



*Florida League of Cities
Center for Municipal Research*

Water Symposium

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Topics



1. Key Dates in Florida Water Quality History
2. Framework of Florida Water Quality Programs
3. Challenges

Topics



1. Key Dates in Florida Water Quality

History

2. Framework of Florida Water

Quality Programs

3. Challenges

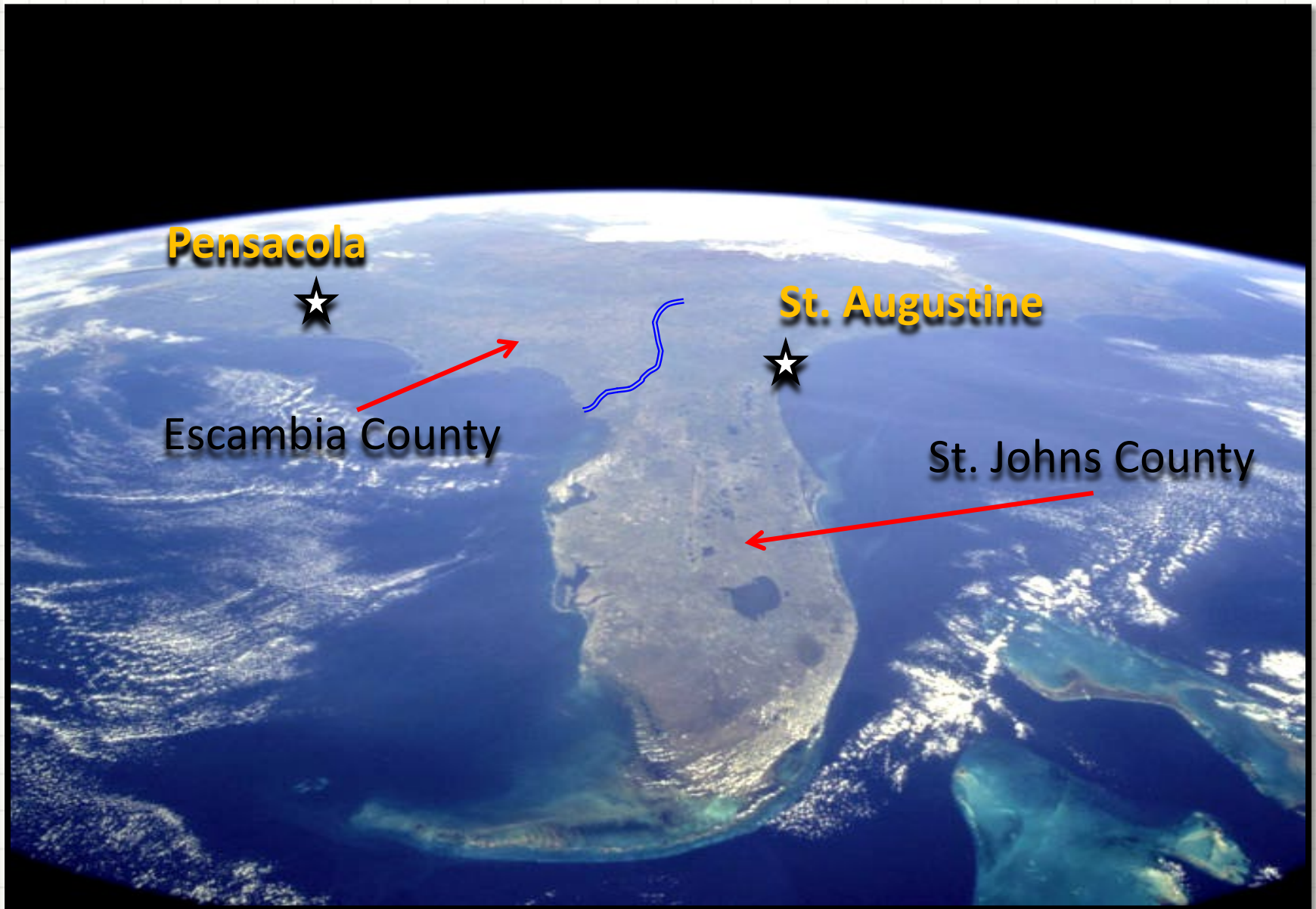
Key Dates in Florida WQ History

1821

- Florida becomes Territory of United States
- Andrew Jackson named Territorial Governor
- Jackson issues first Ordinance:
 1. Recognizes existing cities of Pensacola and St. Augustine
 2. Divides state into two counties (Escambia and St. Johns) along Suwannee River
 3. Appoints five Justices of the Peace to govern each county



