

# Welcome to 40E-61 Rulemaking Workshop

Please visit our registration table and sign in, if you have not already done so...



Lake Okeechobee Pier



Mouth of Caloosahatchee River



Roosevelt Bridge St. Lucie River

# **Northern Everglades**

## **Works of the District Program**

### **Chapter 40E-61, Florida Administrative Code**

### **Rule Development Workshop #1**

**Steffany Olson**  
**Science Supervisor**  
**South Florida Water Management District**  
**November 2019**

# Today's Agenda

- Why do Rulemaking?
- Affected Geographic Areas
- Water Quality Conditions
- Legislative History & Agency Activities
- Statutory Direction
- Considerations for Rulemaking
- Concept for Draft Rule
- Timeline and Workshop schedule
- Stakeholder Engagement



Freddie says hello

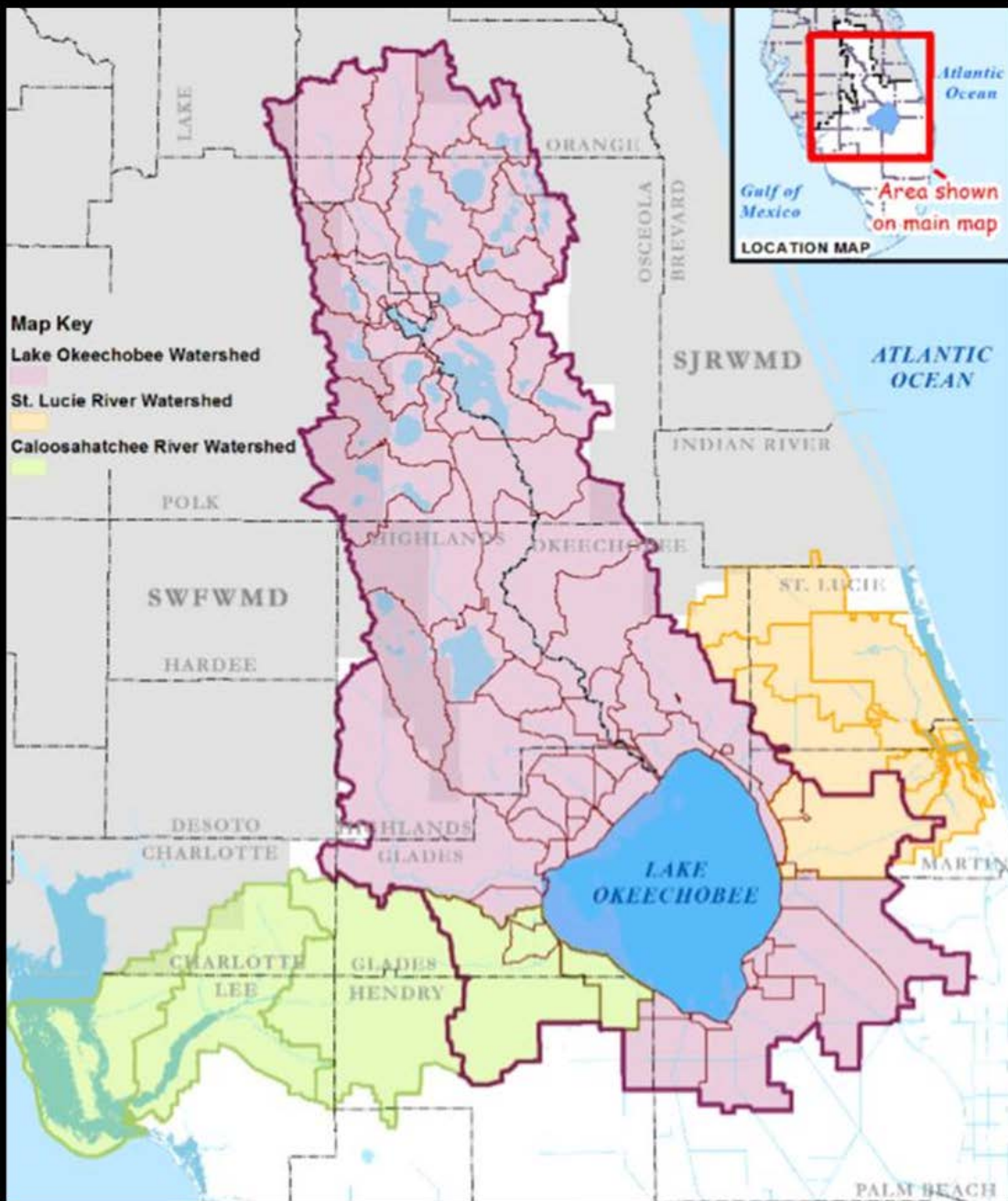


# Why do Rulemaking?

Florida Statutes Require:

