CLEAN WATERWAYS ACT STORMWATER RULE

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

Florida Stormwater Association Seminar | Sept. 6, 2024

AGENDA

- 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.
- Communication strategies.

ERP STRUCTURE

- **Chapter 62-330, F.A.C.:**
  - Rules incorporating the environmental resource permit (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 changes occurred.
  - Contains permit thresholds and exemptions.
  - Design performance standards.
  - Erosions and sediment control practices.
  - O&M requirements.
  - Wetland mitigation.
- **ERP AH Volume IIs:**
  - Five separate handbooks; one for each of the water management districts (WMDs).
  - Contain attenuation and special basin criteria.

SECTION 2
DEFINITIONS

Highlighted definition changes:

- Pre-development and post-development.
- Best management practices (BMPs) for erosion and sediment control and BMPs for stormwater treatment.
- Directly connected impervious area.
- Redevelopment.
- Hydrologic unit code.
- Impaired water.

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 ≤ pre analysis or a nutrient reduction efficiency, whichever is more protective.
  - Treatment designs would provide 80% reductions of total phosphorus (TP) and a 55% reduction of total nitrogen (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 OFWs) 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 one 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.

SECTION 9
CALCULATING AND MEETING PERCENT REDUCTIONS

- Calculations:
  - Modeling or calculations outlined in new section of AH Volume I.
  - Based on land use of the site, hydrology and event mean concentration (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
O&M

- Increased O&M 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.

QUALIFIED INSPECTORS

- Required to be used on or after June 28, 2025.
- Three options: (1) a registered professional, (2) an inspector under the supervision of a registered professional, or (3) have completed training no more than five years prior to the date of the inspection.
- Training must include the following:
  - The ability to read construction drawings, plans, specifications and modeling of recovery timeframes.
  - Principles of traditional BMPs for stormwater treatment, including functions that convey and remove pollutants from stormwater.
  - For traditional BMPs, the potential causes of failure or malfunction, replacement needs and reduction in treatment efficiency.
  - Understanding of the purpose, design and function of manufactured devices or non-traditional BMPs, and the ability to ensure the device meets manufacturers' specifications and maintenance requirements.
  - Performance of inspections, including field inspection experience and the completion of required reports and documentation, consistent with the requirements of Section 12 of AH Volume I, any relevant requirements of the applicable AH Volume II and all other applicable rules and regulations.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) ENTITIES

- **All** applicants must submit Form 62-330.301(26), “Certification of Financial Capability for Perpetual Operations and Maintenance Entities,” at the time of permit application and attach a cost estimate as described in Section 12.3.5.

- Applicants for systems where the operation and maintenance entity is or will be an MS4 permittee subject to Chapter 62-624, F.A.C. The **MS4 entity is not** required to submit a separate O&M plan as described in Section 12.4.1.

- Inspections: MS4 Entities shall conduct, and report inspections of ERP-permitted stormwater management systems owned or operated by the MS4 Entity in accordance with their MS4 permit requirements and any associated Standard Operating Procedures (SOPs) required pursuant to Chapter 62-624, F.A.C. **MS4 entity is not** required to submit a separate Form 62-330.311(3), “Operation and Maintenance Inspection Certification.” or the “Inspections Checklist” or equivalent as described in Section 12.5.

