



CLEAN WATERWAYS ACT STORMWATER RULE

Division of Water Resource Management
Stormwater and Technical Services Program
Florida Department of Environmental Protection

Introductory Webinar| July 11 and 23, 2024



AGENDA

- Environmental Resource Permitting State Stormwater rule.
- Implementation timeline.
- Changes to Chapter 62-330, Florida Administrative Code (F.A.C.).
- Changes to Applicant's Handbook (AH), Volume I:
 - Section 2 Definitions.
 - Section 3 Grandfathering.
 - Section 8 Performance Criteria.
 - Section 9 Calculations.
 - Section 12 Operation and Maintenance (O&M) Inspections.
- New forms.
- Implementation.





SENATE BILL (SB) 712

CLEAN WATERWAYS ACT

- Senate bill (SB) 712, also known as Florida's Clean Waterways Act (Chapter 2020-150, Laws of Florida [L.O.F.]), directed the Florida Department of Environmental Protection (DEP) to adopt new rules to support the goal of improving water quality in Florida, including updating the stormwater design and operation regulations.
- Environmental Resource Permit (ERP) applicants for stormwater management systems must abide by current provisions under Chapter 62-330, F.A.C.
- The final draft rule package was filed for adoption with the Department of State on April 28, 2023.
- These rules have been ratified by the Florida Legislature with amendments to the selected rule provisions under SB 7040.



CHANGES TO CHAPTER 62-330, F.A.C.

- Rule revisions focus on stormwater management system design and operational requirements that would be permitted primarily as individual ERP projects.
- Implementation requirements for rule revisions are primarily incorporated in ERP Applicant's Handbook, Volume I, which was revised and incorporated by reference in Rule 62-330.010, F.A.C.
- Supporting requirements are found in additional sections of Chapter 62-330, F.A.C., forms and the Water Management Districts' (WMDs) AH, Volume IIs.
- Update of the Florida Stormwater Erosion and Sedimentation Control Inspector's Manual Reference.
- Calculation of total nitrogen (TN) and total phosphorus (TP) Event Mean Concentration (EMC) values based on AH ,Volume I or accepted local, regional or governmental studies.
- Rule revisions for new permitting requirements, specifically for dam systems, are addressed in the adopted rules.



CHANGES TO CHAPTER 62-330, F.A.C.

DAMS

- Dam Systems criteria:
 - Provide basic dam safety information in application.
 - Establish a Downstream Hazard Potential for new projects.
 - Require Emergency Action Plans for High Hazard Potential and Significant Hazard Potential dams.
 - Provide Condition Assessment Reports for High Hazard Potential and Significant Hazard Potential dams.
- Applies to all permits for construction of a new dam or major modification of an existing permit for a dam after the effective date.





IMPLEMENTATION TIMELINE SUMMARY

Section number, AH Volume I	When it is effective *	Who is affected **
8.3 – Performance criteria.	Effective date + 18 months. ***	All general and individual permits and major modifications of existing permits.
8.4.5 – Dam criteria.	Effective date.	Dam owners.
12.3.5 – Operation & Maintenance (O&M) Cost estimate.	Effective date (submitted at the time of application).	Everyone.
12.4 – O&M Plan.	Effective date (submitted at the time of application).	Everyone.
12.5 – Inspection Requirements and Checklist.	Effective date (submitted at the time of application).	Everyone except Municipal Separate Storm Sewer System (MS4) Entities, and certain activities and BMPs regulated by SFWMD or DACS.****
12.5(c) – {Qualified Inspector}.	{Effective date + 12 months}.	

Notes:

* New stormwater rule revisions will become effective upon the ratification bill (SB7040) becoming law, pursuant to s.120.54(3)(e)6, F.S.

** All DEP and WMD staff working in ERP program, including both permitting and compliance staff would be provided overview and topic-specific training.

*** New Conceptual Approval Permits (issued after the rule effective date), will have to reflect the provisions for grandfathering of performance criteria, based on the criteria that would apply for the time of application completeness for the individual construction phase permit.