1821 - Florida Territory



Key Dates in Florida WQ History

- 1948: Federal Water Pollution Control Act
- 1967: Florida Air & Water Pollution Control Act (Ch. 403)
- 1968: Revisions to Florida Constitution - *Home Rule*

Key Dates in Florida WQ History

Dillon's Rule

- A local government has only those powers which are specifically granted by the State

Home Rule

- A local government has all powers of self government except those that are specifically prohibited or *pre-empted* by the State

Key Dates in Florida WQ History

Justice John Dillon
Iowa Supreme Court



"Those best fitted by their intelligence, business experience, capacity and moral character" usually do not hold local office.

The conduct of municipal affairs generally was "unwise and extravagant."

Clark v. City of Des Moines (1865) - Local governments were creations of the state and, therefore, had only those powers granted by the state.

Key Dates in Florida WQ History

1968 Constitutional Revisions

- Cities and Non-charter counties: All powers of self-government as provided by law . . .

...legislatively implemented in 1971 and 1972

- Charter counties: All powers of self-government not inconsistent with general law or special law approved by vote of the county electorate . . .

...self-implementing

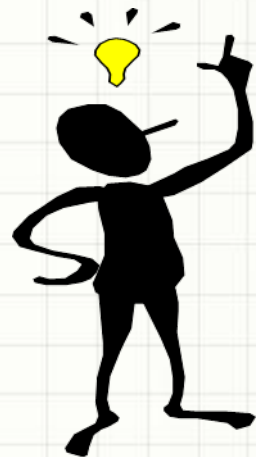
Key Dates in Florida WQ History

Dillon's Rule

- Look for Authorization. Absent authorization, powerless to act...3,000 special acts/Session

Home Rule

- Look for Prohibition (pre-emption).
Absent prohibition, empowered to act...
...350+/- special acts/Session



Key Dates in Florida WQ History

- 1948: Federal Water Pollution Control Act
- 1967: Florida Air & Water Pollution Control Act (Ch. 403)
- 1968: Revisions to Florida Constitution - *Home Rule*
- 1969: Cuyahoga River (Ohio) Catches Fire

Key Dates in Florida WQ History



Key Dates in Florida WQ History

- 1965: US Water Quality Act
- 1967: Florida Air & Water Pollution Control Act (Ch. 403)
- 1968: Revisions to Florida Constitution - Home Rule
- 1969: Cuyahoga River (Ohio) Catches Fire
- 1971: 1st Earth Day
- 1972: US Clean Water Act
- 1972: Florida Water Resources Act
- 1975: Environmental Reorganization - DER

Key Dates in Florida WQ History

- 1987: CWA Re-Authorization and Amendments – *Municipal Separate Storm Sewer Systems (MS4s)*
- 1987: Florida SWU Fee “authorization”
- 1989: Florida Stormwater Legislation
- 1993: DER merged with DNR to form DEP
- 1995: EPA approves FL administration of SW program
- 1999: Florida Watershed Restoration Act – *Listings of Impaired Waters*

Key Dates in Florida WQ History

- 2000: FDEP Approves Rules for Phase 1 MS4s (*larger*)
- 2003: FDEP Approves Rules for Phase 2 MS4s (*smaller*)
- 2005: SB 444 – *Implementation* of watershed improvement plans and \$120M in funding
- 2008: First actions filed in litigation challenging EPA's Numeric Nutrient Criteria for Florida
- 2010: SB 550 - Water Resources protection legislation

