



NEW STATEWIDE STORMWATER RULES

Borja Crane-Amores
Division of Water Resource Management
Stormwater Technical Services Program
Florida Department of Environmental Protection

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STORMWATER RULE BACKGROUND



The Florida Department of Environmental Protection (DEP) is responsible for coordinating the statewide stormwater management program by establishing goals, objectives and guidance for the development and implementation of stormwater management rules and programs by DEP, the water management districts (WMDs) and delegated local governments.



STORMWATER RULE BACKGROUND (2)



- Excess nutrients currently represent one of the leading causes of impairment in our surface waters.
- Therefore, it is critically important that stormwater design criteria and operation requirements provide for effective nutrient removal.
- Statewide regulations should provide consistent design criteria throughout the state.



CLEAN WATERWAYS ACT RULE DEVELOPMENT

- The goal of this rulemaking is to create more protective and consistent language for stormwater system permitting across the state using the most recent scientific information available.
- DEP has initiated rulemaking in accordance with Section 5 of Chapter 2020-150, Laws of Florida (Florida's Clean Waterways Act, or the "CWA"), to update the statewide stormwater design and operation regulations adopted under section 373.4131, F.S.
- Changes will be made to Chapter 62-330, F.A.C., and the Environmental Resource Permit (ERP) Applicant's Handbook Volume I.
- Corresponding updates to the ERP Applicant's Handbook Volume II made by WMDs will also be incorporated by reference.



CWA RULE DEVELOPMENT (2)



- Stormwater Technical Advisory Committee (TAC).
 - The TAC met 13 times in 2020-2021 to receive recommendations and discuss concepts with key stakeholder groups.
 - All TAC information is available on DEP's CWA TAC webpage (<https://floridadep.gov/CWA-TAC>).
- Coordination with the WMDs.
 - Actively coordinating with WMDs to develop draft rule language for public review and feedback.
- Workshops.
 - Educating and coordinating with the public to seek feedback and refine draft rule language.



TAC SUMMARY REPORT



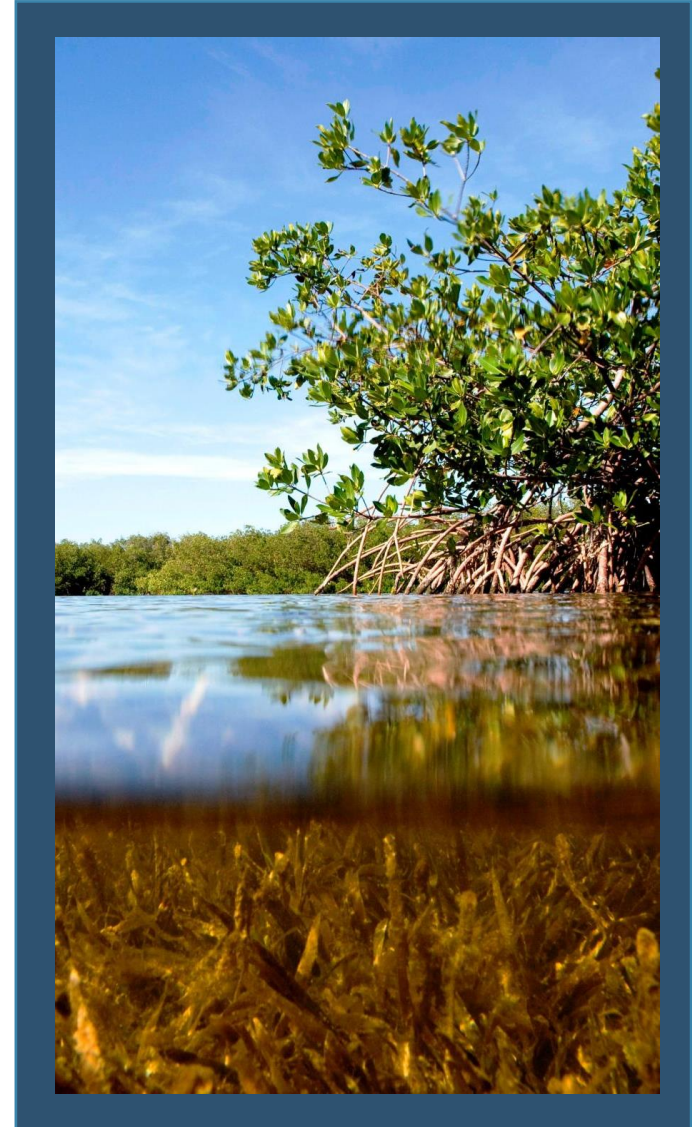
Excerpt list of topics discussed in the TAC summary report.