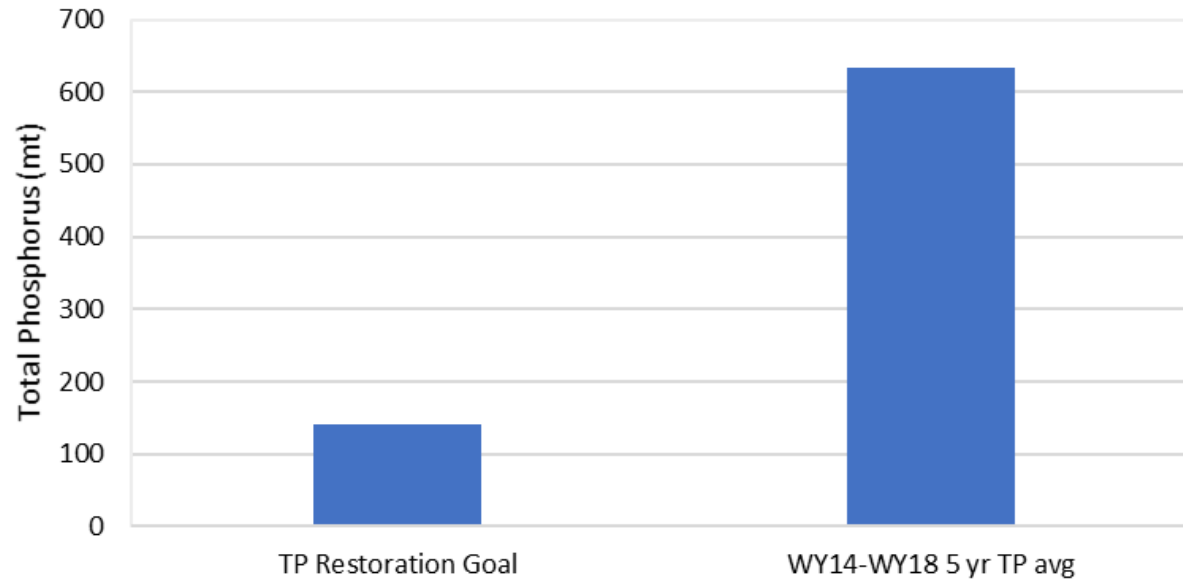
- Revisions to Chapter 40E-61, Florida Administrative Code (F.A.C.) for the Lake Okeechobee Watershed
- New rules for the St. Lucie and Caloosahatchee River Watersheds

