

By Senator Stewart

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1 A bill to be entitled
2 An act relating to implementation of the
3 recommendations of the Blue-Green Algae Task Force;
4 providing a short title; amending s. 373.4131, F.S.;
5 requiring the Department of Environmental Protection
6 to implement a stormwater system inspection and
7 monitoring program for a specified purpose by a
8 specified date; amending s. 381.0065, F.S.; requiring
9 owners of onsite sewage treatment and disposal systems
10 to have the system periodically inspected, beginning
11 on a specified date; requiring the department to
12 administer the inspection program; requiring the
13 department to implement program standards, procedures,
14 and requirements; providing for rulemaking; amending
15 s. 403.067, F.S.; requiring basin management action
16 plans to describe potential future increases in
17 pollutant loading and provide a comprehensive analysis
18 of options to mitigate such increases; requiring new
19 or revised basin management action plans to include an
20 identification and prioritization of certain spatially
21 focused projects; requiring the department to assess
22 certain projects; requiring certain notices of intent
23 to implement pollution reduction measures to include
24 estimated input reductions and load reductions
25 associated with adopting certain practices; providing
26 requirements for such reporting; requiring the
27 verification of certain programs to be completed by a
28 specified date; requiring the department to provide
29 all records promptly and in an unadulterated form;

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30 providing an effective date.

31
32 WHEREAS, Governor Ron DeSantis created the Blue-Green Algae
33 Task Force in 2019, to "improve water quality for the benefit of
34 all Floridians," and the task force's consensus report was
35 issued in October 2019, with multiple recommendations for basin
36 management action plans (BMAP), agriculture, human waste,
37 stormwater, technology, public health, and science, and

38 WHEREAS, the Legislature recognizes that in June 2020,
39 Governor DeSantis signed SB 712, the Clean Waterways Act, which
40 implemented many of the recommendations of the task force, and

41 WHEREAS, full implementation of the task force's
42 recommendations will require enactment of additional substantive
43 legislation, NOW, THEREFORE,

44
45 Be It Enacted by the Legislature of the State of Florida:

46
47 Section 1. This act may be cited as the "Implementation of
48 Governor DeSantis' Blue-Green Algae Task Force Recommendations
49 Act."

50 Section 2. Subsection (7) is added to section 373.4131,
51 Florida Statutes, to read:

52 373.4131 Statewide environmental resource permitting
53 rules.—

54 (7) By January 1, 2022, the department shall implement a
55 stormwater system inspection and monitoring program with the
56 goal of identifying improperly functioning or failing systems so
57 that corrective action may be taken to reduce nutrient pollution
58 and other negative environmental impacts.

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59 Section 3. Present subsections (5), (6), and (7) of section
60 381.0065, Florida Statutes, are redesignated as subsections (6),
61 (7), and (8), respectively, and a new subsection (5) is added to
62 that section, to read:

63 381.0065 Onsite sewage treatment and disposal systems;
64 regulation.—

65 (5) PERIODIC INSPECTIONS.—

66 (a) Effective July 1, 2024, the owner of an onsite sewage
67 treatment and disposal system, excluding a system required to
68 have an operating permit, must have the system inspected at
69 least once every 5 years to assess the fundamental operational
70 condition of the system, prolong the life of the system, and
71 identify any failure within the system. The department shall
72 administer an onsite sewage treatment and disposal system
73 inspection program for such periodic inspections. The department
74 shall implement the program standards, procedures, and
75 requirements, and adopt rules that must include, at a minimum,
76 all of the following:

77 1. A schedule for a 5-year inspection cycle.

78 2. A county-by-county implementation plan phased in over a
79 10-year period with first priority given to those areas within a
80 springshed protection area identified by the department.

81 3. Minimum standards for a functioning system.

82 4. Requirements for the pumpout or repair of a failing
83 system.

84 5. Enforcement procedures for failure of a system owner to
85 obtain an inspection of the system and failure of a contractor
86 to timely report inspection results to the department and the
87 system owner.