**** For BMPs subject to Chapter 40E-63, F.A.C., for the South Florida Water Management District (SFWMD) and the Florida Department of Agriculture and Consumer Services (DACs) under Title 5M, F.A.C.



ERP STRUCTURE

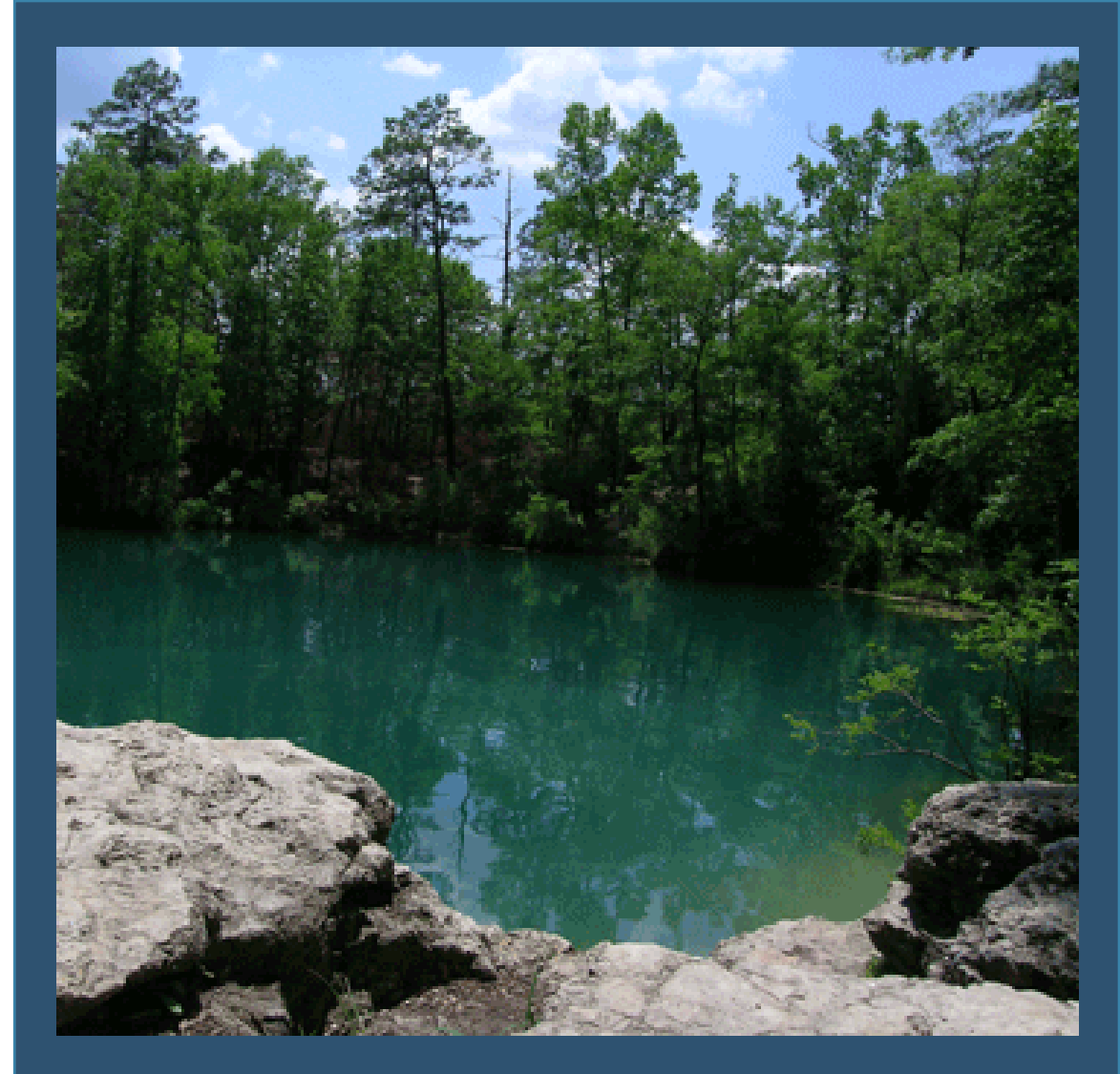
- Chapter 62-330, F.A.C.:
 - Rules incorporating the ERP AHs.
 - Changes made to the AH are reflected in the rule where applicable.
 - Conditions for issuance.
- ERP AH, Volume I:
 - Where the bulk of rule change occurred.
 - Contains permit thresholds and exemptions.
 - Design performance standards.
 - Erosions and sediment control practices.
 - Operations and maintenance requirements.
 - Wetland mitigation.
- ERP AH, Volume II:
 - Five separate handbooks; one for each of the WMDs.
 - Contain attenuation and Special Basin Criteria.