Map of Affected Geographic Areas

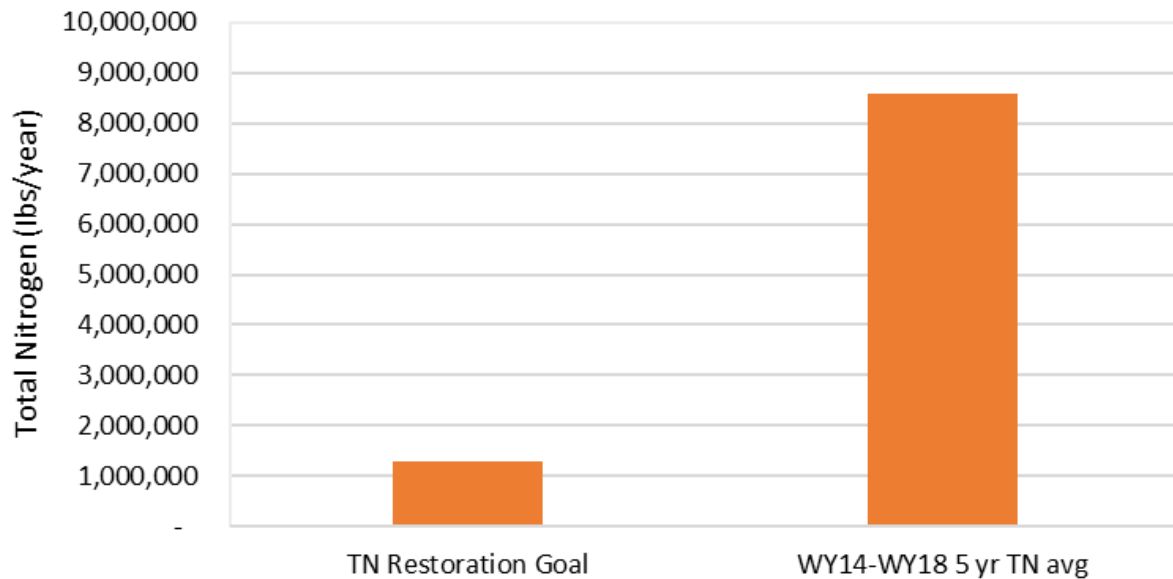


# Water Quality Conditions

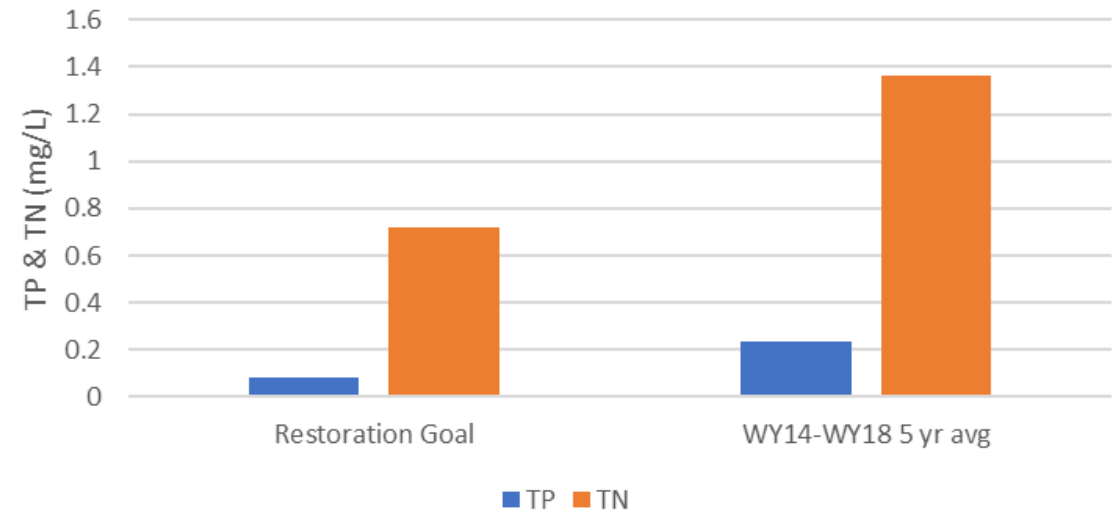
## Restoration Goal & Result for Lake Okeechobee



## Restoration Goal & Result for Caloosahatchee River



## Total Phosphorus and Nitrogen Restoration Goals & Results for St. Lucie River



# Northern Everglades Legislative History

- **1987** – 373.4595 Florida Statutes (F.S.) Originally enacted as the Surface Water Improvement and Management (SWIM) Act
- **2000** – SWIM Act revised to become the Lake Okeechobee Protection Act (LOPA)
- **2005** – LOPA amended, including expanded boundaries for Lake Okeechobee Watershed
  - Total Maximum Daily Load (TMDL) statute (403.067 F.S.) amended to include statewide Basin Management Action Plans (BMAP) by FDEP
- **2007** – LOPA became the Northern Everglades and Estuaries Protection Program (NEEPP)
  - Further expanded to include the St. Lucie and Caloosahatchee River Watersheds
- **2012** – FDEP adopts Caloosahatchee River Watershed BMAP
- **2013** – FDEP adopts St. Lucie River Watershed BMAP
- **2014** – FDEP adopts Lake Okeechobee Watershed BMAP
- **2016** – NEEPP amended: BMAPs are the “watershed phosphorus control component for Lake Okeechobee” and the “pollutant control program” for the estuaries; directs SFWMD to revise 40E-61

# Post-2016 Coordinating Agency Activities

## Northern Everglades and Estuaries Protection Program (F.S. 373.4595)

### Lake Okeechobee (LO) Watershed Protection Program

### Caloosahatchee River Estuary and St. Lucie River Watershed Protection Programs

LO Internal Phosphorus Management Program (SFWMD)

Watershed Protection Plans (SFWMD)

Agricultural BMPs (FDACS)

BMAPS (FDEP)

Exotic Species Control Program (Coordinating Agencies)

Research & Monitoring Program (LO: Coordinating Agencies) (Rivers: SFWMD)

Watershed Construction Projects (SFWMD)