Key Dates in Florida WQ History

- 2013: Legislation passes implementing agreements between EPA and Intervenors in NNC litigation
- 2015: First round of complaints filed in litigation challenging EPA's revisions to WOTUS definitions
- 2016: SB 552 – Water Resources protection legislation
- 2019: Rule repealing 2015 WOTUS definitions published and immediately challenged
- 2019-20: Governor's Blue Green Algae Task Force

Topics



1. Key Dates in Florida Water Quality History
2. Framework of Florida Water Quality Programs
3. Challenges

Framework of Florida WQ Programs

Collaborative Partnerships

“To work jointly with others or together; to cooperate with an agency or instrumentality with which one is not immediately connected.”

“A relationship involving close cooperation between parties having specified and joint rights and responsibilities.”

Clean Water Act

Section 303(d)

- Identify and List Waters that are Impaired
- Develop TMDLs

$$\text{TMDL} = \Sigma \text{WLA} + \Sigma \text{LA} + \text{MOS}$$

Total Maximum Daily Load:

...calculation of the maximum amount of a pollutant allowed to enter a waterbody so that the waterbody will meet *water quality standards* for a particular pollutant

- Permit Holders must comply with goals of TMDLs

Florida's TMDL Program

Chapter 403, FS

1999

- ✓ Consent Decree between EPA and Earthjustice in Florida
- ✓ Legislature passes 403.067 – concerning impaired water listings and TMDL development

2005

- ✓ Legislature passes SB 444
- ✓ Amends 403.067 - concerning TMDL implementation
- ✓ Establishes \$120M trust fund for water quality and alternative water supply
- ✓ Created rotating watershed approach to address WQ problems in Florida

TMDL and Basin Management Action Plans

403.067 - Divides state into five watershed groups with five-phase/five-year basin cycle

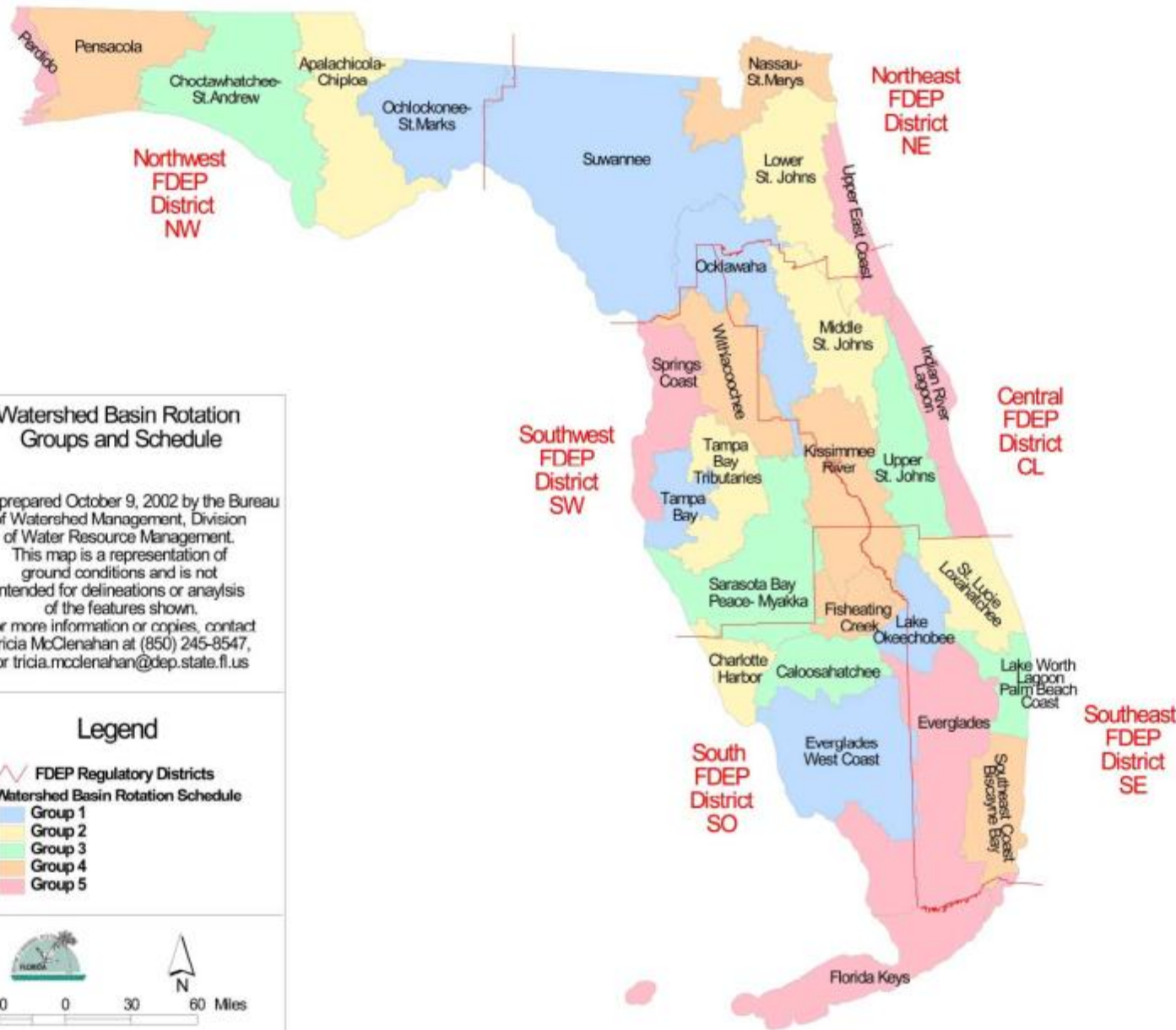
Phase 1 - Preliminary evaluation of basin & water quality

