

Lake then continued to increase. In 2018, phosphorus fertilizer loading into Lake Okeechobee reached almost 1046 tons, almost 10 times higher than the legal limit. In 2018 and 2019, massive toxic algae outbreaks in Lake Okeechobee and the Caloosahatchee and St. Lucie Rivers caused widespread fish and wildlife kills, killed numerous dogs that had swum in the rivers, and sickened numerous residents of the areas around those rivers.

Across four decades of state plans and programs to sharply reduce fertilizer discharges into Lake Okeechobee, fertilizer discharges increased by a factor of 10, triggering the worst water contamination crisis in Florida history. Reform is needed.

II. Fertilizer, Sewage, and Manure (FSM) Pollution Rules Adopted by DEP in 2012¹

In 2012, as a result of a lawsuit by Conservation organizations, FDEP adopted a set of extraordinarily complex administrative rules dealing with FSM pollution. See Fla. Admin. Code R 62-302 and 62-303. Instead of imposing enforceable limits on FSM pollutants, the rules call for extensive biological studies and then a planning process if FSM pollutants are eventually proven to be causing harm. In summary, the rules are a maze of chutes and ladders, with detailed processes for triggering various ecological studies of each segment of lake and stream to determine whether algae outbreaks are causing substantial harm, and then to whether it can be proven that the outbreaks were actually triggered by FSM pollution.

If actual substantial harm is eventually found, the only result is a planning processes that lead to Basin Management Action Plans (BMAPs). BMAPs are largely collaborations of the operators of FSM pollution sources, and the only consequence of the failure of the plan to actually curb FSM pollution is a requirement to report the failure. Where BMAPs were hoped to be practical mechanisms to reduce FSM pollution, they have in fact functioned as a “Get Out of Jail Free” card for agriculture industries and other sources of as FSM pollution, while our waters continue to be degraded. The FSM rules have been implemented over the past seven years, during which time, widespread massive algae outbreaks have taken place on the St. Johns River, and in other rivers and lakes throughout Florida.

The continuing algae crisis is the most serious environmental crisis in Florida’s history, and it is a result of the failure of the State and FDEP to require FSM pollution sources comply with pollution limits. Last month, state’s Blue Green Algae Task Force, released its “Consensus Report.” It found that the algae crisis is likely to worsen, and attributed the crisis to agricultural fertilizer and manure control programs have been ineffective, to on-site sewage disposal and sewage overflows, and to BMAPs that are not implemented or even monitored.