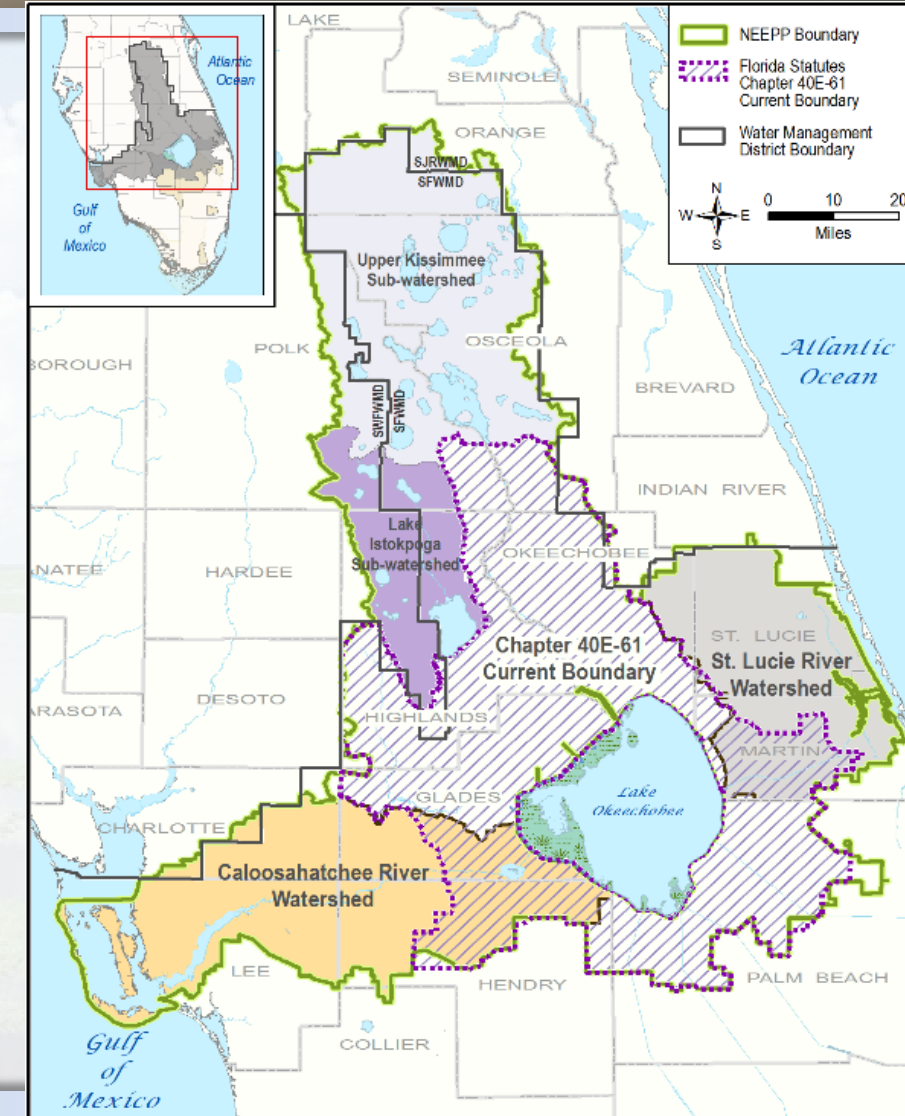
- Water storage projects
- Water treatment projects
- Wetland restoration
- Hydrologic restoration
- **Chapter 40E-61, FAC**