SECTION 2

DEFINITIONS

- Highlighted definition changes:
 - Pre-development and post-development.
 - BMPs for erosion and sediment control and BMPs for stormwater treatment.
 - Dam, levee, levee system.
 - Directly connected impervious area.
 - Redevelopment.
 - Hydrologic unit code.
 - Impaired water.





SECTION 3

GRANDFATHERING

- Grandfathering.
 - Existing permits will not be affected unless they have a major modification.
 - ERP applications that will not be required to meet the new rule requirements:
 - Projects with complete application within 18 months from the rule effective date.
 - Public transportation projects which have completed their Project Development and Environment Study before rule implementation plus two years.
 - Conceptual approval permits issued before the rule effective date.
 - Minor modifications or modifications that will solely bring the previously permitted system into compliance with its existing permit.
- Stormwater management and design plans approved before Jan. 1, 2024:
 - Submitted to local government agency as part of a local building permit or as part of a site plan or subdivision plat approval.
 - Submitted to local government agency as part of a regional stormwater management system.
 - With a binding ecosystem management agreement.
 - For a valid development of regional impact.
 - For a planned unit development final development plan.



SECTION 8

PERFORMANCE STANDARDS

- Additional permitting requirements:
 - Modeling or calculations required rather than presumptive BMP design.
 - Minimum stormwater treatment performance standards for design.
 - Based on a Post \leq Pre analysis or a nutrient reduction efficiency, whichever is more protective.
 - Treatment designs would provide 80% reductions of TP and a 55% reduction of TN.
 - Additional removal requirements of 90% for TP and 80% for TN for projects discharging within Outstanding Florida Waters (OFW).
 - Additional provisions for projects discharging to impaired waters to ensure consistent procedures for demonstrating that a project will provide a net improvement to receiving waters.
- Redevelopment Section 8.3.5:
 - Adopted provisions would allow a reduced TN performance standard of 45% (60% for projects discharging within OFW) under limited conditions which are expected to support redevelopment in areas where there are likely little or no historical stormwater treatment.



SECTION 8

EXEMPTION FROM MINIMUM PERFORMANCE STANDARDS



- Section 8.3.6 - For Redevelopment Only:
 - Under 1 Acre.
 - Result in reduced impervious surface or reduced pollutant loading.
 - Requests pursuant to Section 3.2.7.
 - Allows reduced performance standards in these areas.
- Applications deemed complete within 18 months of the effective date.



TREATMENT STANDARDS

SUMMARY OF SECTION 8.3, AH VOLUME I

Project Scenario	TP	TN	Additional Criteria
All sites	80	55	Or post ≤ pre
OFW	90	80	Or post ≤ pre
Impaired water	80	80	And post ≤ pre plus net improvement
Impaired + OFW	95	95	And post ≤ pre plus net improvement
Redevelopment	80	45	N/A
Redevelopment + OFW	90	60	N/A
Redevelopment + impaired	80	45	And net improvement for the pollutant of concern



SECTION 9

CALCULATING AND MEETING PERCENT REDUCTIONS

- Calculations:
 - Modeling or calculations outlined in new section of Applicant's Handbook, Volume I.
 - Based on land use of the site, hydrology and EMC value:
 - Calculate the predevelopment loading and the post development loading before treatment.
 - Use this and the site location to determine which performance criteria to follow.
 - Updated average annual rainfall data.
- BMPs:
 - Traditional BMPs listed in Appendix O.
 - BMP treatment train.
 - Low impact design and green stormwater infrastructure.
 - Alternative designs.
- Off-site treatment:
 - Over treatment.
 - Off-site compensation.
 - Regional stormwater systems.



