

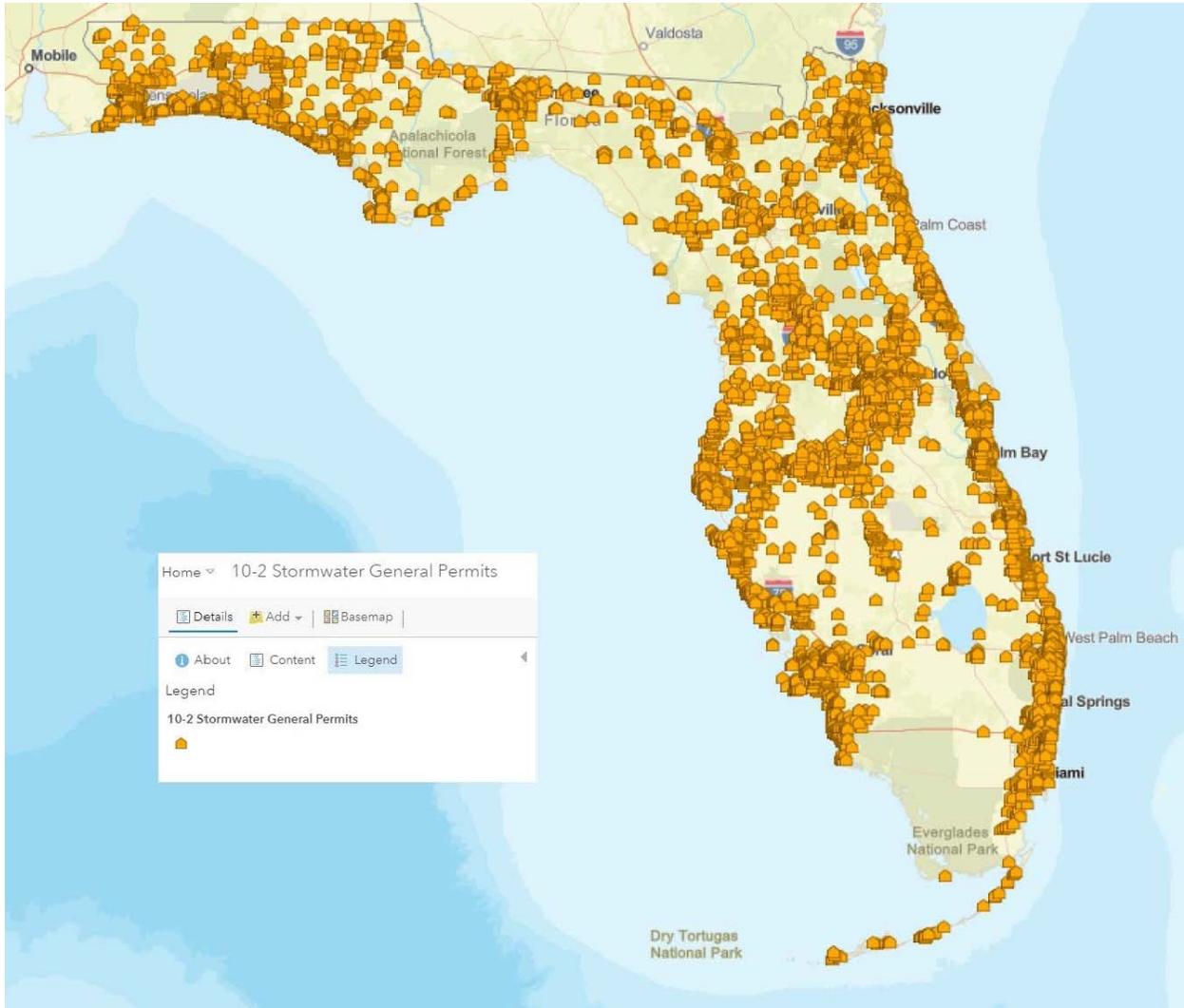
***Recommendations for
Improvements to the Self-Certification Process
Under Section 403.814(12), Florida Statutes***

Division of Water Resource Management

Florida Department of Environmental Protection

December 2020





Location of 10-2 General Permits across the state (as of December 2020).

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Executive Summary

The Clean Waterways Act, Chapter 2020-150, Laws of Florida, enacted a wide range of water quality protection provisions aimed at minimizing the impact of known sources of nutrient pollution and strengthening Florida's regulatory requirements. These provisions included legislative direction for the Department of Environmental Protection (DEP) and water management districts (WMDs) to undertake rulemaking to update the stormwater design and operation regulations using the latest scientific information. The Clean Waterways Act also directed DEP to evaluate permit and inspection data to provide recommendations to the legislature for improvements to the self-certification process for stormwater management system general permits that are granted under Section 403.814(12), Florida Statutes (F.S.).

This report provides an overview of the electronic self-certifications that were submitted since the general permit provisions were adopted in 2012 by Chapter 2012-94, Laws of Florida. The report provides a summary of the inspection results for two two-year periods since the provisions were adopted, and a summary of the non-compliance findings for projects that either did not meet the requirements for being able to self-certify, or did not appear to meet the underlying design, operation and maintenance requirements that apply to these stormwater management systems. Collectively, the recommendations in this report would maintain the existing statutory focus and reliance on the self-certification process in all cases except ones where there are concerns with high-priority water quality issues. This approach and the recommendations in this report are expected to help increase the availability of relevant information for DEP and WMD reviews, and to increase the effectiveness and environmental protections that are provided under the general permit provisions of Section 403.814(12), F.S.