# Northern Everglades Statutory Direction

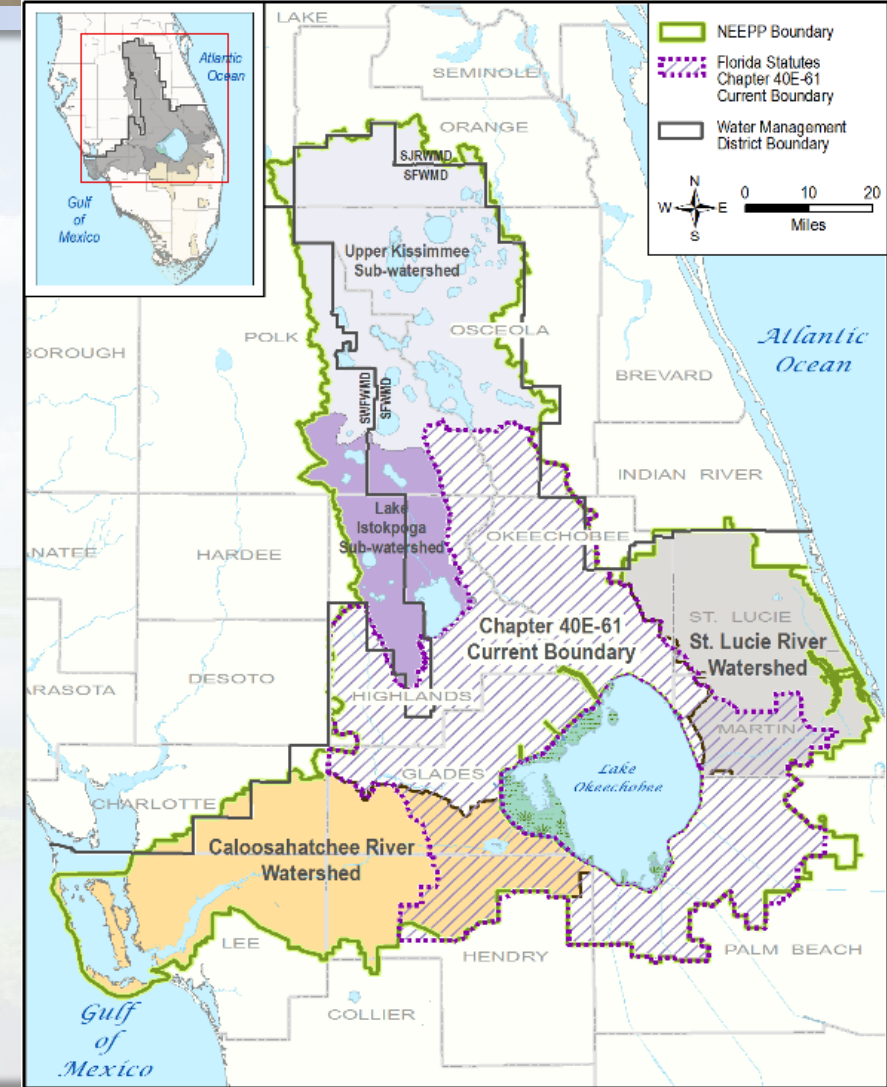
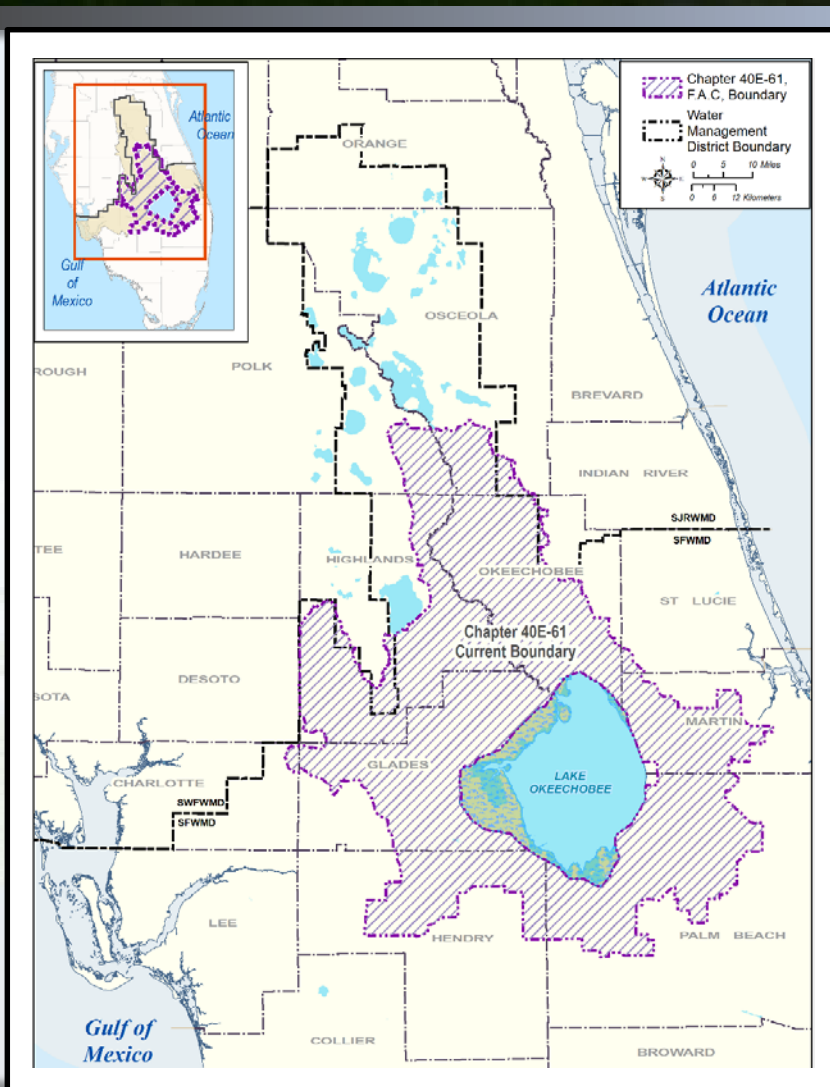
## 2016 Northern Everglades and Estuaries Protection Program (NEEPP) requires:

- Revise 40E-61, F.A.C., for Lake Okeechobee Watershed
- New rules for Caloosahatchee and St. Lucie River Watersheds
- Consistency with NEEPP and 403.067, F.S.
- A monitoring program for Non-point Source dischargers required to monitor
- Research and Water Quality Monitoring Program





# Existing 40E-61 and NEEPP Boundaries



# Considerations for Rulemaking

- Statutory Directives
- Water Quality Conditions
- Other Regulatory Programs
- Conceptual Framework
- Stakeholder Input



Agriculture



Urban

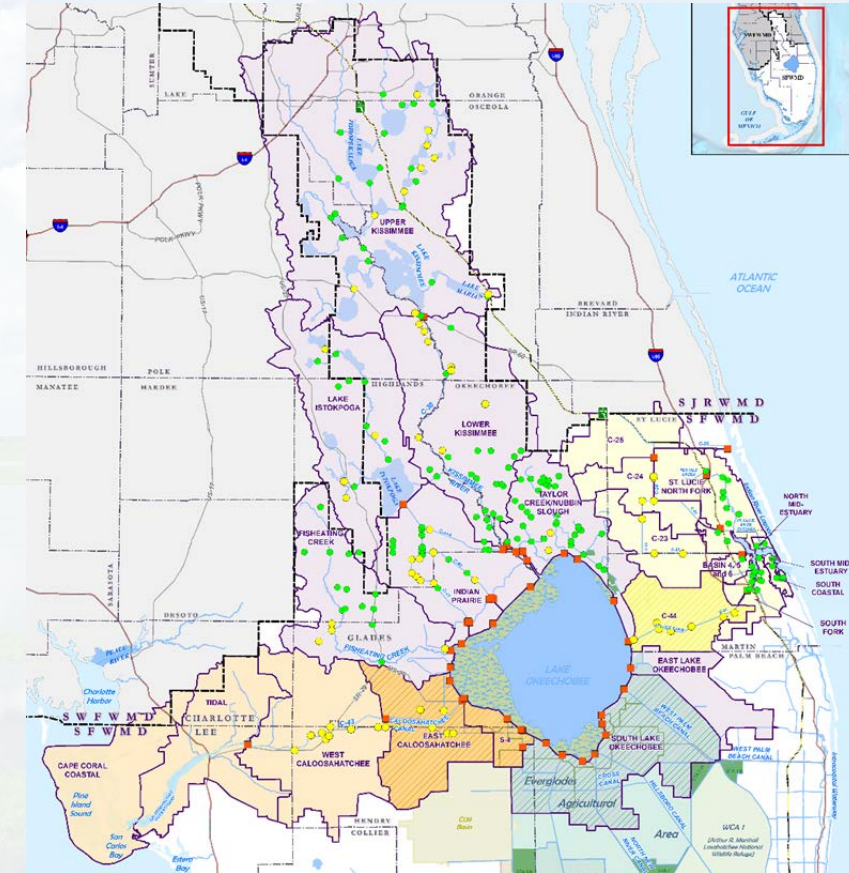


Public Meetings with Stakeholders



# 40E-61 Draft Concept

- Monitoring Component consisting of;
  - Provide requirements for monitoring in lieu of BMPs
  - Using monitoring network to
    - Represent nutrient levels in contributing areas
    - Support research
    - Evaluate effectiveness of nutrient reduction technologies and projects
    - Inform decisions on actions
- Establish methods to evaluate and assess data to track progress
- Define conditions for taking action and identify actions





# Seeking Feedback and Input to Draft Rules

Seeking Input for Rules that will:

- Assist in Achieving Restoration Goals
- Be Within Statutory Authorities
- Be Reasonable
- Be Implementable



# Draft Concept - Monitoring Component

## Monitoring in Lieu of Implementing BMPs

- Consistent with FDEP Statewide Requirements
- Should specification be considered?
  - Nutrients
  - Sample frequency
  - Flow monitoring
- What is Practical?
- Other Components?

CHAPTER 62-307 BEST MANAGEMENT PRACTICES WATER QUALITY MONITORING	
62-307.100	Definitions
62-307.200	Water Quality Monitoring In Lieu of Implementing BMPs
62-307.300	Implementation Procedures
<b>62-307.100 Definitions.</b>	
As used in this chapter:	
(1) "Department" means the Department of Environmental Protection.	
(2) "Nonpoint source discharger" means either a) the person responsible for the nonpoint source discharge, or b) the owner of the property from which the nonpoint source discharge originates.	
(3) "BMAP" means an adopted basin management action plan (BMAP) that implements a total maximum daily load (TMDL).	
(4) "Permit" has the same meaning as provided in section 403.031, F.S.	
(5) "Sampling and analysis plan" means the monitoring plan required by this chapter.	
<i>Repealing authority: 403.067 F.S. Law implemented: 403.067 F.S. History—New 7-1-18.</i>	
<b>62-307.200 Water Quality Monitoring In Lieu of Implementing BMPs.</b>	
(1) A nonpoint source discharger, whose discharge is located within a BMAP, must either submit a notice of intent to implement appropriate BMPs adopted in accordance with section 403.067(7)(c), F.S., or conduct water quality monitoring to demonstrate compliance with the water quality criteria for the parameters addressed by the BMAP.	
(2) Within 180 days of the initial adoption of a BMAP or the effective date of this rule, whichever is later, a nonpoint source discharger choosing to conduct water quality monitoring in lieu of implementing BMPs pursuant to subsection (1), shall submit for Department approval a water quality sampling and analysis plan that meets all the requirements of this rule and chapter 62-160, F.A.C.	
(3) A sampling and analysis plan shall include the following components:	
(a) A description of the physical and hydrogeological characteristics of the property and the surrounding area, including, as applicable:	
1. The direction and rate of surface water and groundwater flow;	
2. Vertical permeability, thickness, competence, and extent of any confining beds;	
3. Topography, soil information, and surface water drainage systems surrounding the site;	
4. Identification and location of wells, surface water discharge points, and surface water intakes within 500 feet of the property and within the property boundary; and	
5. The locations of all surface waters and their classifications including springs within one quarter mile of the property, and onsite septic systems with depths exceeding the seasonal high water table or that are perched.	
(b) Proposed methodology used to determine compliance with water quality criteria and any deviations in the quality of the receiving water in downstream monitoring locations.	
(c) Proposed locations of monitoring used to determine compliance;	
(d) Proposed water quality indicators (chemical, physical, and biological);	
(e) Proposed sampling methods and frequency;	
(f) Proposed data management and assessment; and	
(g) Proposed reporting schedule and deliverables.	
(4) Amendments or changes to sampling and analysis plans must be approved by the Department.	
(5) Sampling and analysis plans must be amended or changed if any of the following occurs:	
(a) New analytical methods, sampling or other field procedures, or instruments or equipment that affect data quality become available;	
(b) The sampling or analysis contractor is changed;	
(c) The scope of work is substantially altered; or	
(d) Other changes are made that affect the data quality objectives of the sampling and analysis plan.	