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88 Section 4. Paragraphs (a) and (c) of subsection (7) of
89 section 403.067, Florida Statutes, are amended to read:

90 403.067 Establishment and implementation of total maximum
91 daily loads.—

92 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND
93 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

94 (a) *Basin management action plans.*—

95 1. In developing and implementing the total maximum daily
96 load for a water body, the department, or the department in
97 conjunction with a water management district, may develop a
98 basin management action plan that addresses some or all of the
99 watersheds and basins tributary to the water body. Such plan
100 must integrate the appropriate management strategies available
101 to the state through existing water quality protection programs
102 to achieve the total maximum daily loads and may provide for
103 phased implementation of these management strategies to promote
104 timely, cost-effective actions as provided for in s. 403.151.
105 The plan must establish a schedule implementing the management
106 strategies, establish a basis for evaluating the plan's
107 effectiveness, and identify feasible funding strategies for
108 implementing the plan's management strategies. The management
109 strategies may include regional treatment systems or other
110 public works, when appropriate, and voluntary trading of water
111 quality credits to achieve the needed pollutant load reductions.

112 2. A basin management action plan must equitably allocate,
113 pursuant to paragraph (6) (b), pollutant reductions to individual
114 basins, as a whole to all basins, or to each identified point
115 source or category of nonpoint sources, as appropriate. For
116 nonpoint sources for which best management practices have been

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117 adopted, the initial requirement specified by the plan must be
118 those practices developed pursuant to paragraph (c). When
119 appropriate, the plan may take into account the benefits of
120 pollutant load reduction achieved by point or nonpoint sources
121 that have implemented management strategies to reduce pollutant
122 loads, including best management practices, before the
123 development of the basin management action plan. The plan must
124 describe, in specific quantitative terms, potential future
125 increases in pollutant loading and provide a comprehensive
126 analysis of options for mitigating or eliminating these
127 increases. The analysis should account for increased pollutant
128 loading from population growth, as estimated by the University
129 of Florida's Bureau of Economic and Business Research, and for
130 increased pollutant loading from agricultural growth, as
131 informed by agricultural water use estimates projected by the
132 Department of Agriculture and Consumer Services ~~also identify~~
133 ~~the mechanisms that will address potential future increases in~~
134 ~~pollutant loading.~~

135 3. The basin management action planning process is intended
136 to involve the broadest possible range of interested parties,
137 with the objective of encouraging the greatest amount of
138 cooperation and consensus possible. In developing a basin
139 management action plan, the department shall assure that key
140 stakeholders, including, but not limited to, applicable local
141 governments, water management districts, the Department of
142 Agriculture and Consumer Services, other appropriate state
143 agencies, local soil and water conservation districts,
144 environmental groups, regulated interests, and affected
145 pollution sources, are invited to participate in the process.

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146 The department shall hold at least one public meeting in the
147 vicinity of the watershed or basin to discuss and receive
148 comments during the planning process and shall otherwise
149 encourage public participation to the greatest practicable
150 extent. Notice of the public meeting must be published in a
151 newspaper of general circulation in each county in which the
152 watershed or basin lies at least 5 days, but not more than 15
153 days, before the public meeting. A basin management action plan
154 does not supplant or otherwise alter any assessment made under
155 subsection (3) or subsection (4) or any calculation or initial
156 allocation.

157 4.a. Each new or revised basin management action plan shall
158 include:

159 (I)~~a.~~ The appropriate management strategies available
160 through existing water quality protection programs to achieve
161 total maximum daily loads, which may provide for phased
162 implementation to promote timely, cost-effective actions as
163 provided for in s. 403.151;

164 (II)~~b.~~ A description of best management practices adopted
165 by rule;

166 (III)~~c.~~ A list of projects in priority ranking with a
167 planning-level cost estimate and estimated date of completion
168 for each listed project;

169 (IV) Identification and prioritization of spatially focused
170 suites of projects in areas likely to yield maximum pollutant
171 reductions;

172 (V)~~d.~~ The source and amount of financial assistance to be
173 made available by the department, a water management district,
174 or other entity for each listed project, if applicable; and

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175 (VI)~~e.~~ A planning-level estimate of each listed project's
176 expected load reduction, if applicable.

