

CHAPTER 2021-153

House Bill No. 1309

An act relating to environmental regulation; ratifying specified rules relating to biosolids for the sole and exclusive purpose of satisfying any condition on effectiveness pursuant to s. 120.541(3), F.S., which requires ratification of any rule exceeding the specified thresholds for likely adverse impact or increase in regulatory costs; exempting the rules from certain review and approval by the Environmental Regulation Commission; providing applicability; ratifying specified rules relating to the Central Florida Water Initiative, for the sole and exclusive purpose of satisfying any condition on effectiveness pursuant to s. 120.541(3), F.S., which requires ratification of any rule exceeding any specified thresholds for likely adverse impact or increase in regulatory costs; providing applicability; amending s. 373.0465, F.S.; requiring the department, in consultation with specified water management districts, to adopt rules that include an annual drought allocation for supplemental irrigation for agricultural uses and a process for examining an agricultural user's supplemental irrigation needs as weighed against certain factors; providing for the applicability of specified rules to areas with certain existing recovery strategies; creating s. 373.0466, F.S.; establishing, subject to appropriation, a Central Florida Water Initiative Grant Program within the department; requiring the department, in cooperation with the relevant water management districts, to distribute appropriated funds for certain projects that benefit the Central Florida Water Initiative Area; amending s. 403.8532, F.S.; requiring the department to give funding priority to certain projects relating to the Central Florida Water Initiative; providing a declaration of important state interest; providing an effective date.

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

Section 1. (1) The following rules are ratified for the sole and exclusive purpose of satisfying any condition on the effectiveness imposed under s. 120.541(3), Florida Statutes: Rules 62-640.100, 62-640.200, 62-640.210, 62-640.300, 62-640.400, 62-640.500, 62-640.600, 62-640.650, 62-640.700, 62-640.800, 62-640.850, 62-640.880, Florida Administrative Code, entitled Scope, Intent, Purpose, and Applicability; Definitions; General Technical Guidance and Forms; General Requirements; Prohibitions; Nutrient Management Plan (NMP); Pathogen Reduction and Vector Attraction Reduction; Monitoring, Record Keeping, Reporting, and Notification; Requirements for Land Application of Class AA, A, and B Biosolids; Additional Requirements for Land Application at Reclamation Sites; Distribution and Marketing of Class AA Biosolids; and Additional Requirements Related to Biosolids Treatment Facilities, respectively, as published on December 3, 2020, in the Florida Administrative Register, Vol. 46, No. 234, pages 5281-5297.

(2) The rules in subsection (1) proposed by the Department of Environmental Protection pursuant to s. 403.0855(2), Florida Statutes, are exempt from review and approval by the Environmental Regulation Commission under s. 403.804(1), Florida Statutes.

(3) This act serves no other purpose and shall not be codified in the Florida Statutes. After this act becomes law, its enactment and effective dates shall be noted in the Florida Administrative Code, the Florida Administrative Register, or both, as appropriate. This act does not alter rulemaking authority delegated by prior law, does not constitute legislative preemption of or exception to any provision of law governing adoption or enforcement of the rule cited, and is intended to preserve the status of any cited rule as a rule under chapter 120, Florida Statutes. This act does not cure any rulemaking defect or preempt any challenge based on a lack of authority or a violation of the legal requirements governing the adoption of any rule cited.

Section 2. (1) The following rule is ratified for the sole and exclusive purpose of satisfying any condition on effectiveness imposed under s. 120.541(3), Florida Statutes: Rules 62-41.300, 62-41.301, 62-41.302, 62-41.303, 62-41.304, and 62-41.305, Florida Administrative Code, titled “Central Florida Water Initiative Area,” as published on November 19, 2020, in the Florida Administrative Register, Vol. 46, No. 226, pages 5019-5025; February 9, 2021, in the Florida Administrative Register, Vol. 47, No. 26, pages 733-734; and March 26, 2021, in the Florida Administrative Register, Vol. 47, No. 59, pages 1506-1507.

(2) This section serves no other purpose and shall not be codified in the Florida Statutes. After this act becomes a law, its enactment and effective dates shall be noted in the Florida Administrative Code or the Florida Administrative Register, or both, as appropriate. This section does not constitute legislative preemption of or exception to any provision of law governing adoption or enforcement of the rule cited, and is intended to preserve the status of any cited rule as a rule under chapter 120, Florida Statutes. This section does not cure any rulemaking defect or preempt any challenge based on a violation of the legal requirements governing the adoption of any rule cited.