Phase 2 - Coordinated basin monitoring; assessment report and verified list

Phase 3 - Data analysis & TMDL development

Phase 4 - BMAP development







Phase 5 - Implementation

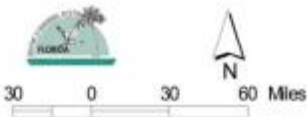


Watershed Basin Rotation Groups and Schedule

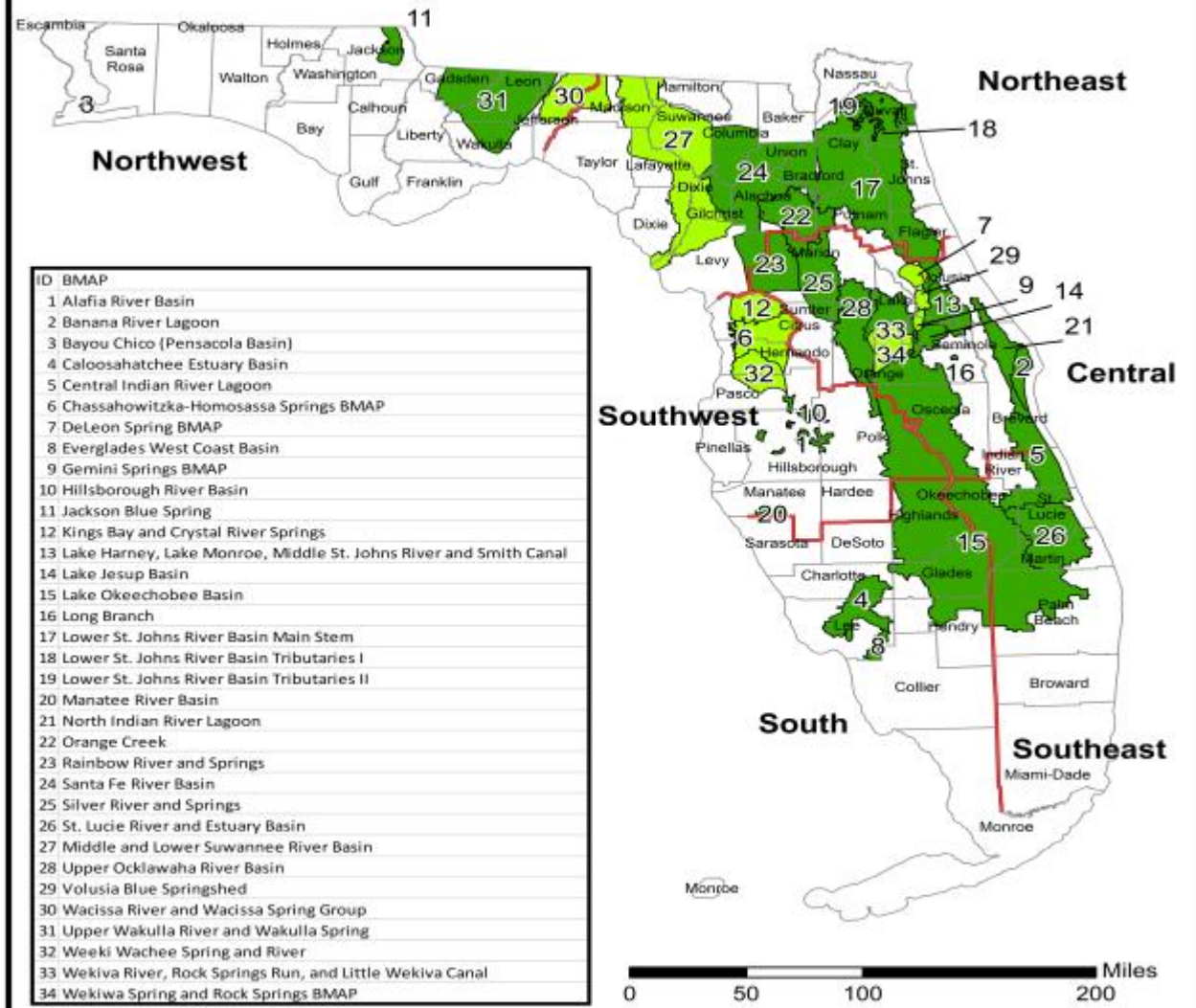
Map prepared October 9, 2002 by the Bureau of Watershed Management, Division of Water Resource Management. This map is a representation of ground conditions and is not intended for delineations or analysis of the features shown. For more information or copies, contact Tricia McClenahan at (850) 245-8547, or tricia.mcclenahan@dep.state.fl.us

Legend

-  FDEP Regulatory Districts
- Watershed Basin Rotation Schedule**
-  Group 1
-  Group 2
-  Group 3
-  Group 4
-  Group 5



Basin Management Action Plans (BMAPs)