- Maintenance and operation regulations.
- Post construction inspections.
- Regional systems.
- Defining and creating a consistent use for important terms: predevelopment, redevelopment.
- Updates to best management practice (BMP) design criteria.
- Structure of a BMP technology repository.



RULEMAKING WORKSHOPS

- Rule development workshop #1 was held May 18, 2022.
 - Section 2. Definitions and Terms.
 - Section 8. Performance Standards.
- Rule development workshop #2 was held Aug. 31, 2022.
 - Section 12. Operation and Maintenance Requirements.
- Rule development workshop #3 was held for Nov. 3, 2022.
 - Section 9. Stormwater Quality Treatment Requirements.
- All workshop information, including meeting recordings and presentations, is available on DEP's CWA Rulemaking Workshops webpage (<https://floridadep.gov/water/engineering-hydrology-geology/content/clean-waterways-act-stormwater-rulemaking-workshops>).





SECTION 2

DEFINITIONS AND TERMS

- Terms and definitions are proposed to create more consistency throughout the WMDs and to reflect the direction in Section 5 of the CWA.
- Provide overall clarity by defining terms that are referenced in new performance criteria.





SECTION 8

PERFORMANCE CRITERIA

Section updates the performance criteria for all sites.

- Percent reduction is based on the project site's location, in a hydrologic unit code 12 and whether correspondence with an Outstanding Florida Water or impaired water.
- Applicants are required to provide design-based nutrient removal calculations for their system to show it will meet standards.
- Encouraging redevelopment of stormwater treatment systems in areas under three acres that do not currently have treatment.
- Updates to language referencing activities discharging into waters that do not meet standards.”
- Incorporated language from the ERP Applicant's Handbook Volume II for oil and grease control, hazardous or toxic substances and additional language to protect ground water.





SECTION 8

PERFORMANCE CRITERIA (2)

TWO-PRONGED APPROACH

Evaluation of the greater nutrient load reduction criteria.

PERCENT REDUCTION

- **Must achieve 80% or 95% reduction from the post development loading based on where the project is located.**
- Percent reduction would be used for most sites that are non-natural land.
- Percent reduction will usually result in a nutrient loading much less than the average loading on the site at the time of the application.

OR

PRE = POST

- **Post development loading rate equal to the predevelopment loading rate.**
- Pre = post would not result in the greater load reduction in most cases relating to land that has been previously developed.
- Pre = post is most often used when the predevelopment condition is that of natural land.