Section 3. Paragraph (d) of subsection (2) of section 373.0465, Florida Statutes, is amended to read:

373.0465 Central Florida Water Initiative.—

(2)

(d) The department, in consultation with the St. Johns River Water Management District, the South Florida Water Management District, the Southwest Florida Water Management District, and the Department of Agriculture and Consumer Services, shall adopt uniform rules for application within the Central Florida Water Initiative Area that include:

1. A single, uniform definition of the term “harmful to the water resources” consistent with the term’s usage in s. 373.219;
2. A single method for calculating residential per capita water use;
3. A single process for permit reviews;
4. A single, consistent process, as appropriate, to set minimum flows and minimum water levels and water reservations;
5. A goal for residential per capita water use for each consumptive use permit; and
6. An annual conservation goal for each consumptive use permit consistent with the regional water supply plan;
7. A drought allocation for supplemental irrigation for agricultural uses which is based on a 2-in-10-year rainfall condition or, if the applicant so requests, is based on a 5-in-10-year rainfall condition alone or combined with the 2-in-10-year condition. The applicable water management district may also condition, for information only purposes, consumptive use permits to advise permittees that their annual use of water should be less than the drought allocation in all years except for the drought condition that is the basis for the allocation or a more severe drought; and

8. A process for the applicable water management district to annually examine an agricultural user’s 5-year moving average supplemental irrigation water use against the annual supplemental irrigation needs in the 5-in-10-year rainfall condition beginning no earlier than 5 years following the effective date of the rules adopted under this section. If this annual examination indicates that the agricultural user’s 5-year moving average use exceeds that needed in such rainfall condition for reasons other than prolonged periods of below average rainfall, the water management district may modify the agricultural user’s permit to include an annual supplemental irrigation allocation based on both the amount of supplemental irrigation required during a 2-in-10-year rainfall condition and the amount of supplemental irrigation required during a 5-in-10-year rainfall condition as provided in rules adopted pursuant to this section. In such case, the supplemental irrigation allocation based on the 5-in-10-year rainfall condition shall be valid for only 5 years unless the agricultural user’s 5-year moving average use continues to exceed the amount of supplemental irrigation needed during a 5-in-10-year rainfall condition for reasons other than prolonged periods of drought.

Subparagraphs 7. and 8. may not be construed to limit the ability of the department or a water management district to establish different supplemental irrigation requirements as part of an existing or future recovery or prevention strategy adopted pursuant to s. 373.0363, s. 373.042, or s. 373.0421. The uniform rules must include existing recovery strategies within the Central Florida Water Initiative Area adopted before July 1,

2016. The department may grant variances to the uniform rules if there are unique circumstances or hydrogeological factors that make application of the uniform rules unrealistic or impractical.

Section 4. Section 373.0466, Florida Statutes, is created to read:

373.0466 Central Florida Water Initiative Grant Program.—Subject to appropriation, a grant program for the Central Florida Water Initiative is established within the Department of Environmental Protection.

(1) The department, in cooperation with the relevant water management districts, shall provide grants for projects that benefit the Central Florida Water Initiative Area and that promote alternative water supplies and protect groundwater resources.

(2) In allocating such funds, priority must be given to projects that use reclaimed water, create new surface water storage, enhance natural systems, recharge groundwater, optimize beneficial uses of water, expand water conservation programs, or are able to demonstrate that a significant financial hardship exists as a result of complying with rules applicable to the Central Florida Water Initiative Area.

Section 5. Paragraph (a) of subsection (9) of section 403.8532, Florida Statutes, is amended to read:

403.8532 Drinking water state revolving loan fund; use; rules.—

(9) The department may adopt rules regarding the procedural and contractual relationship between the department and the corporation under s. 403.1837 and to carry out the purposes of this section and the federal Safe Drinking Water Act, as amended. Such rules shall:

(a) Set forth a priority system for loans based on public health considerations, compliance with state and federal requirements relating to public drinking water systems, and affordability. The priority system must shall give special consideration to:

1. Projects that provide for the development of alternative drinking water supply projects and management techniques in areas where existing source waters are limited or threatened by saltwater intrusion, excessive drawdowns, contamination, or other problems;

2. Projects that provide for a dependable, sustainable supply of drinking water and that are not otherwise financially feasible; ~~and~~

3. Projects that contribute to the sustainability of regional water sources; ~~and~~

4. Projects that implement water supply plans and develop water sources as an alternative to continued reliance on the Floridan Aquifer, pursuant to s. 373.0465.

Section 6. The Legislature determines and declares that this act fulfills an important state interest.

Section 7. This act shall take effect upon becoming a law.

Approved by the Governor June 21, 2021.

Filed in Office Secretary of State June 21, 2021.