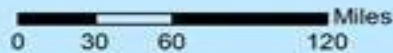
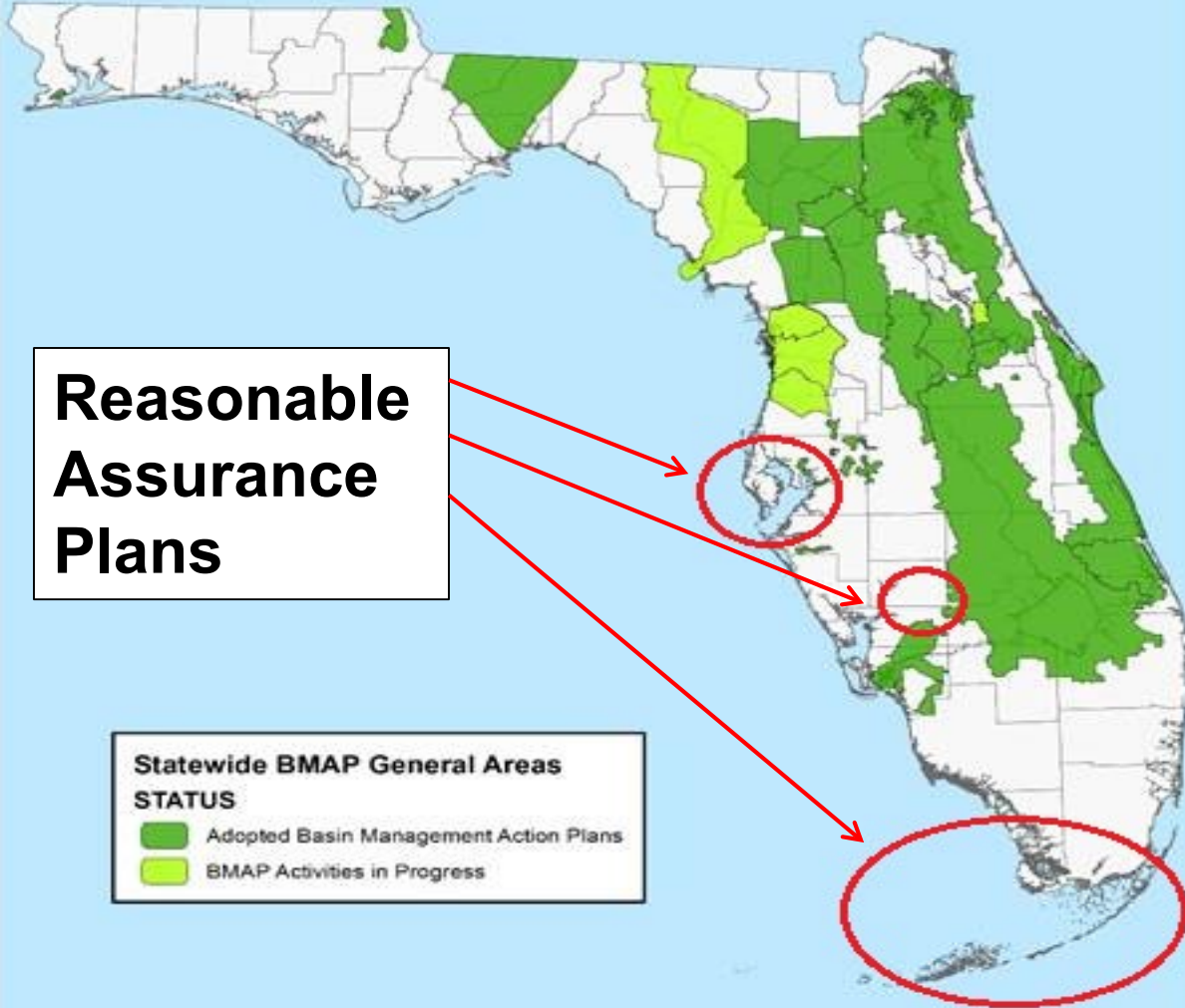
- | ID | BMAP |
|----|--|
| 1 | Alafia River Basin |
| 2 | Banana River Lagoon |
| 3 | Bayou Chico (Pensacola Basin) |
| 4 | Caloosahatchee Estuary Basin |
| 5 | Central Indian River Lagoon |
| 6 | Chassahowitzke-Homosassa Springs BMAP |
| 7 | DeLeon Spring BMAP |
| 8 | Everglades West Coast Basin |
| 9 | Gemini Springs BMAP |
| 10 | Hillsborough River Basin |
| 11 | Jackson Blue Spring |
| 12 | Kings Bay and Crystal River Springs |
| 13 | Lake Harney, Lake Monroe, Middle St. Johns River and Smith Canal |
| 14 | Lake Jesup Basin |
| 15 | Lake Okeechobee Basin |
| 16 | Long Branch |
| 17 | Lower St. Johns River Basin Main Stem |
| 18 | Lower St. Johns River Basin Tributaries I |
| 19 | Lower St. Johns River Basin Tributaries II |
| 20 | Manatee River Basin |
| 21 | North Indian River Lagoon |
| 22 | Orange Creek |
| 23 | Rainbow River and Springs |
| 24 | Santa Fe River Basin |
| 25 | Silver River and Springs |
| 26 | St. Lucie River and Estuary Basin |
| 27 | Middle and Lower Suwannee River Basin |
| 28 | Upper Ocklawaha River Basin |
| 29 | Volusia Blue Springshed |
| 30 | Wacissa River and Wacissa Spring Group |
| 31 | Upper Wakulla River and Wakulla Spring |
| 32 | Weeki Wachee Spring and River |
| 33 | Wekiva River, Rock Springs Run, and Little Wekiva Canal |
| 34 | Wekiwa Spring and Rock Springs BMAP |