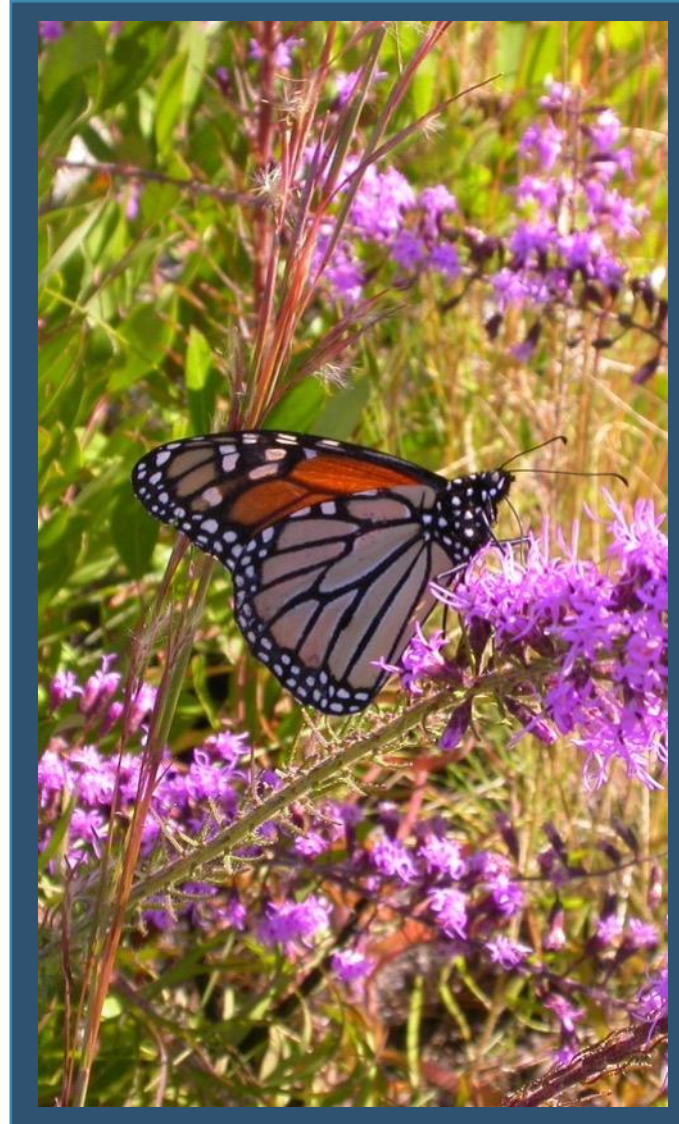


SECTION 9

STORMWATER QUALITY TREATMENT REQUIREMENTS

Section 9 is a new section that had previously been reserved in the ERP Applicant's Handbook Volume I.

- Language based on the 2010 draft stormwater manual, TAC recommendations, county stormwater handbooks and WMD input.
- Establishes the methodology for calculating treatment requirements outlined in Section 8.
- Aids in calculation of treatment removal efficiency.
 - Pre- and post development hydrology.
 - Pre- and post development loading.
 - Required treatment efficiency.
- Updates to the rainfall data that would be used for annual nutrient loading calculation.

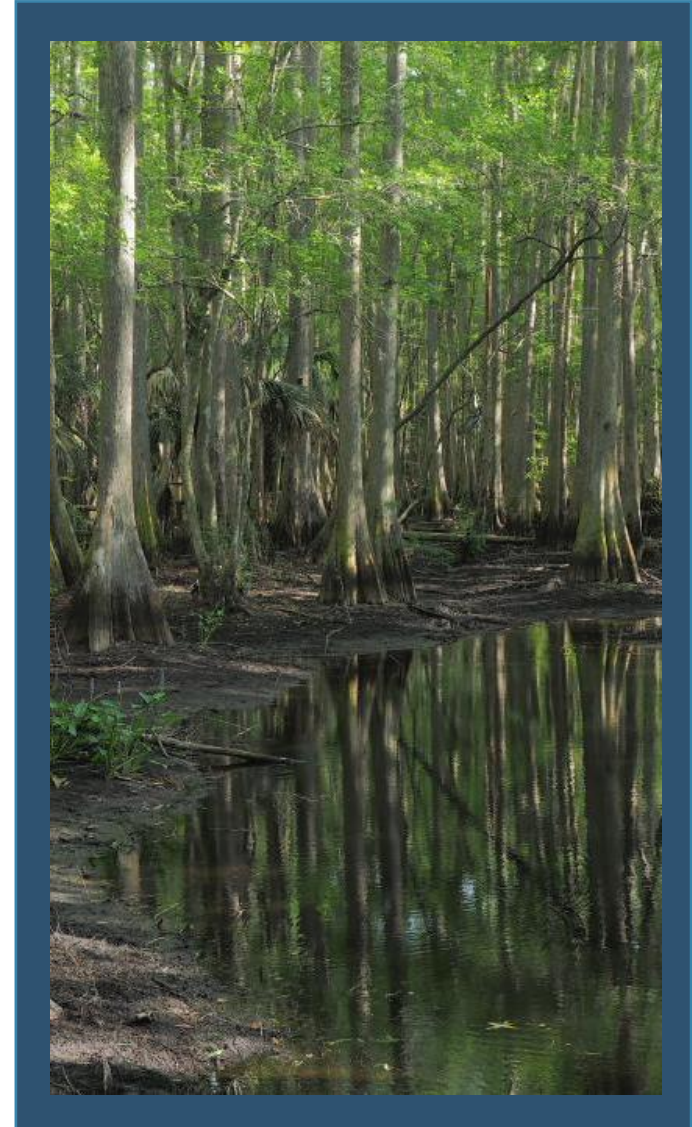




SECTION 9

STORMWATER QUALITY TREATMENT REQUIREMENTS (2)