1. Introduction

The Clean Waterways Act, Chapter 2020-150, Laws of Florida, passed the 2020 Florida Legislature with unanimous, bipartisan support and carries a wide range of water quality protection provisions aimed at minimizing the impact of known sources of nutrient pollution and strengthening regulatory requirements. Stormwater related pollution represents one of the largest potential contributors of nutrients throughout the state; therefore, the Clean Waterways Act introduced Section 373.4131(6), F.S., directing the DEP and Florida's WMDs to update the design and operation regulations under Part IV, Chapter 373, F.S., using the latest scientific information. In addition, the Clean Waterways Act introduced new language in Section 373.4131(6), F.S., directing DEP to provide recommendations for improvements to the self-certification process under Section 403.814(12), F.S., for certain stormwater management systems by Jan. 1, 2021, as follows:

The department shall review and evaluate permits and inspection data by those entities that submit a self-certification under s. 403.814(12) for compliance with state water quality standards and provide the Legislature with recommendations for improvements to the self-certification process, including, but not limited to, additional staff resources for department review of portions of the process where high-priority water quality issues justify such action. (Section 373.4131(6)(b), F.S.)

Section 403.814(12), F.S., initially established in 2012 by Chapter 2012-94, Laws of Florida, grants a general permit for the construction, alteration, and maintenance of a stormwater management systems serving a total project area of less than 10 acres, with less than two acres of impervious surface, and which meets the additional requirements specified in Sections 403.814(12)(a) through 403.814(12)(f), F.S. The full provisions for the general permit and self-certification process under Section 403.814(12), F.S., are shown in Appendix A. In addition to meeting the eligibility criteria for this general permit and self-certification process, the stormwater management systems authorized under this general permit must be designed, operated, and maintained in accordance with applicable rules adopted pursuant to Part IV of Chapter 373, F.S. That is, these stormwater management system projects must be designed,

operated and maintained in accordance with applicable state-wide Environmental Resource Permitting (ERP) requirements of Chapter 62-330, Florida Administrative Code (F.A.C.). In accordance with Section 403.814(12), F.S., such systems that meet the underlying requirements for stormwater management systems are subject to a rebuttable presumption that the discharge from such systems complies with state water quality standards. Therefore, inspection results for systems that appeared to be in compliance with the underlying ERP requirements are presumed to comply with state water quality standards.

This report reviews the general permit self-certifications and inspection data, and provides recommendations for improvements to the self-certification process for the stormwater management system general permit under Section 403.814(12), F.S. The report also provides a summary of additional staff resources that are expected to be needed to facilitate and improve program effectiveness for additional oversight of this general permit and for protections related to inspections for high-priority water quality issues. It is important to note the improvements that will be developed to update the underlying stormwater design and operation regulations themselves, under the ongoing stormwater rulemaking pursuant to Clean Waterways Act direction, should also be expected to result in increased regulatory protections and increased effectiveness for those projects that are eligible for the self-certification process and general permit coverage pursuant to Section 403.814(12), F.S.

2. Permit and Inspection Data Review

Over 6,560 projects have been submitted through the online self-certification system set up by DEP pursuant to Section 403.814(12), F.S., in the period of July 2012 through the end of June 2020. The number of self-certifications submitted during each year in this period is shown below in Figure 1. The self-certification program has provided efficiencies for both the development community as well as the regulatory agencies that otherwise would be reviewing and processing these as individual ERP applications.