NEW FORMS NEEDED FOR ERP APPLICATIONS

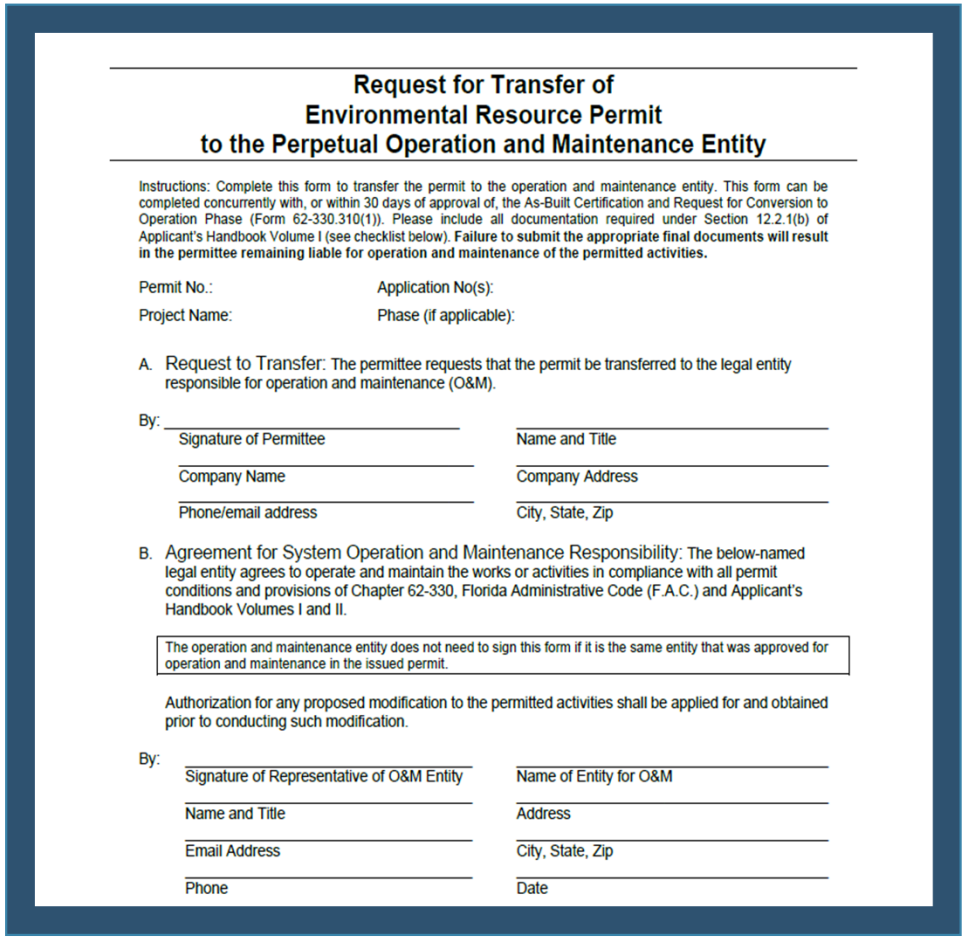
EFFECTIVE IMMEDIATELY

- Form 62-330.311(2), “Request for Transfer of Environmental Resource Permit to the Perpetual Operation and Maintenance Entity.”
- Form 62-330.301(26), “Certification Of Financial Capability For Perpetual Operations And Maintenance Entities.”
- Form 62-330.311(1), “Operation And Maintenance Inspection Certification.”
- Form 62-330.311(3), “Stormwater Facility Inspection Checklist.”

NEW FORMS NEEDED FOR ERP APPLICATIONS

TRANSFER TO O&M ENTITY

- Form 62-330.311(2), “Request for Transfer of Environmental Resource Permit to the Perpetual Operation and Maintenance Entity.”
- Update of an existing form.
- New version only required for permits deemed complete after the effective date.
  - Not required for permits completed before and are only just now transferring to O&M phase.
- Ensures that the maintenance entity is aware of all its duties for the permitted system.
- Adds the new required documents as part of the package:
  - O&M plan.
  - Cost estimate.
  - Financial capability certification form.



Request for Transfer of
Environmental Resource Permit
to the Perpetual Operation and Maintenance Entity

Instructions: Complete this form to transfer the permit to the operation and maintenance entity. This form can be completed concurrently with, or within 30 days of approval of, the As-Built Certification and Request for Conversion to Operation Phase (Form 62-330.310(1)). Please include all documentation required under Section 12.2.1(b) of Applicant's Handbook Volume I (see checklist below). **Failure to submit the appropriate final documents will result in the permittee remaining liable for operation and maintenance of the permitted activities.**

Permit No.: Application No(s):

Project Name: Phase (if applicable):

A. Request to Transfer: The permittee requests that the permit be transferred to the legal entity responsible for operation and maintenance (O&M).