177 b. For each project listed pursuant to this subparagraph
178 which has a total cost that exceeds \$1 million, the department
179 shall assess through integrated and comprehensive monitoring
180 whether the project is working to reduce nutrient pollution or
181 water use, or both, as intended. These assessments must be
182 completed expeditiously and must be included in each basin
183 management action plan update.

184 5. The department shall adopt all or any part of a basin
185 management action plan and any amendment to such plan by
186 secretarial order pursuant to chapter 120 to implement this
187 section.

188 6. The basin management action plan must include milestones
189 for implementation and water quality improvement, and an
190 associated water quality monitoring component sufficient to
191 evaluate whether reasonable progress in pollutant load
192 reductions is being achieved over time. An assessment of
193 progress toward these milestones shall be conducted every 5
194 years, and revisions to the plan shall be made as appropriate.
195 Revisions to the basin management action plan shall be made by
196 the department in cooperation with basin stakeholders. Revisions
197 to the management strategies required for nonpoint sources must
198 follow the procedures in subparagraph (c)4. Revised basin
199 management action plans must be adopted pursuant to subparagraph
200 5.

201 7. In accordance with procedures adopted by rule under
202 paragraph (9) (c), basin management action plans, and other
203 pollution control programs under local, state, or federal

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204 authority as provided in subsection (4), may allow point or
205 nonpoint sources that will achieve greater pollutant reductions
206 than required by an adopted total maximum daily load or
207 wasteload allocation to generate, register, and trade water
208 quality credits for the excess reductions to enable other
209 sources to achieve their allocation; however, the generation of
210 water quality credits does not remove the obligation of a source
211 or activity to meet applicable technology requirements or
212 adopted best management practices. Such plans must allow trading
213 between NPDES permittees, and trading that may or may not
214 involve NPDES permittees, where the generation or use of the
215 credits involve an entity or activity not subject to department
216 water discharge permits whose owner voluntarily elects to obtain
217 department authorization for the generation and sale of credits.

218 8. The department's rule relating to the equitable
219 abatement of pollutants into surface waters do not apply to
220 water bodies or water body segments for which a basin management
221 plan that takes into account future new or expanded activities
222 or discharges has been adopted under this section.

223 9. In order to promote resilient wastewater utilities, if
224 the department identifies domestic wastewater treatment
225 facilities or onsite sewage treatment and disposal systems as
226 contributors of at least 20 percent of point source or nonpoint
227 source nutrient pollution or if the department determines
228 remediation is necessary to achieve the total maximum daily
229 load, a basin management action plan for a nutrient total
230 maximum daily load must include the following:

231 a. A wastewater treatment plan developed by each local
232 government, in cooperation with the department, the water

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233 management district, and the public and private domestic
234 wastewater treatment facilities within the jurisdiction of the
235 local government, that addresses domestic wastewater. The
236 wastewater treatment plan must:

237 (I) Provide for construction, expansion, or upgrades
238 necessary to achieve the total maximum daily load requirements
239 applicable to the domestic wastewater treatment facility.

240 (II) Include the permitted capacity in average annual
241 gallons per day for the domestic wastewater treatment facility;
242 the average nutrient concentration and the estimated average
243 nutrient load of the domestic wastewater; a projected timeline
244 of the dates by which the construction of any facility
245 improvements will begin and be completed and the date by which
246 operations of the improved facility will begin; the estimated
247 cost of the improvements; and the identity of responsible
248 parties.