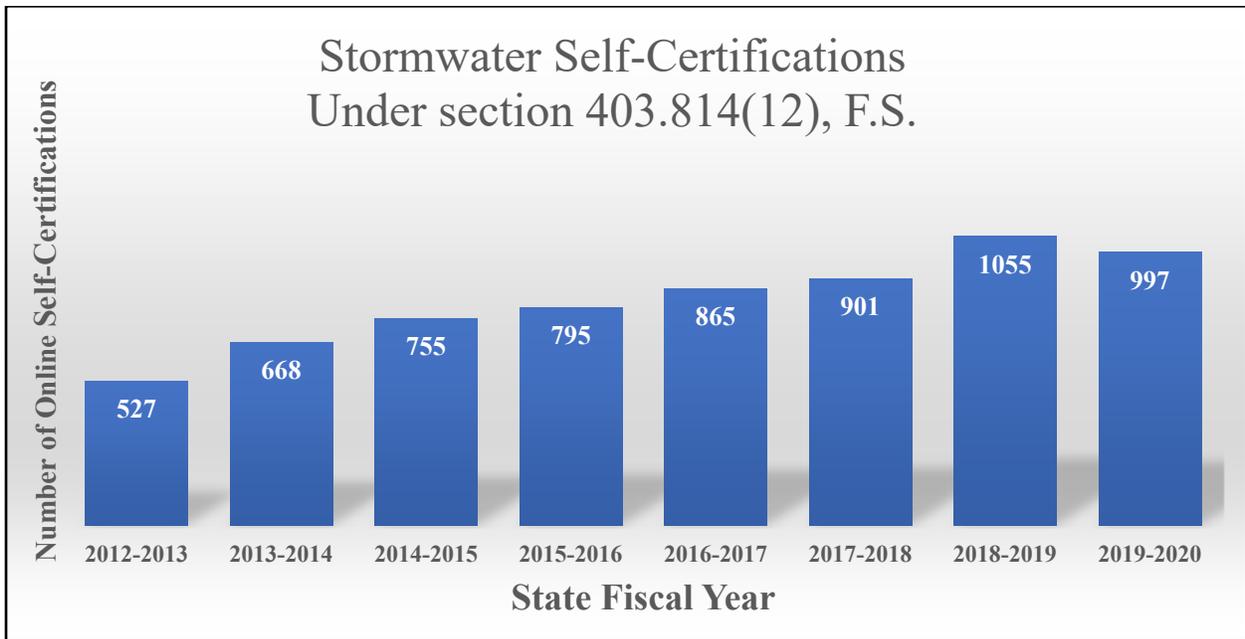


Figure 1. Online Self-Certification Submittals

The self-certifications and project related information were reviewed and compiled specifically for calendar years 2013 through 2014 and 2018 through 2019, with input from each of the five WMD offices. These time periods covered four full years of self-certification submittals and provided representative information from the very beginning of the stormwater self-certification program, as well as more recent information.

During these two two-year time periods, over 2,000 submittals were reviewed for compliance with the provisions of Section 403.814(12), F.S., and with applicable rules adopted pursuant to Part IV of Chapter 373, F.S. Stormwater management systems that are covered under this general permit must be designed, operated and maintained in accordance with the requirements adopted under Chapter 62-330, F.A.C. The following observations were noted during that review by WMD and DEP staff.

1. The majority (93 percent) of the reviewed submittals appeared to be eligible for the self-certification, and no underlying non-compliance concerns were identified during DEP or WMD staff project reviews.

2. Approximately seven percent of the reviewed submittals were either not eligible for coverage under this general permit or appeared to be out of compliance with the applicable stormwater management requirements of Chapter 62-330, F.A.C.
3. Compliance rates for those projects that meet the eligibility criteria and which appeared to meet the applicable design, operation and maintenance requirements remained fairly consistent for the two time periods that were evaluated, with an average non-compliance rate of 7.3 percent and then 7.2 percent in the 2013-2014 calendar year and the 2018-2019 years, respectively.
4. Ten recurring eligibility or underlying non-compliance findings were identified for those projects reviewed.
5. Non-compliance was resolved by the agencies through project redesigns or more appropriate permitting.

The reasons for non-compliance are shown below in Table 1.

Table 1. Reasons for Self-Certification Ineligibility or Other Non-compliance Findings

Eligibility or Compliance Finding	Not Eligible for Self-Certification	Does Not Meet Applicable Requirements
Activities conducted in wetlands or surface waters within project area	X	
Coastal Construction Control Line permit needed	X	
Construction within works of the districts	X	
Existing permitted site (permit modification required)	X	
Lack of Best Management Practices (BMPs)		X
No stormwater management system		X
Part of a larger plan of development	X	
Project area greater than 10 acres	X	
Stormwater pond was undersized		X
Wrong/incorrect self-certification (dock)	X	

3. Recommendations for Improvements to the Self-Certification Process

Although the percent of projects that were not eligible to self-certify for the general permit coverage and those that had apparent underlying non-compliance findings was below 10 percent, there are important process improvements that were identified based on the review of the general permit and inspection information for these projects. Staff believes these improvements could either be incorporated into the current electronic self-certification process itself, or that some recommendations would require revisions of the statutory criteria for implementing the self-certification process. Collectively and individually, these recommendations are intended to improve the effectiveness of the environmental protections and the implementation of this general permit while balancing the preservation of this general permit as an option in the regulatory framework.

The recommendations, shown in Table 2 below, are organized to show whether they are process changes that can be implemented now, or whether statutory changes would be required to implement the recommended improvements. In addition to these recommendations for improvements to the self-certification process, it is important to note the improvements that will be developed to update the underlying stormwater design and operation regulations themselves. Those regulatory updates should also be expected to result in increased regulatory protections and increased effectiveness for those projects that are eligible for self-certification and general permit coverage pursuant to Section 403.814(12), F.S.¹

Some of the recommendations listed below for improvements to the existing self-certification process will require new programming improvements to the existing online electronic certification application that currently resides within DEP's online "Business Portal."

¹ Under the general permit that is granted for the construction, alteration, and maintenance of select stormwater management systems under the provisions of Section 403.814(12), F.S., these stormwater management systems are still subject to being designed, operated, and maintained in accordance with the corresponding requirements of Chapter 62-330, F.A.C. Accordingly, any of the rule amendments (e.g., BMP requirements or treatment technology changes) that result from the rulemaking required pursuant to Section 5 of the Clean Waterways Act, Chapter 2020-150, Laws of Florida, to update the stormwater design and operation regulations will also be applicable to and will benefit those projects that receive general permit coverage through the self-certification process.