By: _____ _____
Signature of Permittee Name and Title

_____ _____
Company Name Company Address

_____ _____
Phone/email address City, State, Zip

B. Agreement for System Operation and Maintenance Responsibility: The below-named legal entity agrees to operate and maintain the works or activities in compliance with all permit conditions and provisions of Chapter 62-330, Florida Administrative Code (F.A.C.) and Applicant's Handbook Volumes I and II.

The operation and maintenance entity does not need to sign this form if it is the same entity that was approved for operation and maintenance in the issued permit.

Authorization for any proposed modification to the permitted activities shall be applied for and obtained prior to conducting such modification.

By: _____ _____
Signature of Representative of O&M Entity Name of Entity for O&M

_____ _____
Name and Title Address

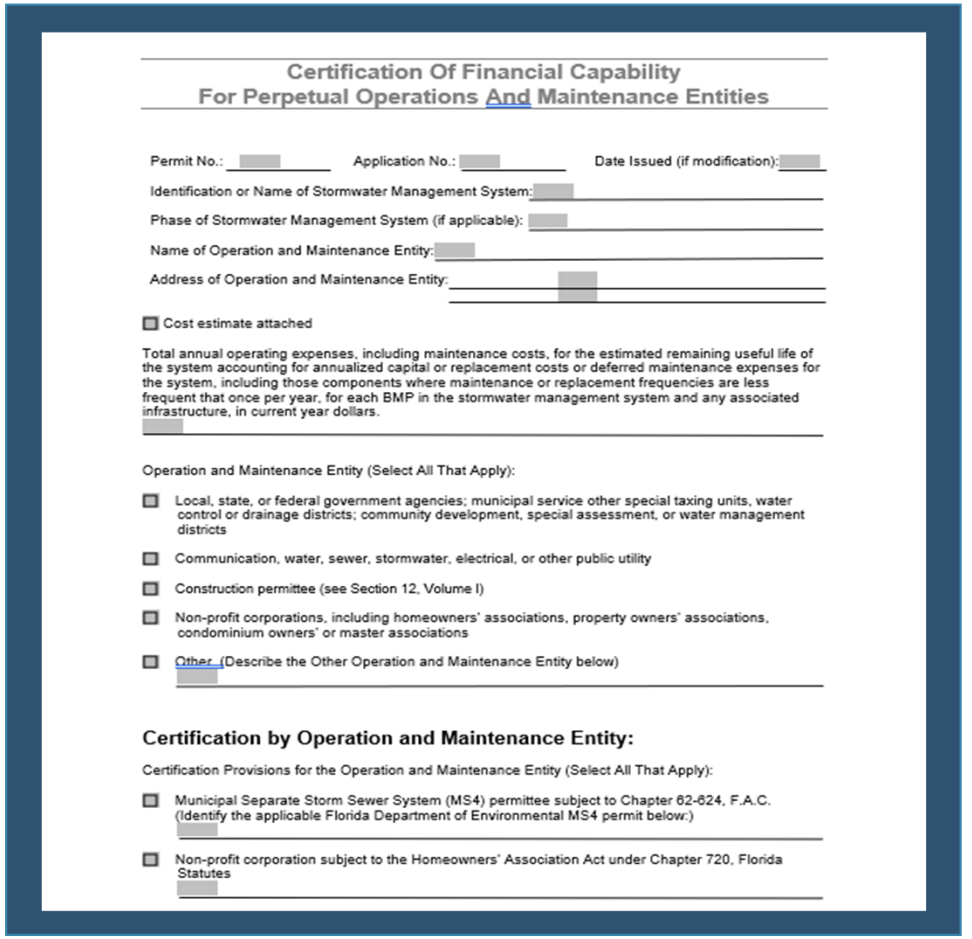
_____ _____
Email Address City, State, Zip

_____ _____
Phone Date

NEW FORMS NEEDED FOR ERP APPLICATIONS

FINANCIAL CAPABILITY CERTIFICATION

- Form 62-330.301(26), “Certification Of Financial Capability For Perpetual Operations And Maintenance Entities.”
- Certifies the O&M entity understands the costs of (1) operating and maintaining the system and (2) repairing and replacing the system.
- Indicates the type of financial institution that will be responsible:
  - MS4, nonprofit, homeowners’ association, temporary construction permittee, government agency, public utility, etc.
- Includes cost estimate – total annual operating expenses, including maintenance costs, for the estimated life of the system; current year dollars.
  - Accounts for annualized capital or replacement costs or deferred maintenance expenses for each BMP in the system and any associated infrastructure.