- Adopted BMAPs
- Pending BMAPs
- FDEP Regulatory Districts
- Florida Counties

Source: FDEP Geospatial Open Data

Florida BMAP Areas



TMDL Implementation

Implementation – with BMAP

Goals of the BMAP are referenced in MS4 Permit

Implementation – without BMAP

Phase 1 Permits – City/County develops a schedule to implement TMDL

Phase 2 Permits – City/County addresses TMDL in stormwater management plan

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Challenges Moving Forward

Florida has....

- ✓ Most extensive system of water quality protection policies and programs in US
- ✓ Robust system of Best Management Practices for Agriculture
- ✓ More Stormwater Utility financing mechanisms than any other state
- ✓ 34% of all surface water quality data in US
- ✓ Broad grant of constitutional Home Rule authority to all cities and counties
- ✓ 21+ million people and growing at 1.8%

Challenges Moving Forward

Florida also has...

- ✓ 21+ million people and growing at 1.8%
- ✓ 2.6 million septic tanks (FDOH)
- ✓ On average, applies 155,206 tons of N and 46,566 tons of P each year (IFAS)
- ✓ Perennial challenges to local powers to address water quality-related issues and policies

Challenges Moving Forward

Solutions

- ✓ Funding
- ✓ Preserve Home Rule Powers
- ✓ Enforcement

Challenges Moving Forward

Solutions – Preserve Home Rule Powers

- ✓ Broad pre-emptions

“...a local government may not adopt or impose a new regulation on a business, profession, or occupation unless the regulation is *expressly authorized by general law...*”

- ✓ Specific pre-emptions

“A [local government] may not adopt or enforce any local ordinance...or regulation *requiring more stringent water quality standards for stormwater discharges* to surface waters, wetlands, or groundwater than the water quality standards established pursuant to [Ch. 403, FS].”

Challenges Moving Forward

Solutions – Enforcement/Implementation of BG Algae

Task Force Recommendations

<https://floridadep.gov/Blue-GreenAlgaeTaskForce>

- ✓ Basin Management Action Plans
- ✓ Agricultural Best Management Practices
- ✓ Onsite Sewage Treatment and Disposal Systems
- ✓ Sanitary Sewer Overflows
- ✓ Innovative Technologies
- ✓ Blue Green Algae and Public Health
- ✓ Comprehensive WQ Monitoring
- ✓ Stormwater Treatment Systems

Challenges Moving Forward

BG Algae TF Recommendations: Stormwater

Challenged presumption that SW treatment system constructed/permitted in compliance with current design criteria will not cause or contribute to violations of surface WQ standards.

- TF recommends that SW design criteria be revised and updated to incorporate recent advances in technologies
- TF recommends the development and implementation of SW system inspection and monitoring program

Challenges Moving Forward

BG Algae TF Recommendations: Stormwater

Evaluation of Current Stormwater Design Criteria within the State of Florida

Final Report

Prepared for:



**FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

FDEP Contract No. 50108

June 2007

Prepared By:

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Environmental Research & Design, Inc.
3419 Trentwood Blvd., Suite 102
Orlando, FL 32812

Challenges Moving Forward

BG Algae TF Recommendations: Stormwater

MARCH 2010 DRAFT

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND
WATER MANAGEMENT DISTRICTS

ENVIRONMENTAL RESOURCE PERMIT
STORMWATER QUALITY
APPLICANT'S HANDBOOK

DESIGN REQUIREMENTS FOR
STORMWATER TREATMENT SYSTEMS IN FLORIDA

<insert effective date>



Challenges Moving Forward

BG Algae TF Recommendations: Stormwater

- ✓ SB 686 / HB 405
- ✓ SB 712



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