Table 2. Recommendations for Improvement to the Self-Certification

Recommendation	Existing Process Change	Statutory Change
Improve self-certification questions in online portal to increase eligible use of general permit	X	
Incorporate Geographic Information System (GIS) improvements to automatically identify projects that are not eligible because they occur within a previously permitted site	X	
Incorporate GIS improvements to automatically identify projects that are not eligible because they occur within open waters (e.g., Intracoastal Waterway, rivers)	X	
Increase inspections during and post construction	X	
Perform desktop audits within initial 30 days of certification	X	
Require certification 30 days prior to construction		X
Require submittal of construction completion notice with as-built plans		X
Prohibit use of the general permit for discharges to waters that don't meet water quality standards (e.g., nutrient impaired waters)		X
Prohibit use of the general permit for areas with high-priority water quality issues (e.g., Basin Management Action Plan (BMAP) areas)		X

3.1. Recommended Process Improvements, Existing Process Changes

3.1.1. Recommendations for the Online Electronic Self-Certification System

The 10-2 Self-Certification Enterprise Self-Service Authorization (ESSA) Framework was developed to meet the legislative requirement created by Section 403.814(12), F.S., for an electronic self-certification process that could be submitted to DEP or the WMDs prior to beginning construction, alteration or maintenance of a stormwater management system where the project meets the criteria for the general permit (e.g., serving a total project area of less than 10 acres, less than two acres of impervious surface, and not located in or over wetlands or other surface waters, etc.).

The current ESSA Framework includes an “Introduction” page, which defines the “Certification of Qualification” to use the general permit granted by Section 403.814(12), F.S., and allows the

user to enter an “Application Friendly Name” before proceeding to a screen that shows the language of Section 403.814(12), F.S., as the conditions for the general permit being self-certified. These pages are followed by an “Advisory” page stating that a self-certification itself is not required by law (it is a permitting option an applicant may choose over an individual permit), and that the self-certifier is responsible for ensuring that the project meets the limitations described for the self-certification. The “Project Details” page requires a project name or a brief description of the nature of the work, the total project area, and the total impervious surface for the project, and allows the self-certifier to identify whether project files will be uploaded as optional submission. The electronic self-certification concludes with project location information, location of the project on an integrated mapping system, followed by a selection to indicate whether the self-certifier is the owner/permittee or an agent for the owner/permittee, and contact information for the project, prior to submittal and acceptance of the general permit self-certification conditions under Section 403.814(12), F.S.

Recommendations

The following are recommended changes to the existing electronic self-certification system using the ESSA Framework to improve or add self-certification questions in the electronic portal. Such changes would be implemented to increase use of the general permit for projects that are eligible, and to help self-certifiers identify potential concerns during the online self-certification submittal process. Such additional questions are based on the existing statutory requirements for the general permit, and would include the following additional user-submitted project details:

- Further validate that the proposed work is for the construction, alteration, and maintenance of a stormwater management system through additional submittals.
- Strengthen reviews to confirm the project activity will not be conducted in, on, or over wetlands or other surface waters using incorporated GIS improvements.
- Verify any drainage facility pipe diameter(s).
- Confirm that the project will not use pumps in any manner.

As shown in Appendix B-1, the user-defined project details can be modified to implement additional project details to assist in recognizing and identifying submittals for projects that do not meet the requirements for the general permit.

If the above additional project details are not in compliance with requirements outlined in Section 403.814(12), F.S., the system would advise the applicant to seek help from the appropriate DEP district office to determine the appropriate permitting procedure, and allow the person to save the process without submittal and self-certification.

Although the current system doesn't require applicants to upload project documentation for proposed stormwater management systems, it would be beneficial for review purposes to have location maps that identify property ownership boundaries, and which depict the total project area boundary through an enhanced ESSA interface. The recommended mapping improvement would show property ownership information and require identification of the project boundary instead of a single point location for the self-certification project. And because this mapping location is information the applicant must know and certify for the self-certification process, it is a very minimal burden on the applicant.

3.1.2. Recommendations for Additional Reviews and Inspections

The recommended improvements to the self-certification process would provide additional information that could be used to help identify self-certifications for projects that may not be eligible for the general permit, or which require other permitting authorizations. In addition to reviewing the available self-certification information, the project location information can be geographically combined with other DEP and WMD information (e.g., locations of impaired waterbodies, priority focus areas for springs, BMAPs, etc.) to help determine whether the project may be in a sensitive location that may cause or contribute to water quality or water quantity concerns (e.g., surface water flooding or ground water level concerns).

Recommendations

It is recommended that DEP and WMD staff utilize the existing information and any additional information that may be added to improve the viability of project details to focus additional reviews and inspections as follows:

- Prioritize for review any projects with self-certifications that were submitted with project details that may require an individual permit or an alternate authorization (e.g., a dock general permit under Rule 62-330.427, F.A.C.). Such submittals should be identified and scheduled for a follow-up review and inspection as needed to determine whether the project is eligible for the self-certification general permit under Section 403.814(12), F.S.
- Coordinate DEP and WMD staff reviews and follow-up inspections, including setting target levels of service for the percent of new self-certifications that are reviewed or inspected (e.g., target percentage for self-certifications to be inspected from those received during a given monthly, quarterly or annual period).
- Develop and implement prioritizations for inspections of self-certified stormwater management systems that are geographically located within or partially intersect the geographic boundary of a BMAP area, or other state restoration plan area, to address high-priority water quality issues and require actions needed to reduce pollutant loads for impaired waters of the state.