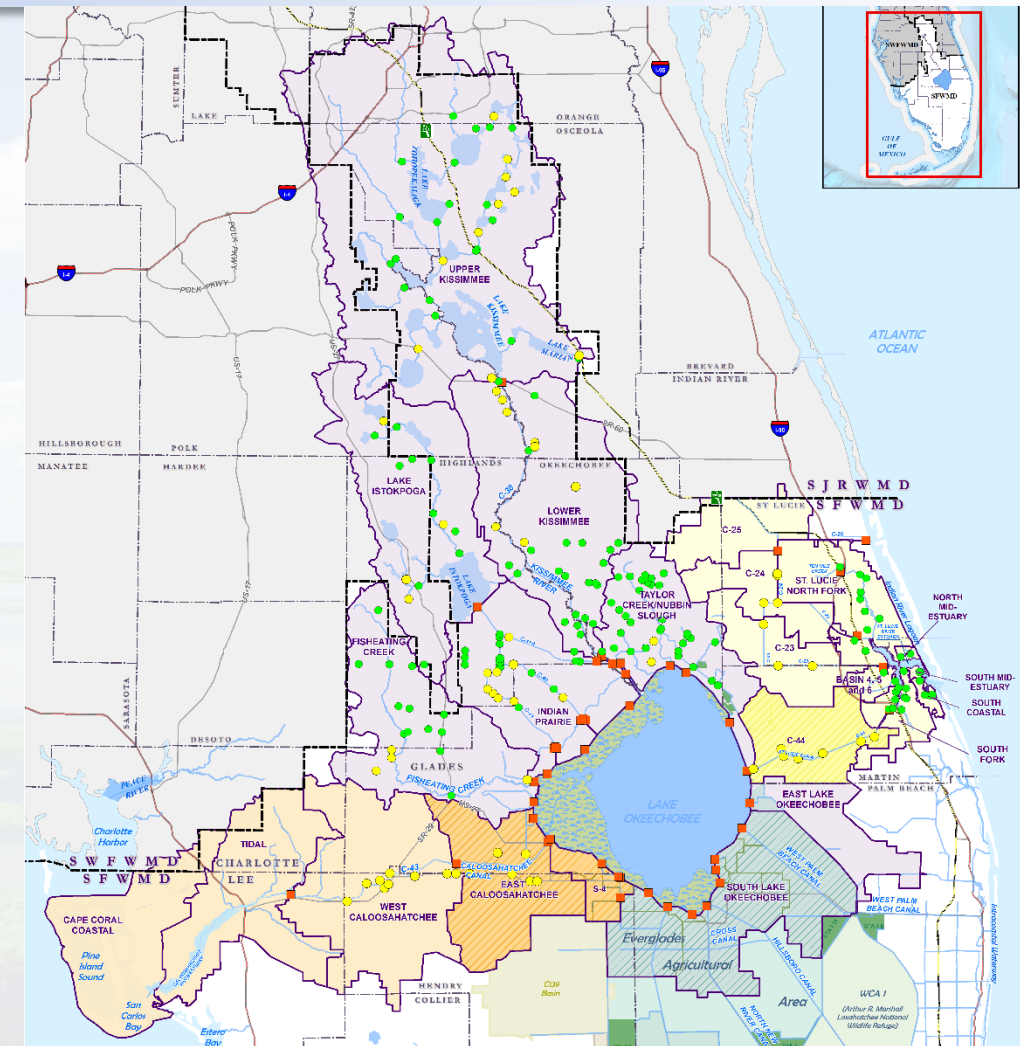
FDEP Statewide Monitoring Rule

# Draft Concept - Monitoring Component

## Establish Monitoring Network

- Review Existing and Proposed Network
- Are Other Types of Monitoring Needed?
- Other Components?

Elements	Basin Level	Upstream Level
# of sites	47	211
Frequency	Bi-weekly or Weekly	Biweekly
Monitored parameters	TP, OPO4, TN, NH4, NOx, pH, Temperature, Dissolved Oxygen, Conductivity	