Certification Of Financial Capability
For Perpetual Operations And Maintenance Entities

Permit No.: Application No.: Date Issued (if modification):

Identification or Name of Stormwater Management System:

Phase of Stormwater Management System (if applicable):

Name of Operation and Maintenance Entity:

Address of Operation and Maintenance Entity:

☐ Cost estimate attached

Total annual operating expenses, including maintenance costs, for the estimated remaining useful life of the system accounting for annualized capital or replacement costs or deferred maintenance expenses for the system, including those components where maintenance or replacement frequencies are less frequent that once per year, for each BMP in the stormwater management system and any associated infrastructure, in current year dollars.

Operation and Maintenance Entity (Select All That Apply):

☐ Local, state, or federal government agencies; municipal service other special taxing units, water control or drainage districts; community development, special assessment, or water management districts

☐ Communication, water, sewer, stormwater, electrical, or other public utility

☐ Construction permittee (see Section 12, Volume I)

☐ Non-profit corporations, including homeowners' associations, property owners' associations, condominium owners' or master associations

☐ Other (Describe the Other Operation and Maintenance Entity below)

Certification by Operation and Maintenance Entity:

Certification Provisions for the Operation and Maintenance Entity (Select All That Apply):

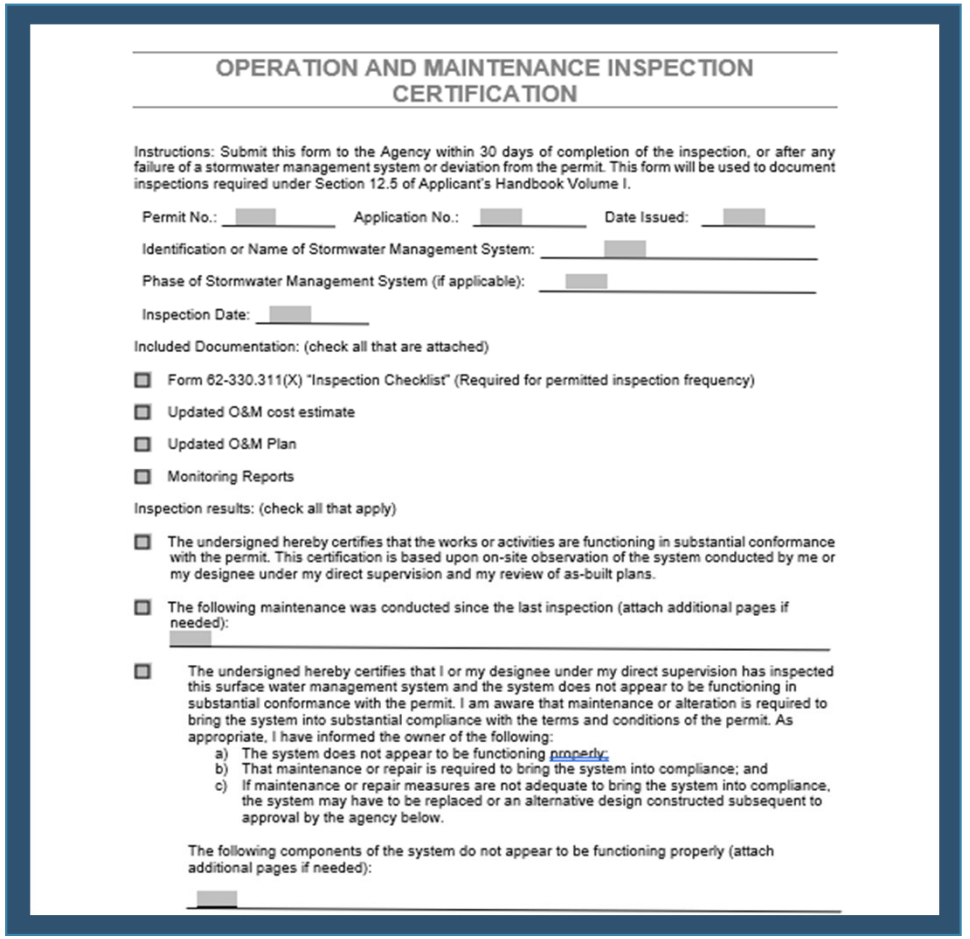
☐ Municipal Separate Storm Sewer System (MS4) permittee subject to Chapter 62-624, F.A.C. (Identify the applicable Florida Department of Environmental MS4 permit below:)

