

### **III. Proposed Protocols to Implement Existing Rules Concerning Fertilizer, Sewage, and Manure (FSM) Pollution**

In the context of that ongoing crisis, FDEP is proposing a methodology for implementing the FSM pollution rules in Fla. Admin. Code R 62-302 and 62-303. The methodology sets out the processes by which the complex system of Chutes and Ladders in those rules are implemented. Almost all FSM pollution is discharged to streams and rivers that then flow into lakes and estuaries. For that reason, FSM rules and the process for implementing them in streams and rivers is the most critical component of FSM controls.

Attached as Appendix A is a flow chart setting out the processes set forth in the methodology for implementing the streams sections of the FSM rules. The flow chart demonstrates that for flowing waters, ecological studies of various flora and fauna are required for every affected segment of the stream before a finding can be made that FSM pollution will trigger or is triggering an algae outbreak. Even when that finding is made, further additional studies are needed to prove that the cause of the problem is FSM pollution. The most this methodology can eventually accomplish is trigger a Basin Management Action Plan planning process. This methodology endorses the emerging excuse advanced by the agricultural industries responsible for the 2018 algae outbreak that devastated Lake Okeechobee and the Caloosahatchee and St. Lucie Rivers.

In 2018, phosphorus fertilizer discharges into the Lake exceeded legal limits by a factor of 10, but the agricultural industries responsible for the disaster claim that the algae outbreak resulted not from their fertilizer pollution but from a hurricane. The proposed methodology at 6.10(3) appears to endorse this excuse by stating that extraordinary events cannot be counted when assessing the degree of contamination of any water body. Heavy rainfall from tropical cyclones is a natural feature of Florida's climate and algae outbreaks triggered by them cannot be ignored. Massive toxic algae outbreaks associated from extreme rainfall should not be mischaracterized as weather events.

The implementation proposal should require immediate action in response to massive algae outbreaks. Immediate reform is needed to address the ongoing algae crisis, which the Blue Green Algae Task Force found will worsen. The proposed implementation document requires in sections 6.3 through 6.9 that multiple studies across multiple years are necessary to determine that controls on FSM pollution are needed. Massive algae outbreaks are rapidly increasing in number, size, and duration. For that reason, the implementation document should include a new section 6.11 requiring an immediate finding that FSM rules have been violated whenever an algae outbreak occurs covering 250 acres of lakes or estuaries, or covering one mile of streams or river courses.

Florida has the opportunity to more sustainably address the ongoing degradation of our waterways and wildlife habitat as part of the Triennial Review process. Unfortunately, the proposed changes will only repeat history and result in more study and little improvement.