249
250 The wastewater treatment plan must be adopted as part of the
251 basin management action plan no later than July 1, 2025. A local
252 government that does not have a domestic wastewater treatment
253 facility in its jurisdiction is not required to develop a
254 wastewater treatment plan unless there is a demonstrated need to
255 establish a domestic wastewater treatment facility within its
256 jurisdiction to improve water quality necessary to achieve a
257 total maximum daily load. A local government is not responsible
258 for a private domestic wastewater facility's compliance with a
259 basin management action plan unless such facility is operated
260 through a public-private partnership to which the local
261 government is a party.

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262 b. An onsite sewage treatment and disposal system
263 remediation plan developed by each local government in
264 cooperation with the department, the Department of Health, water
265 management districts, and public and private domestic wastewater
266 treatment facilities.

267 (I) The onsite sewage treatment and disposal system
268 remediation plan must identify cost-effective and financially
269 feasible projects necessary to achieve the nutrient load
270 reductions required for onsite sewage treatment and disposal
271 systems. To identify cost-effective and financially feasible
272 projects for remediation of onsite sewage treatment and disposal
273 systems, the local government shall:

274 (A) Include an inventory of onsite sewage treatment and
275 disposal systems based on the best information available;

276 (B) Identify onsite sewage treatment and disposal systems
277 that would be eliminated through connection to existing or
278 future central domestic wastewater infrastructure in the
279 jurisdiction or domestic wastewater service area of the local
280 government, that would be replaced with or upgraded to enhanced
281 nutrient-reducing onsite sewage treatment and disposal systems,
282 or that would remain on conventional onsite sewage treatment and
283 disposal systems;

284 (C) Estimate the costs of potential onsite sewage treatment
285 and disposal system connections, upgrades, or replacements; and

286 (D) Identify deadlines and interim milestones for the
287 planning, design, and construction of projects.

288 (II) The department shall adopt the onsite sewage treatment
289 and disposal system remediation plan as part of the basin
290 management action plan no later than July 1, 2025, or as

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291 required for Outstanding Florida Springs under s. 373.807.

292 10. When identifying wastewater projects in a basin
293 management action plan, the department may not require the
294 higher cost option if it achieves the same nutrient load
295 reduction as a lower cost option. A regulated entity may choose
296 a different cost option if it complies with the pollutant
297 reduction requirements of an adopted total maximum daily load
298 and meets or exceeds the pollution reduction requirement of the
299 original project.

300 (c) *Best management practices.*—

301 1. The department, in cooperation with the water management
302 districts and other interested parties, as appropriate, may
303 develop suitable interim measures, best management practices, or
304 other measures necessary to achieve the level of pollution
305 reduction established by the department for nonagricultural
306 nonpoint pollutant sources in allocations developed pursuant to
307 subsection (6) and this subsection. These practices and measures
308 may be adopted by rule by the department and the water
309 management districts and, where adopted by rule, shall be
310 implemented by those parties responsible for nonagricultural
311 nonpoint source pollution.

312 2. The Department of Agriculture and Consumer Services may
313 develop and adopt by rule pursuant to ss. 120.536(1) and 120.54
314 suitable interim measures, best management practices, or other
315 measures necessary to achieve the level of pollution reduction
316 established by the department for agricultural pollutant sources
317 in allocations developed pursuant to subsection (6) and this
318 subsection or for programs implemented pursuant to paragraph
319 (12) (b). These practices and measures may be implemented by

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320 those parties responsible for agricultural pollutant sources,
321 and the department, the water management districts, and the
322 Department of Agriculture and Consumer Services shall assist
323 with implementation. In the process of developing and adopting
324 rules for interim measures, best management practices, or other
325 measures, the Department of Agriculture and Consumer Services
326 shall consult with the department, the Department of Health, the
327 water management districts, representatives from affected
328 farming groups, and environmental group representatives. Such
329 rules must also incorporate provisions for a notice of intent to
330 implement the practices and a system to assure the
331 implementation of the practices, including site inspection and
332 recordkeeping requirements. Each notice of intent must include
333 an estimate of input reduction and load reduction associated
334 with adopting the practices. Reporting of input reductions must
335 be initiated for all operations receiving a presumption of
336 compliance, and the implementation of sampling programs must be
337 initiated to assess the effectiveness of sector-specific best
338 management practices intended to reduce nutrient loading to
339 adjacent water bodies.