SECTION 12

OPERATION AND MAINTENANCE

- Increased operation and maintenance requirements:
 - Strengthened training, documentation and inspection frequency requirements help ensure that new stormwater management systems will be properly operated and maintained over time.
 - New permitting requirements to ensure that entities will be capable of performing operation and maintenance over time.
 - Required for applications submitted after effective date.
- Detailed O&M Plan:
 - At time of application develop O&M plan for BMPs used on site.
 - Provide this O&M to all subsequent permit holders and O&M entities.
- Cost estimate:
 - Provide annual cost for maintaining stormwater system for its operation life and the replacement cost.



SECTION 12

INSPECTIONS

- Inspections to be done regularly be a Qualified Inspector:
 - Qualified inspector can be a Professional Engineer (PE), under supervision of a PE, or have specific training in Stormwater Inspections.
 - Will be required for inspections conducted after 12 months from the effective date.
 - Required at interval indicated by the permit based on the BMP's complexity.
 - Projects under Chapter 40E-63, F.A.C., and DACS under Title 5M, F.A.C., are not subject to duplicative inspection requirements or the qualified inspector requirement.
- Options for municipal separate storm sewer systems:
 - O&M: "... where the operation and maintenance entity is or will be a Municipal Separate Storm Sewer System permittee subject to Chapter 62-624, F.A.C., (MS4 Entity) are not required to submit a separate O&M plan under this section."
 - Inspections: "An MS4 Entity shall conduct and report inspections ... in accordance with their MS4 permit requirements and any associated Standard Operating Procedures (SOPs) required pursuant to Chapter 62-624, F.A.C."