- Describes how required treatment efficiencies can be met.
 - BMPs.
 - BMPs in series.
 - Green stormwater infrastructure and low impact designs.
 - Alternative designs.
- If none of those options are available for a site, the designer can compensate.
 - Overtreatment.
 - Off-site compensation.
- Applicant's Handbook section has been reserved in anticipation of future rulemaking involving water quality enhancement area credit trading.





SECTION 12

OPERATION AND MAINTENANCE REQUIREMENTS

- Opportunities to enhance operation and maintenance (O&M).
- Importance of maintenance to preserve the functionality.
- How are maintenance requirements currently being regulated/overseen.
- Methods for evaluating “financial capability.”
- Moving forward.
 - Enhancing O&M requirements for all projects.
 - Clear financial requirements for perpetual operation of systems.
 - Increased inspections and oversight.
 - Streamlining options for municipal separate stormwater sewer system programs and O&M phase ERPs.





SECTION 12

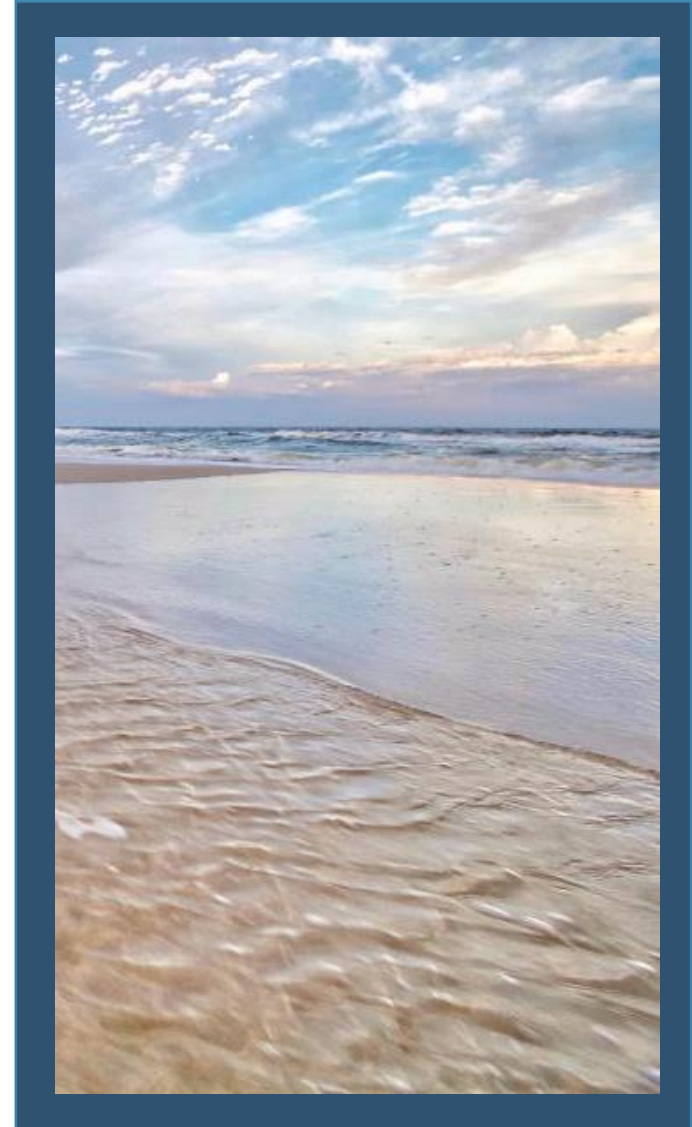
OPERATION AND MAINTENANCE REQUIREMENTS (2)

O&M plan guidelines.