340 3. When interim measures, best management practices, or
341 other measures are adopted by rule, the effectiveness of such
342 practices in achieving the levels of pollution reduction
343 established in allocations developed by the department pursuant
344 to subsection (6) and this subsection or in programs implemented
345 pursuant to paragraph (12)(b) must be verified at representative
346 sites by the department. These verifications must be completed
347 by July 1, 2024. A presumption of compliance with state water
348 quality standards may not be provided without such verification.

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349 The department shall use best professional judgment in making
350 the initial verification that the best management practices are
351 reasonably expected to be effective and, when applicable, shall
352 notify the appropriate water management district or the
353 Department of Agriculture and Consumer Services of its initial
354 verification before the adoption of a rule proposed pursuant to
355 this paragraph. Implementation, in accordance with rules adopted
356 under this paragraph, of practices that have been initially
357 verified to be effective, or verified to be effective by
358 monitoring at representative sites, by the department, shall
359 provide a presumption of compliance with state water quality
360 standards and release from s. 376.307(5) for those pollutants
361 addressed by the practices, and the department is not authorized
362 to institute proceedings against the owner of the source of
363 pollution to recover costs or damages associated with the
364 contamination of surface water or groundwater caused by those
365 pollutants. Research projects funded by the department, a water
366 management district, or the Department of Agriculture and
367 Consumer Services to develop or demonstrate interim measures or
368 best management practices shall be granted a presumption of
369 compliance with state water quality standards and a release from
370 s. 376.307(5). The presumption of compliance and release is
371 limited to the research site and only for those pollutants
372 addressed by the interim measures or best management practices.
373 Eligibility for the presumption of compliance and release is
374 limited to research projects on sites where the owner or
375 operator of the research site and the department, a water
376 management district, or the Department of Agriculture and
377 Consumer Services have entered into a contract or other

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378 agreement that, at a minimum, specifies the research objectives,
379 the cost-share responsibilities of the parties, and a schedule
380 that details the beginning and ending dates of the project.

381 4. When water quality problems are demonstrated, despite
382 the appropriate implementation, operation, and maintenance of
383 best management practices and other measures required by rules
384 adopted under this paragraph, the department, a water management
385 district, or the Department of Agriculture and Consumer
386 Services, in consultation with the department, shall institute a
387 reevaluation of the best management practice or other measure.
388 If the reevaluation determines that the best management practice
389 or other measure requires modification, the department, a water
390 management district, or the Department of Agriculture and
391 Consumer Services, as appropriate, shall revise the rule to
392 require implementation of the modified practice within a
393 reasonable time period as specified in the rule.

394 5. Subject to subparagraph 6., the Department of
395 Agriculture and Consumer Services shall provide to the
396 department, promptly and in unadulterated form, all records
397 ~~information~~ obtained pursuant to subparagraph (d)3.

398 6. Agricultural records relating to processes or methods of
399 production, costs of production, profits, or other financial
400 information held by the Department of Agriculture and Consumer
401 Services pursuant to subparagraphs 3., 4., and 5. or pursuant to
402 any rule adopted pursuant to subparagraph 2. are confidential
403 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
404 Constitution. Upon request, records made confidential and exempt
405 pursuant to this subparagraph shall be released to the
406 department or any water management district provided that the

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407 confidentiality specified by this subparagraph for such records
408 is maintained.

409 7. Subparagraphs 1. and 2. do not preclude the department
410 or water management district from requiring compliance with
411 water quality standards or with current best management practice
412 requirements in any applicable regulatory program authorized by
413 law for the purpose of protecting water quality. Additionally,
414 subparagraphs 1. and 2. are applicable only to the extent that
415 they do not conflict with any rules adopted by the department
416 that are necessary to maintain a federally delegated or approved
417 program.

418 Section 5. This act shall take effect July 1, 2021.