3.2. Recommended Process Improvements, Statutory Changes

3.2.1. Self-Certification Timing

The DEP and WMD staff reviews identified several common circumstances where self-certified projects did not appear to meet basic eligibility requirements for the project such as ones where the total project area was greater than 10 acres, or projects that were constructed in, on, or over wetlands or other surface waters. Similarly, in some cases, the submitted project actually required another separate permit, such as projects that required a Coastal Construction Control Line permit, permit modification, or dock authorization (e.g., Coastal Construction Line permit authorization under Chapters 62B-33 or 62B-34, F.A.C., modification to an existing permit at the site). When reviewing these projects, there was generally enough information in the project description or in the project location information to determine that the project did not appear to be eligible, and that another permit or review should be provided to reduce non-compliance.

Current self-certification requirements for a general permit under Section 403.814(12), F.A.C., do require that the self-certifications be submitted before construction begins; however, there is not a specified time period that is required from the time the electronic self-certification is submitted before construction under the general permit may begin.

Recommendations

Create a more robust process for reviewing and identifying any ineligible applications before impacts occur. To provide time for staff to perform an initial review and to potentially identify projects that do not meet eligibility requirements, it is recommended that the statutory criteria require that self-certifications be submitted thirty days before construction begins. Such a time period would provide an opportunity for the project information to be clarified, or for an alternate authorization to be sought where it appears that another authorization was required (e.g., cases in which docks or Coastal Construction Control Line projects appear to have been needed or existing permits modified).

3.2.2. Certification of Completion of Construction

As previously indicated, the majority of projects that were reviewed appeared to be eligible and to meet the underlying stormwater design, operation, and maintenance requirements. However, the project reviews can often only identify whether a stormwater management system was constructed for the project, and not whether the stormwater pond was constructed in accordance with the design specifications (e.g., the design storm treatment volume). In such cases, the DEP and WMD files do not contain sufficient information to determine whether the stormwater management system meets the underlying design, operation, and maintenance requirements of Chapter 62-330, F.A.C. For example, the ability to evaluate the sufficiency of the underlying stormwater management system could benefit from a post-construction inspection and final certification by a Florida Registered Professional². Such a post-construction certification of completion of construction would allow the registered professional to identify concerns such as missing BMPs, or undersized treatment systems, which would be necessary to avoid water

² For the purposes of this report, “Registered Professional” has the same meaning as in Chapter 62-330, F.A.C., meaning a professional registered or licensed by and in the state of Florida and practicing under Chapter 471, F.S. (i.e., Engineers), Chapter 472, F.S. (i.e., Land Surveying and Mapping), Chapter 481, F.S. (i.e., Architecture, Interior Design, and Landscape Architecture), or Chapter 492, F.S. (i.e., Professional Geology).

quality impacts to wetlands or other surface waters, and provide for their inclusion prior to final project completion.

Recommendations

Incorporate additional language in Section 403.814(12), F.S., to require as-built certifications, similar to the following:

“The project shall be inspected by a Florida Registered Professional, and such professional shall conduct a post-construction assessment following completion of the project for the purposes of determining whether the project was constructed in accordance with applicable rules adopted pursuant to Part IV of Chapter 373, F.S. The electronic Self-Certification of Completion of Construction shall be submitted to the department or water management district, including as-built drawings, and indicate whether the project was completed in accordance with the design criteria and is expected to function in compliance with the requirements of Chapter 62-330, F.A.C.”

If the Florida Registered Professional determines that the project, as constructed, does not qualify for self-certification, such professional shall so report using the electronic self-certification of completion of construction, and such self-certification shall acknowledge that corrections to the project are necessary and that such corrections shall be completed in accordance with the requirements of Section 403.814(12), F.S., or in accordance with an applicable authorization under Chapter 62-330, F.A.C., so that the surface water management system will comply with the applicable rules adopted pursuant to Part IV of Chapter 373, F.S.

The form recommended for filling an electronic Self-certification of Completion of Construction would be similar to the form used for any other project that would be completed under an individual ERP issued for the construction, alteration, and maintenance of a stormwater management system under Chapter 62-330, F.A.C. While a simpler online electronic form could be developed for projects completed pursuant to the general permit under Section 403.814(12), F.S., the current form that is applicable for construction of stormwater management systems under Chapter 62-330, F.A.C., is shown as an example in Appendix C.

3.2.3. Discharges for Waters that Don't Meet Water Quality Standards

Section 403.814(12)(f)3, F.S., currently requires that self-certification cannot be done unless the project does not, “cause a violation of state water quality standards.” However, in the case of a project that would discharge constituents (e.g., nutrients) to a waterbody that does not meet water quality standards for one or more discharged parameters, it is expected that the discharge may contribute to the impairment. In such cases, the requirements for an issuance of an individual ERP under the requirements of Section 62-330.301(2), F.A.C., would require water-quality mitigation measures as follows:

(2) In instances where an applicant is unable to meet state water quality standards because existing ambient water quality does not meet standards and the system will contribute to this existing condition, the applicant must implement mitigation measures that are proposed by, or acceptable to, the applicant that will cause net improvement of the water quality in the receiving waters for those parameters that do not meet standards.