☐ Non-profit corporation subject to the Homeowners' Association Act under Chapter 720, Florida Statutes

NEW FORMS NEEDED FOR ERP APPLICATIONS

O&M CERTIFICATION

- Form 62-330.311(1), “Operation And Maintenance Inspection Certification.”
- Required at time of permitted inspection frequency.
- Optionally attach the inspection checklist, O&M, cost estimate and monitoring reports if any have been updated.
- Must be signed by a professional engineer (PE), someone working under a PE or a qualified inspector.
- Certifies under the inspector’s qualifications that the system is or is not in compliance with its permit.
- Any components of the constructed system that are not conformance with the permitted system must be returned to conformance or shall require a written request to modify the permit.



OPERATION AND MAINTENANCE INSPECTION CERTIFICATION

Instructions: Submit this form to the Agency within 30 days of completion of the inspection, or after any failure of a stormwater management system or deviation from the permit. This form will be used to document inspections required under Section 12.5 of Applicant's Handbook Volume I.

Permit No.: _____ Application No.: _____ Date Issued: _____

Identification or Name of Stormwater Management System: _____

Phase of Stormwater Management System (if applicable): _____

Inspection Date: _____

Included Documentation: (check all that are attached)

- ☐ Form 62-330.311(X) "Inspection Checklist" (Required for permitted inspection frequency)
- ☐ Updated O&M cost estimate
- ☐ Updated O&M Plan
- ☐ Monitoring Reports

Inspection results: (check all that apply)

- ☐ The undersigned hereby certifies that the works or activities are functioning in substantial conformance with the permit. This certification is based upon on-site observation of the system conducted by me or my designee under my direct supervision and my review of as-built plans.
- ☐ The following maintenance was conducted since the last inspection (attach additional pages if needed):

  _____
- ☐ The undersigned hereby certifies that I or my designee under my direct supervision has inspected this surface water management system and the system does not appear to be functioning in substantial conformance with the permit. I am aware that maintenance or alteration is required to bring the system into substantial compliance with the terms and conditions of the permit. As appropriate, I have informed the owner of the following:
  a) The system does not appear to be functioning properly;
  b) That maintenance or repair is required to bring the system into compliance; and
  c) If maintenance or repair measures are not adequate to bring the system into compliance, the system may have to be replaced or an alternative design constructed subsequent to approval by the agency below.