- An O&M plan would be required for each project.
- The O&M plan should be reviewed and updated as needed.
- Plan should be developed to provide clarity to the O&M entity for efforts required to maintain the system and what future activities might need to be completed.
- Plan should be updated and available for agency inspection, if requested.

Inspections will be required initially on an annual basis.

- After demonstration of five consecutive years of the project having no decrease in functionality, the applicant can request a decreased frequency of inspections. This request would be evaluated based on proposed rule criteria.
- Inspection checklists to be provided for consistency.





SECTION 12

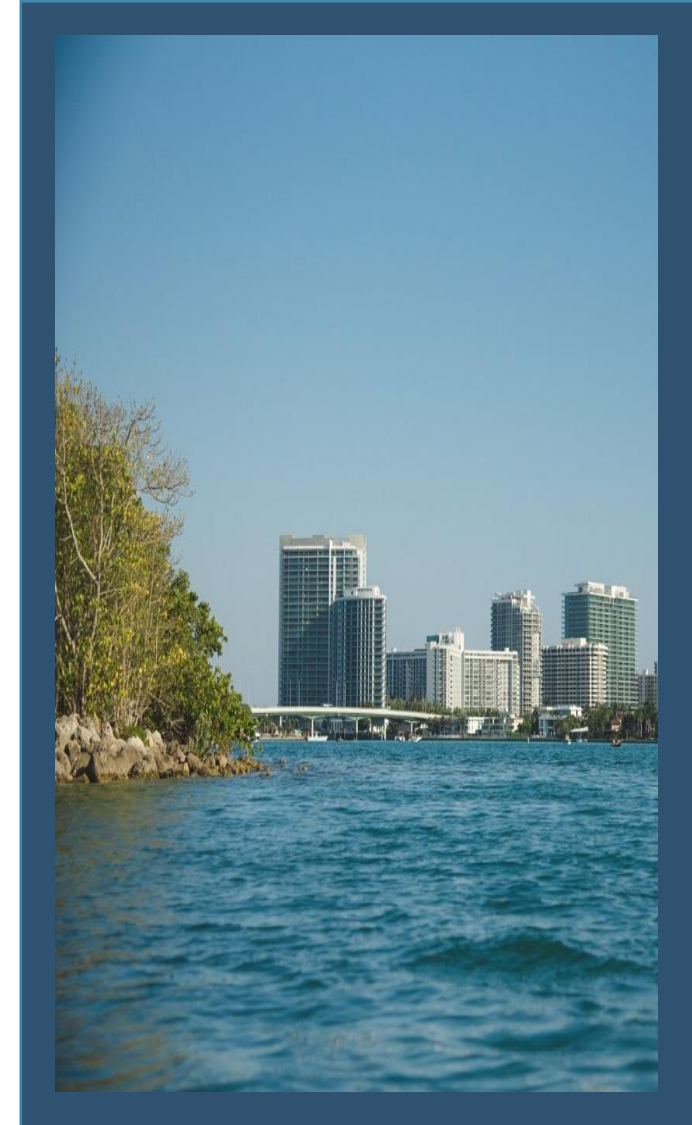
OPERATION AND MAINTENANCE REQUIREMENTS (3)

Cost estimate.

- All applicants will develop a cost estimate for the perpetual maintenance that will later be available to the O&M entity for their use.
- These are meant to be a benefit to the O&M entity so they can better plan for maintenance and repair costs and avoid future, more expensive compliance issues.

Financial capability demonstration.

- Submission of a form certifying that the O&M entity has the financial capability to maintain the stormwater management system.