As a result of the current wording under Section 403.814(12)(f)3, F.S., the current requirements for the self-certification process would allow a proposed stormwater management system to be covered by the general permit, even though the proposed system does not provide any mitigation measures that would provide a net improvement of water quality in the receiving waters for those parameters that do not meet standards.

Recommendation

It is recommended that Section 403.814(12)(f)3, F.A.C., be revised to require that projects cannot be self-certified where the discharge from the system will contribute to an existing condition where the existing ambient water quality does not meet standards and is designated as impaired for a parameter that would be discharged. The recommended self-certification process change would revise Section 403.814(12)(f)3, F.A.C., to consider the discharge's potential contribution as follows: “*The project does not: ... Cause or contribute to a violation of state water quality standards; or....*” As a result of this recommended change, such projects would still be permissible under the requirements for an individual ERP, where the project provides

mitigation measures that will cause net improvement of the water quality in the receiving waters for those parameters that do not meet standards.

3.2.4. Special Considerations for Areas with High-Priority Water Quality Issues

In accordance with Section 403.067, F.S., BMAPs are intended to promote or require actions that reduce pollutant loads to already impaired waters through a comprehensive plan that addresses pollutant load reductions from both point source discharges and from nonpoint sources of pollution. In combination with the water quality protections for Outstanding Florida Springs under Section 373.807, F.S., BMAPs are also a tool for implementing actions that protect water quality by implementing nutrient total maximum daily loads to protect Outstanding Florida Springs. As a result, BMAPs are one of the key processes through which high-priority water quality issues and associated actions are determined. Given the proximity of the self-certification projects, many of which are located in developed areas of the state, approximately 43.3 percent of the self-certifications submitted through June 2020 were for projects located in BMAP areas.

Given the importance of the plans for achieving water quality restoration targets, DEP works with local stakeholders to develop and implement BMAPs that may include both specific restoration projects and management practices designed to reduce nutrients and improve water quality over time. A comprehensive approach is necessary for protecting both surface waters and springs because the areas contributing to both surface water runoff (i.e., stormwater) and groundwater – and their potential pollutants loads – are expansive and encompass a variety of residential, commercial, industrial, and agricultural land uses.

Recommendation

It is recommended that the process for self-certifying to use the general permit under Section 403.814(12), F.S., not be available to projects that would discharge to or within areas with BMAPs that are adopted pursuant to the provisions of Sections 403.067 and 373,807, F.S. Such a provision limiting the use of the general permit under Section 403.814(12), F.S., could be added as a new subparagraph under Section 403.814(12)(f), F.S., where the project does not, *“discharge to or within an area incorporated in a Basin Management Action Plan adopted pursuant to the provisions of Sections 403.067 or 373.807, F.S.”*

4. Resource and Process Adjustments for Recommended Changes to the Self-Certification Process

The information on the general permit self-certifications and the inspection results indicated that a number of improvements could be implemented for the self-certification process, including those that can be implemented based on existing self-certification requirements and those that would require changes to the self-certification requirements under Section 403.814(12), F.S. Many of the recommendations noted above would require DEP and WMD resources to provide additional oversight on self-certifications, support a targeted inspection level of service, and provide resources to focus efforts on reviewing additional project documentation and those projects that are located in areas with identified high-priority water quality issues. The resource needs for these improvements to the self-certification process are intended to enhance the effectiveness, efficiency, and compliance rates associated with the self-certification of stormwater management system under Section 403.814(12), F.S.:

1. Proposed changes to the existing self-certification process would provide additional project related information for review by DEP and WMD staff to help identify any projects that may not meet the requirements for self-certification, as well as those which may be located in sensitive areas, such as high-priority areas subject to restoration actions under a DEP-issued BMAP. Each of these additional recommendations would result in additional information for review or additional prioritized inspections by DEP and WMD staff.
2. The recommendations would also have DEP and the WMDs develop and prioritize a targeted level of service to provide routine oversight and inspections for a portion of the self-certified projects, particularly those that may be located in areas with high-priority water quality issues.
3. In order to monitor the ongoing effectiveness of such recommendations, additional staff time should be designated for the routine process of compiling programmatic general permit and inspection information to monitor the effectiveness of this aspect of the overall state stormwater and ERP program. Such efforts could include annual

programmatic reviews of the self-certification program by auditing a portion of the self-certifications to determine whether compliance rates are being maintained or improved over time.

The recommended process improvements in this report remain consistent with the original intent of the self-certification process, to rely upon the certifications of Florida Registered Professionals and their ability to ensure that subject stormwater management systems are being designed, operated, and maintained in accordance with applicable rules under Chapter 62-330, F.A.C. This reliance on certifications by registered professionals (i.e., for projects that are less than 10 acres in total area, with less than two acres of impervious surfaces) would be further expanded by engaging the oversight of a Florida Registered Professional in the post-construction assessment and certification of completion of construction, which is a recommended change to the existing self-certification process. This recommendation was intentionally provided to avoid the necessity of resource intensive reviews and approvals by DEP and WMD staff for most projects, while providing a means for receipt of as-built certifications to ensure that the projects were ultimately constructed as intended.