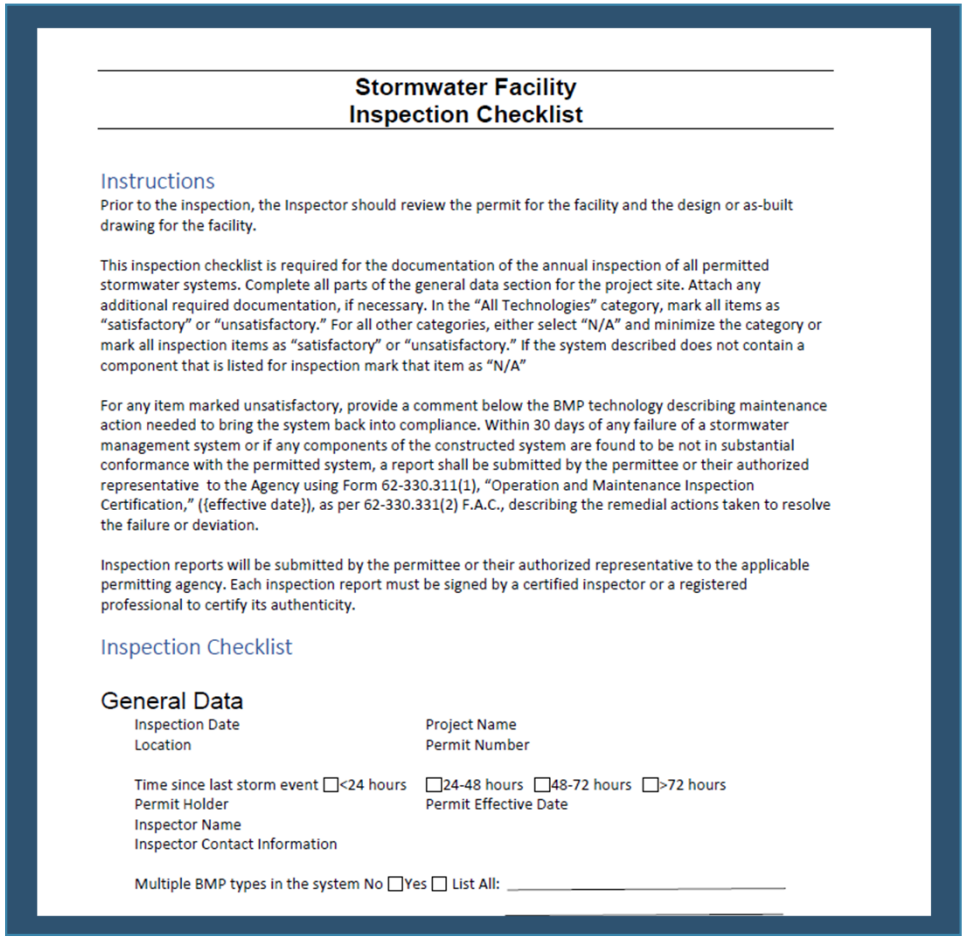
  The following components of the system do not appear to be functioning properly (attach additional pages if needed):

  _____

NEW FORMS NEEDED FOR ERP APPLICATIONS

INSPECTION CHECKLIST

- Form 62-330.311(3), “Stormwater Facility Inspection Checklist.”
- List of items to be checked during a standard inspection.
- Not required; functional equivalent is acceptable.
- Sections should be edited/minimized to better match site-specific conditions.
- Included in O&M plan.
- Used to inform owner where additional maintenance or repairs need to be made.
- Inspected by PE, someone working under a PE or a qualified inspector.



Stormwater Facility
Inspection Checklist

Instructions

Prior to the inspection, the Inspector should review the permit for the facility and the design or as-built drawing for the facility.

This inspection checklist is required for the documentation of the annual inspection of all permitted stormwater systems. Complete all parts of the general data section for the project site. Attach any additional required documentation, if necessary. In the “All Technologies” category, mark all items as “satisfactory” or “unsatisfactory.” For all other categories, either select “N/A” and minimize the category or mark all inspection items as “satisfactory” or “unsatisfactory.” If the system described does not contain a component that is listed for inspection mark that item as “N/A”

For any item marked unsatisfactory, provide a comment below the BMP technology describing maintenance action needed to bring the system back into compliance. Within 30 days of any failure of a stormwater management system or if any components of the constructed system are found to be not in substantial conformance with the permitted system, a report shall be submitted by the permittee or their authorized representative to the Agency using Form 62-330.311(1), “Operation and Maintenance Inspection Certification,” ({effective date}), as per 62-330.331(2) F.A.C., describing the remedial actions taken to resolve the failure or deviation.

Inspection reports will be submitted by the permittee or their authorized representative to the applicable permitting agency. Each inspection report must be signed by a certified inspector or a registered professional to certify its authenticity.