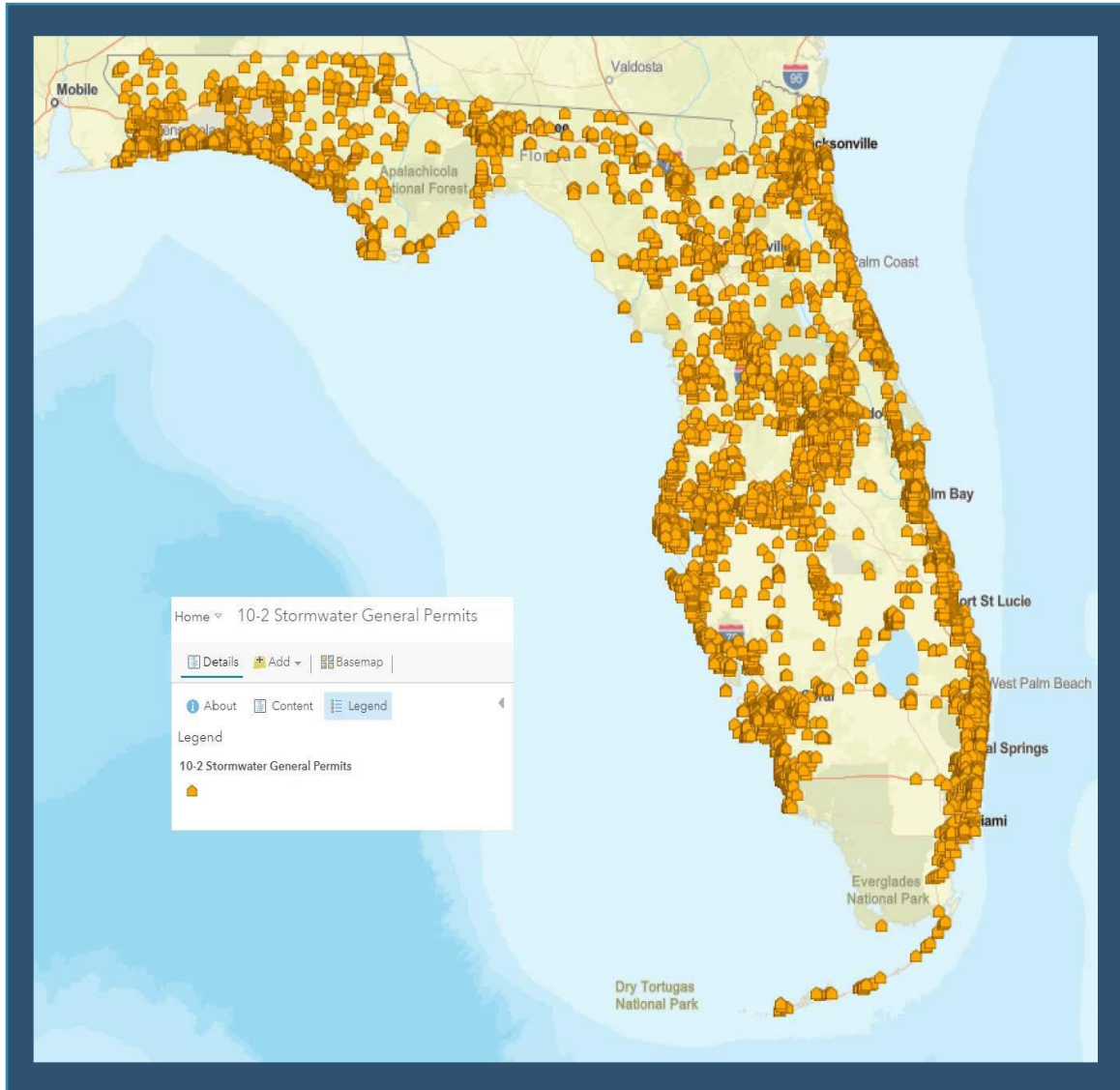
CONTINUED WORK AND FUTURE TOPICS

Work is ongoing; future topics include the following.

- Technical details and design of BMP library.
- Updates to Chapter 62-330, F.A.C.
- Continued updates to the Applicant's Handbook Volume I.
- Continued updates to previously altered sections based on public review.
 - Section 2, Section 8, Section 9 and Section 12.
 - Tentative workshop on Dec. 13, 2022.
 - Section 11; erosion and sedimentation requirements.
 - Tentative workshop on Jan. 11, 2023.
 - Northwest Florida WMD will present proposed changes to the Applicant's Handbook Volume II.
- Creation of forms mentioned in new language.



10-2 GENERAL PERMIT



- Section 403.814(12), F.S.
 - Stormwater management systems must be designed, operated and maintained in accordance with applicable rules.
- A report was created and sent to Florida's Legislature at the end of 2020 outlining recommendations for improvements to the 10-2 general permit.
 - Any updates to the stormwater rules would also be incorporated into the 10-2 general permit criteria.