In contrast, projects that are discharging to or within critical areas that are subject to restoration actions under a DEP-issued BMAP would no longer utilize the self-certification process. As such, the review of these projects would shift to the existing individual ERP review and decision making process, so that the review could address water quality issues and consideration of any net improvements so that the receiving system may ultimately be restored over time and achieve water quality standards.

Collectively, these recommendations are intended to provide changes that will increase DEP's and WMD's ability to effectively provide oversight of the self-certification process by continuing to rely on existing resources (e.g., existing compliance and inspection staff), or identifying additional resources that could support work in priority areas. The recommendations provide an emphasis on allowing environmental protections to be considered by ensuring projects that may be causing or contributing to water quality impairments, or which may be in areas with high-priority water quality issues (e.g., BMAP areas) will receive individual reviews

as needed to ensure statewide program consistency for the needed environmental protections, and improved overall compliance rates.

5. Conclusion and Discussion of Recommendations

DEP staff reviewed self-certifications and the general permit requirements for a portion of the self-certifications received since the process was adopted in 2012, under the provisions of Section 403.814(12), F.S. Overall, the review of permits and inspection data indicated that the majority of projects (i.e., greater than 90 percent) appeared to be both eligible for self-certification and meeting the underlying requirements for design, operation, and maintenance of stormwater management systems; therefore, these project are presumed to also comply with water quality standards.

The recommendations that were identified for improvements to the self-certification process were broken into two groups: (1) those that could be implemented based on the existing self-certification process; and (2) those that would require statutory changes for implementation. Recommended changes to the existing process were primarily identified to provide additional information and increase the effectiveness of DEP's and WMD's oversight on projects that are self-certified to help ensure these projects are protecting Florida's water resources.

Statutory changes that are proposed would also increase the availability of useful information on self-certification projects by providing some additional time for the initial self-certification prior to construction commencement, and by providing valuable documentation on the actual stormwater management system that is constructed. Both proposed changes maintain the approach of the existing provisions under Section 403.814(12), F.S., to rely on the time and resources of Florida Registered Professionals overseeing the design and construction of these systems without the necessity of applying for and receiving individual ERPs.

In cases wherein there are existing receiving waters that are not meeting standards, and wherein BMAPs have been issued by DEP for the purpose of supporting or requiring restoration activities in areas with high-priority water quality issues, the recommended changes to the self-certification process would shift these projects so that they are subject to individual ERP reviews instead of the self-certification process. With this proposed shift in focus, there will be

opportunities for applicants to address and improve projects that would otherwise contribute to these existing impaired water quality conditions. In such cases, the DEP and the WMDs would be able to consider mitigation measures that are proposed by or acceptable to the applicant that would cause net improvement of the water quality in the receiving waters for those parameters that do not meet standards.

Collectively, these recommendations maintain the existing statutory focus and reliance on the self-certification process in all cases except those wherein there are concerns with high-priority water quality issues. This approach and the recommendations in this report are expected to help increase the availability of relevant information for agency reviews and to increase the effectiveness and environmental protections that are provided under the provisions of Section 403.814(12), F.S.

Appendix A: Section 403.814(12), Florida Statutes (2020)

(12) A general permit is granted for the construction, alteration, and maintenance of a stormwater management system serving a total project area of up to 10 acres meeting the criteria of this subsection. Such stormwater management systems must be designed, operated, and maintained in accordance with applicable rules adopted pursuant to part IV of chapter 373. There is a rebuttable presumption that the discharge from such systems complies with state water quality standards. The construction of such a system may proceed without any further agency action by the department or water management district if, before construction begins, an electronic self-certification is submitted to the department or water management district which certifies that the proposed system was designed by a Florida registered professional and that the registered professional has certified that the proposed system will meet the following additional requirements:

- (a) The total project area involves less than 10 acres and less than 2 acres of impervious surface;*
- (b) Activities will not impact wetlands or other surface waters;*
- (c) Activities are not conducted in, on, or over wetlands or other surface waters;*
- (d) Drainage facilities will not include pipes having diameters greater than 24 inches, or the hydraulic equivalent, and will not use pumps in any manner;*
- (e) The project is not part of a larger common plan, development, or sale; and*
- (f) The project does not:*
 - 1. Cause adverse water quantity or flooding impacts to receiving water and adjacent lands;*
 - 2. Cause adverse impacts to existing surface water storage and conveyance capabilities;*
 - 3. Cause a violation of state water quality standards; or*
 - 4. Cause an adverse impact to the maintenance of surface or ground water levels or surface water flows established pursuant to s. 373.042 or a work of the district established pursuant to s. 373.086.*

Appendix B-1: Electronic Self-Certification Process, User Defined Project Details