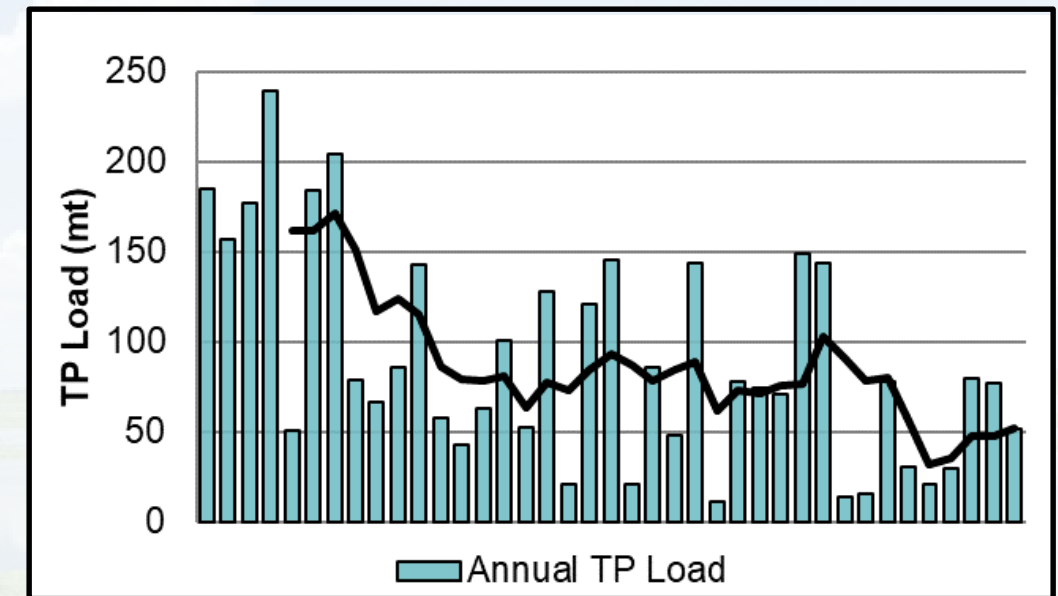




# Draft Concept - Monitoring Assessment

## Ideas to Consider for Data Assessment

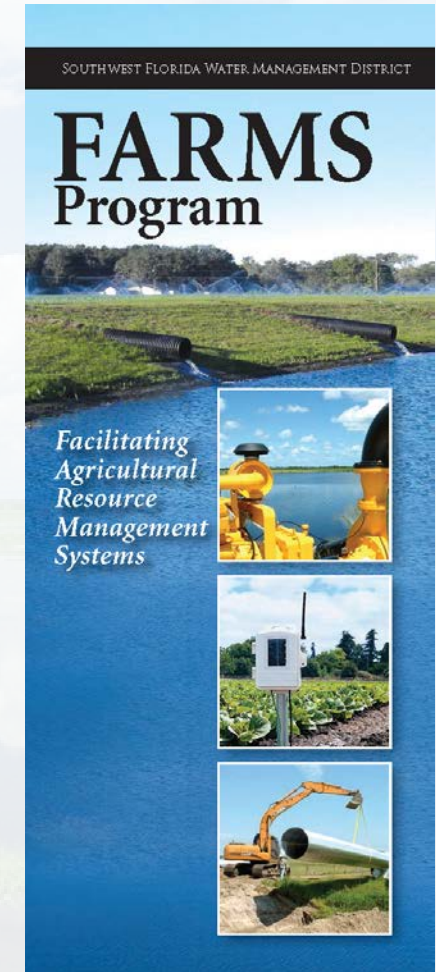
- Identify Existing Long-Term Historic Nutrient Trends
- Identify Statistical Tests
- Combination of Factors and Context
- Other ideas?



# Draft Concept - Actions

## Examples of Types of Actions

- Communicate Findings to FDEP and FDACS for BMP Re-evaluation
- Conduct Additional Water Quality Investigations
- Implement Additional Regional Projects
- Improved Water Management Systems
- Other ideas?



# Rulemaking Timeline

Process	Conceptual Schedule
Workshops for public participation	Without new text: November 2019 - February 2020
	With new text: January 2020 - September 2020
Updates to Governing Board on workshops	March 2020 October 2020
Governing Board approval/Publish Notice of Proposed Rule/Publish Statement of Economic Regulatory Costs/File Proposed Rule with JAPC	November 2020
File proposed rule with the Legislature for Ratification	December 2020
Legislative Ratification	April 2021



# Public Workshop #1 Schedule

City	Date	Time	Address
Okeechobee	Nov. 5, 2019	10:00 AM	Indian River State College Dixon-Hendry Campus Williamson Conference & Education Center Building C - Room 112 2229 NW 9th Avenue Okeechobee, FL 34972
Ft. Myers	Nov. 15, 2019	10:00 AM	Fort Myers Regional Library South Building Meeting Room AB 1651 Lee Street Ft. Myers, FL 33901
Kissimmee	Nov. 19, 2019	10:30 AM	UF/IFAS Extension Osceola County 1921 Kissimmee Valley Lane Kissimmee, FL 34744-6107
Stuart	Nov. 19, 2019	4:00 PM	Indian River State College Chastain Campus Clare & Gladys Wolf High-Technology Center 2400 S.E. Salerno Road Stuart, FL 34997
West Palm Beach	Nov. 20, 2019*	10:00 AM	South Florida Water Management District B1 Auditorium 3301 Gun Club Road West Palm Beach, FL 33406

\*Also broadcast online at [SFWMD.gov](http://SFWMD.gov) and [YouTube.com/SFWMDTV](http://YouTube.com/SFWMDTV)

# How Can Stakeholders stay engaged?

➤ Workshop participation

➤ Website



Link <https://www.sfwmd.gov/doing-business-with-us/rules>

# Questions and Comments

Please remember to state your name and who you are representing for the record before providing your comment or question.

