures adopted by rule by July 1, 2024. The bill provides that a presumption of compliance with state water quality standards may not be provided without such verification.

The bill requires DACS to provide records to DEP, *promptly and in unadulterated form*, of DACS' biennial inspection of each agriculture producer enrolled in BMPs.

Section 5 provides that the act takes effect on July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Some agricultural operations may incur costs relating to the additional reporting and sampling required under the bill.

C. Government Sector Impact:

The Department of Environmental Protection may incur costs relating to the implementation and administration of the inspection and monitoring programs required under the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

On line 80, the bill refers to “springshed protection area.” For clarity and consistency with existing law, the term could be revised to “priority focus area for springs.”

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 373.4131, 381.0065, and 403.067.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.