The screenshot displays a web application interface for the 'Authorization Process'. On the left is a vertical navigation menu with the following items: Introduction (checked), Conditions (checked), Advisory (checked), Project Details (selected), Project Location (help icon), Location Selection (help icon), User Selection (help icon), Manage Contacts (help icon), Document Upload (help icon), Activity Information (help icon), and Certification (help icon). The main content area is titled 'Authorization Process' and contains a sub-section 'Project Details'. It features three input fields: 'Project/Activity Name or Nature of Work :*', 'Total Project Area (in acres) :*', and 'Total Impervious Surface (in acres) :*'. Below these fields is a paragraph explaining that reviewing agency staff may inspect the project for compliance with s. 403.814(12), F.S., and that providing design documentation (plans, specifications, calculations) increases the ability of staff to resolve compliance issues. It also notes that Florida Registered Professionals may be subject to signature and sealing requirements. A second paragraph states that the system currently accommodates only electronic sealing of documents with secure, internal signatures (e.g., secure Adobe PDF with third-party verification). At the bottom of the form, there are two radio buttons: 'I am: *' with options 'going to upload files.' and 'not going to upload files.'. At the very bottom are two buttons: 'Go Back to Previous Step' and 'Save and Go to Next Step'.

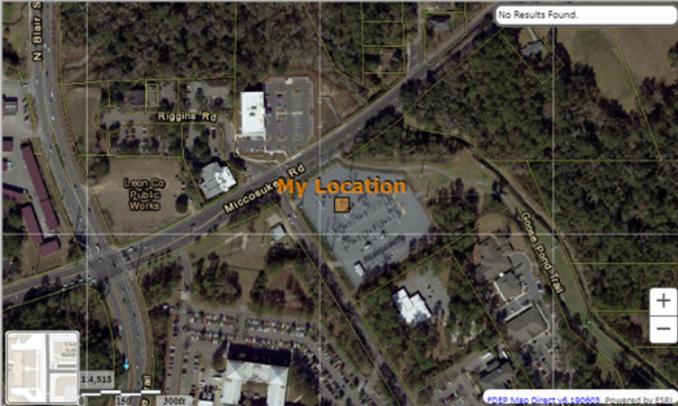
Appendix B-2: Electronic Self-Certification Process, Location Selection-Entry/Confirmation

- Introduction ✓
- Conditions ✓
- Advisory ✓
- Project Details ✓
- Project Location ✓
- Location Selection** ●
- User Selection ?
- Manage Contacts ?
- Document Upload ?
- Activity Information ?
- Certification ?

Home

Authorization Process Help About

Location Selection-Confirmation



The location marker must reflect the exact location of the proposed project.

'My Location' represents the current location selection of the proposed project.

New Sites: If necessary, click **Start Over** to move the location point to reflect the location of your proposed project before selecting **Continue**.

By selecting 'Continue', you will record this location for the proposed project. By selecting 'Start Over', you will be returned to the original mapping screen.

Appendix C: As-Built Self-Certification of Completion of Construction Example

**As-Built Certification
 And Request for Conversion to Operation Phase**

Instructions: Complete and submit this page within 30 days of completion of the entire project, or any independent portion of the project, as required by the permit conditions. The operation phase of the permit is effective when the construction certification for the entire permit/application is approved by the Agency. If the final operation and maintenance entity is not the permittee, the permittee shall operate the project, system, works, or other activities temporarily until such time as the transfer to the operation entity is finalized (use Form 62-330.310(2)).

Permit No: _____ Application No: _____ Permittee: _____
 Project Name: _____ Phase or Independent Portion (if applicable): _____

I HEREBY CERTIFY THAT (please check only one box):

To the best of my knowledge, information, and belief, construction of the project has been completed in substantial conformance with the plans specifications and conditions permitted by the Agency. Any minor deviations will not prevent the project from functioning in compliance with the requirements of Chapter 62-330, F.A.C. Attached are documents to demonstrate satisfaction of the outstanding permit conditions, other than long term monitoring and inspection requirements.

Construction of the project was NOT completed in substantial conformance with the plans and specifications permitted by the Agency. Any deviations or independent phasing will not prevent the project from functioning in compliance with the requirements of Chapter 62-330, F.A.C. (Contact the permitting agency to determine whether a modification of the permit will be required in accordance with Rule 62-330.315, F.A.C.) Attached is a description of substantial deviations, a set of as-built drawings, and documents to demonstrate satisfaction of the outstanding permit conditions, other than long term monitoring and inspection requirements.

Construction of the project was NOT completed in substantial conformance with the plans and specifications permitted by the Agency. There are substantial deviations that prevent the project from functioning in compliance with the requirements of Chapter 62-330, F.A.C. I acknowledge that corrections to the project and/or a modification of the permit will likely be required, and that conversion to the operation phase cannot be approved at this time. As-built or record drawings reflecting the substantial deviations are attached.

For activities that require certification by a registered professional:

By: _____ (Print Name) (Fla. Lic. or Reg. No.)
 Signature
 (Company Name) (Company Address)
 (Telephone Number) (Email Address)

AFFIX SEAL

(Date)

For activities that do not require certification by a registered professional:

By: _____ (Print Name)
 Signature
 (Company Name) (Company Address)
 (Telephone Number) (Email Address) (Date)








Form 62-330.310(1) – As-Built Certification and Request for Conversion to Operation Phase
 Incorporated by reference in paragraph 62-330.310(4)(a), F.A.C. (June 1, 2018) Example Copy