Inspection Checklist

General Data

Inspection Date Project Name
Location Permit Number

Time since last storm event ☐<24 hours ☐24-48 hours ☐48-72 hours ☐>72 hours
Permit Holder Permit Effective Date
Inspector Name
Inspector Contact Information

Multiple BMP types in the system No ☐Yes ☐ List All: _____

NEW FORMS NEEDED FOR ERP APPLICATIONS

INSPECTION CHECKLIST (2)

All (or other unlisted) Technologies

Items for inspection	Satisfactory	Unsatisfactory
General		
BMPs and treatment facilities are in good repair and operational	☐	☐
BMPs and treatment facilities are free from debris buildup that may impair function	☐	☐
Berms, embankments, curbing, or other methods used to impound, divert, and direct discharges are adequate and in good condition	☐	☐
The discharge (if any) is free of floating materials, visible oil sheen, discoloration, turbidity, odor, foam, or any other signs of contamination	☐	☐
Vegetation		
Mowing done when needed	☐	☐
Grass clippings removed	☐	☐
No evidence of erosion	☐	☐
Inlets		
Good condition, no need for repair	☐	☐
No evidence of erosion*	☐	☐
Outlets/overflow spillway		
Good condition, no need for repair	☐	☐
No evidence of erosion*	☐	☐

Comments: _____

Traditional BMPS

- Swales N/A ☐
- Wet Pond N/A ☐

Dry Pond N/A ☐

Type of dry pond _____

Items for inspection	Satisfactory	Unsatisfactory
Debris Cleanout		
Basin bottom clear of debris*	☐	☐
Emergency spillway clear of debris*	☐	☐
Recovery		
Pond recovers between storms	☐	☐
Vegetation		
No signs of damage from animal activity	☐	☐
No signs of stress or disease	☐	☐
No emergent invasive plant life	☐	☐
Does not need replanting	☐	☐
Not overgrown	☐	☐
Sediment cleanout of pond		
No evidence of sedimentation in pond	☐	☐
No evidence of erosion at downstream toe	☐	☐
Structural		
Embankment condition	☐	☐
No evidence of erosion or flooding *	☐	☐
Underdrain N/A ☐		
All cleanouts clear form clogging or blockages	☐	☐
Cleanouts in good condition	☐	☐

Comments:

Non-Traditional BMPS

Other Manufactured BMPs N/A ☐

Type of System _____

Items for inspection	Satisfactory	Unsatisfactory
Functioning based on permit and manufacturer specifications	☐	☐
No evidence of damage or clogging	☐	☐

Comments: _____

Monitoring Devices and Adaptive Controls N/A ☐

Type of Monitoring Device(s) _____

Items for inspection	Satisfactory	Unsatisfactory
Computer components		
Functioning as intended	☐	☐
Recording data at permitted intervals	☐	☐
No signs of rusting, corrosion, or other weather damage	☐	☐

Comments:

* That May Impair Function

Signature

Inspector Name:
Signature of Inspector:
Florida Registration Number:

COMMUNICATIONS STRATEGIES

ERP STORMWATER RESOURCE CENTER LANDING PAGE

Resources available now:

- Rule materials, training information and new forms.
- Updated AH Volume IIs.
- Implementation timeline.
- Project examples and stormwater designs for demonstrating nutrient loading for a site.
- Green stormwater infrastructure link (https://gsi.floridadep.gov/).
- Interactive maps (Hydrologic Unit Codes 12 and Impaired Waters).
- Link to AH Volume I Appendix O, treatment efficiencies for traditional BMPs.
- Requirements for the use of alternative regional EMC values.
- Technical references.
- Frequently asked questions.

https://floridadep.gov/water/engineering-hydrology-geology/content/erp-stormwater-resource-center