SUMMARY

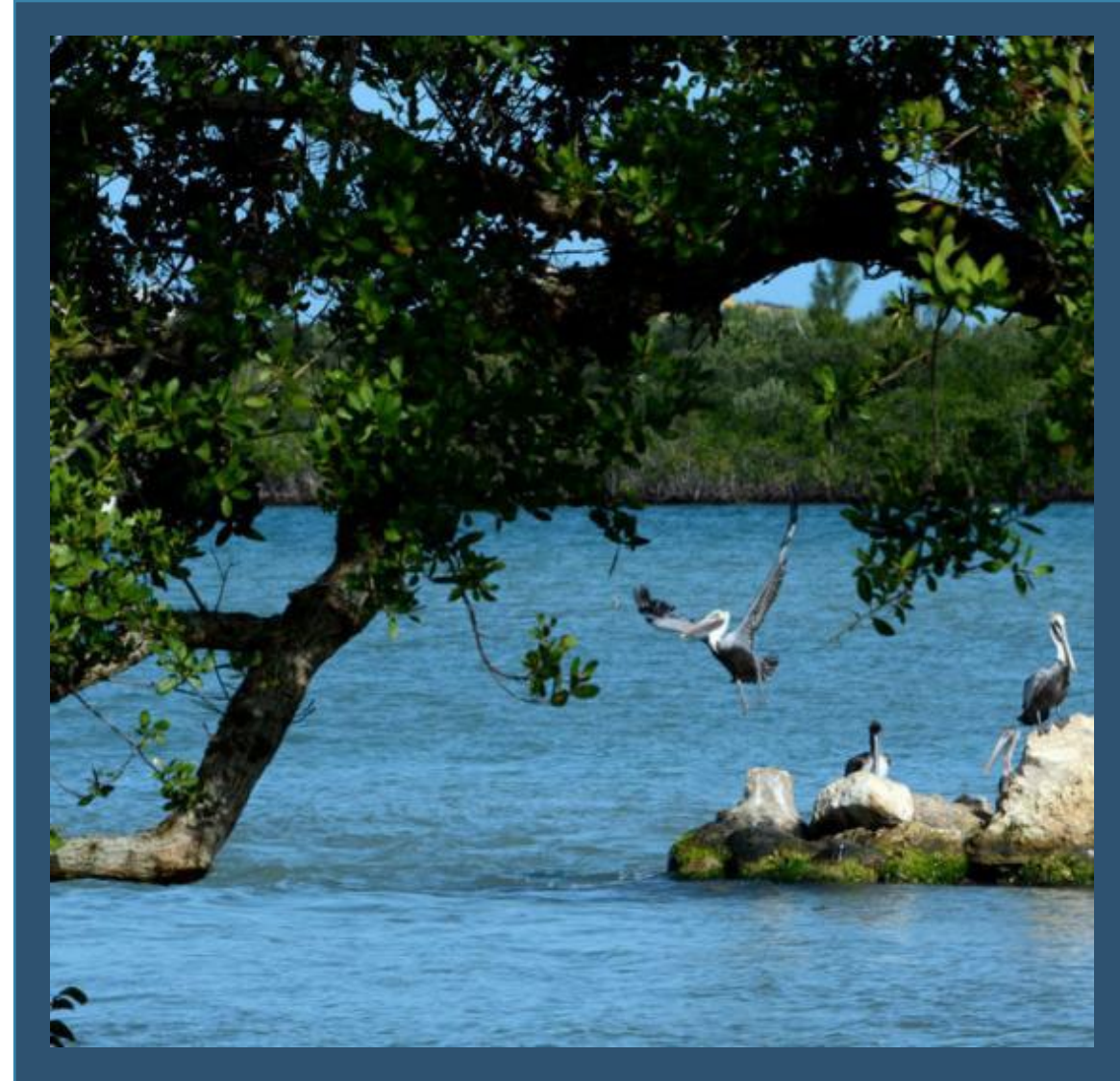
- Provides minimum stormwater treatment performance criteria.
- Increases treatment and removal of nutrients (TP and TN).
- Establishes updated stormwater BMPs that more accurately reflect latest scientific information on their performance.
- Strengthens Florida's overall water resource protections.
- Ensures consistent application of net improvement performance standards.
- Strengthens requirements for operation and maintenance of stormwater systems.
- Improves permitting requirements and information for dam systems.



NEW FORMS NEEDED FOR ERP APPLICATIONS

EFFECTIVE IMMEDIATELY

- Form 62-330.311(2), Transfer to Operation and Maintenance Entity.
- Form 62-330.301(25), Dam System Information.
- Form 62-330.311(4), Condition Assessment Report for Florida Dams.
- Form 62-330.301(26), Financial Capability Certification.
- Form 62-330.311(1), Operation and Maintenance Certification.
- Form 62-330.311(3), Inspection Checklist.





IMPLEMENTATION TIMELINE SUMMARY

EFFECTIVE IMMEDIATELY

- Unless otherwise grandfathered, some of the requirements to be included upon effective date:
 - Dam System Criteria Section 8.4.5:
 - Form 62-330.301(25).
 - Form 62-330.311(4).
 - Cost Estimate Section 12.3.5:
 - Form 62-330.301(26).
 - O&M Plan Section 12.4:
 - Form 62-330.311(1).
 - Performance criteria for Conceptual Permits.





IMPLEMENTATION TIMELINE SUMMARY

DELAYED EFFECTIVE DATES



- Permits issued after the effective date will be required to utilize a qualified inspector for all required inspections after plus 12 months from the effective date:
 - Section 12.5, Form 62-330.311(3).
 - Excludes MS4 Entities and certain activities and BMPs regulated by SFWMD or DACS.
- Applications deemed complete after the effective date plus 18 months will be required to meet the Stormwater Quality Nutrient Permitting Requirements.
 - Performance Criteria Section 8.3.



THANK YOU

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