10-2 GENERAL PERMIT (2)

93.7% of 10-2 permits were found to be in compliance.

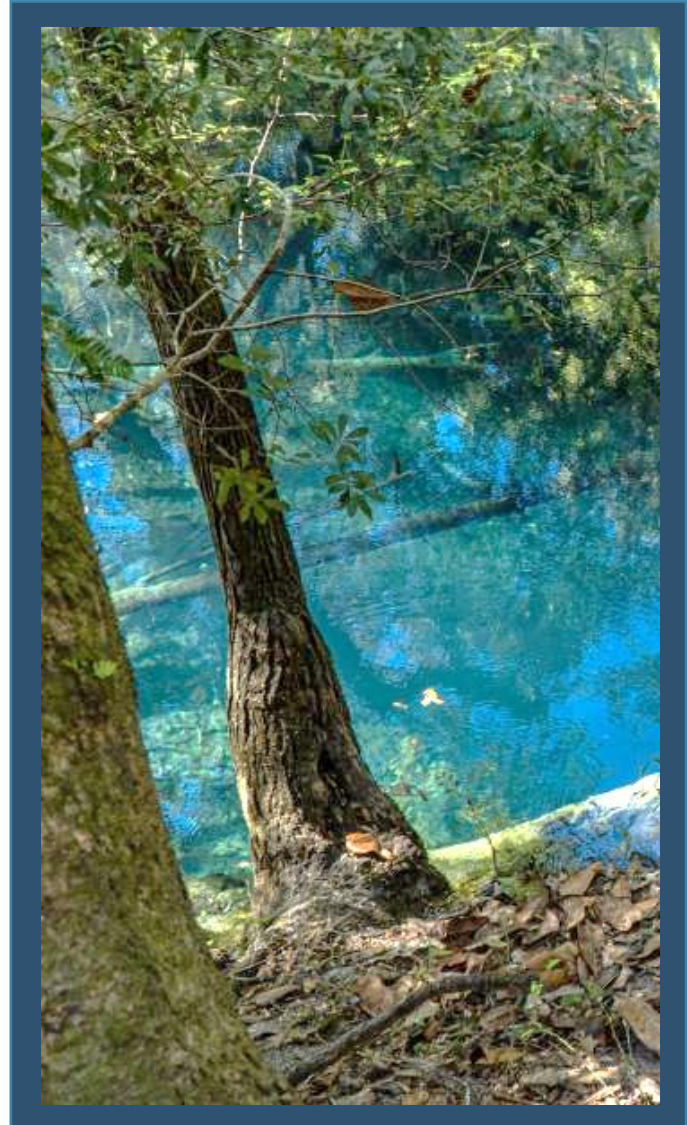
- Non-compliance issues were due to not being eligible for the self-certification or not meeting the applicable requirements.
- Non-compliance was resolved by agencies through project redesigns or more appropriate permitting.





10-2 GENERAL PERMIT (3)

- **Recommendations for improvements to the existing process.**
 - Improve the online portal questions.
 - Incorporate geographic information system functionality to automatically identify projects that are ineligible.
 - Due to being in open waters or a previously permitted site.
 - Increase inspection post construction and desktop audits.
- **Recommendations for improvements by statutory change.**
 - Certification 30 days before construction.
 - Submittal of construction completion notice with as-builts.
 - Prohibition of general permit use when discharging to waters that do not meet state standards or areas with water quality issues.





REQUEST FOR COMMENTS

- Please submit any comments, suggested edits and recommendations to Stormwater2020@FloridaDEP.gov.
- DEP will continue to encourage and accept comments throughout the entire rulemaking process.
- The next workshop will be noticed in the Florida Administrative Register as well as on the DEP calendar and our rulemaking website below.

<https://floridadep.gov/water/water/content/water-resource-management-rules-development#erp-sw>



THANK YOU

Borja Crane-Amores
Division of Water Resource Management
Florida Department of Environmental Protection

CONTACT INFORMATION:

850-245-7520
Borja.CraneAmores@FloridaDEP.gov