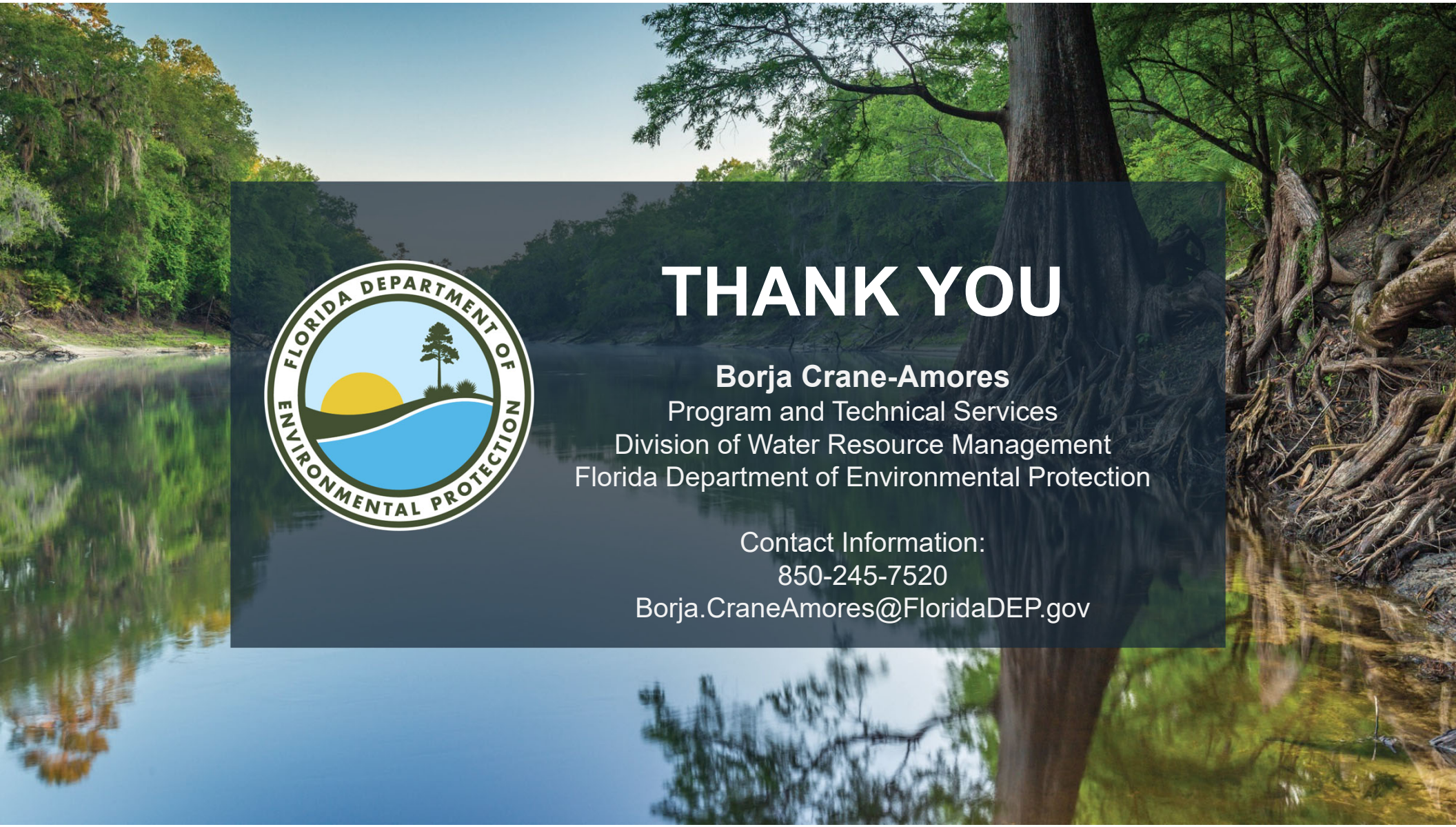
COMMUNICATIONS STRATEGIES

ERP STORMWATER RESOURCE CENTER LANDING PAGE (2)

Resources planned:

- Guidance on O&M plans.
- Request for Additional Information (RAI) standardized template for general questions.
- Qualified inspector training program (**on-going coordination efforts with organizations**).

https://floridadep.gov/water/engineering-hydrology-geology/content/erp-stormwater-resource-center



THANK YOU

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

Contact Information:
850-245-7520
Borja.CraneAmores@FloridaDEP.gov