



# Update on ERP Stormwater & 10/2 General Permit

Division of Water Resource Management  
December 2, 2020



# Legislative Direction

- **During the 2020 session, Florida’s Legislature approved the “Clean Waterways Act” (Senate Bill 712), which was signed by Governor Ron DeSantis, on June 30, 2020. The bill was adopted as Chapter 2020-150, Laws of Florida.**
- **This legislation had many directions for improving water quality. The Environmental Resource Permitting (ERP) program is focusing on the stormwater rulemaking portion of this legislation. Other programs are focusing on the other aspects of this law.**
- **The legislation directs the Department of Environmental Protection to initiate rulemaking by January 1, 2021, to improve the existing regulations pertaining to stormwater.**



## Section 5

### **Section 373.4131, Florida Statutes (F.S.), Statewide environmental resource permitting rules**

- **Update stormwater design and operation regulations**
- **Update ERP Applicant's Handbooks (Volume I and II)**
- **Use the most recent scientific information available**
- **Consider low impact design Best Management Practices (BMPs)**
- **Increase nutrient removal from stormwater systems**
- **Reduce pollutant loadings to waterbodies**



# Additional Tasks

- **Review and Evaluate Compliance of 10-2 General Permit Self-Certifications**
- **Provide recommendations to the Legislature regarding improvements to 10-2 General Permit process**
- **Conduct staff training for field inspections of stormwater systems and stormwater controls**



# Public Outreach

**DEP held two introductory webinars**

- **Engage the regulatory community**
- **Encourage active participation**
- **Seek input and recommendations**
- **Develop an interested parties list**
- **Provide historical background information**



# Stakeholder Input

- **The Department currently has over 75 people on the interested parties list, including multiple interest groups**
- **If you aren't already on this list and wish to be added, please send an email to: [Stormwater2020@FloridaDep.gov](mailto:Stormwater2020@FloridaDep.gov)**



# Rule Development

- **Water Management Districts (WMDs)**
- **DEP District Offices**
- **DEP Divisions**
  - **Division of Water Resource Management (DWRM)**
  - **Division of Environmental Assessment and Restoration (DEAR)**
- **Local delegated governments**
- **Chief Science Officer**



# Public Recommendations

## Comments and Recommendations received thus far:

- **Establish a Technical Advisory Committee (TAC)**
- **Utilize the prior draft documents from 2010**
- **Define “pre-development”**
- **Define “net-improvement”**
- **Provide flexibility for retrofit projects**
- **Nutrient management on a watershed basis**
- **Encourage natural buffers**





# Public Recommendations - 2

- **Require BMPs that reduce runoff volume, promote groundwater recharge**
- **Update the prescribed rainfall curves to the National Oceanic and Atmospheric Administration (NOAA) Atlas 14 precipitation data – provide consistency across WMDs**
- **Require or incentivize continuing maintenance of systems**
- **Streamline review and adoption of new BMPs**
- **Update ERP water quality treatment design criteria to increase the effectiveness of new stormwater treatment systems**



# Public Recommendations - 3

- **Goal of new design criteria should be to reduce the number of water bodies from being impaired**
- **Assure that post-development does not exceed pre-development stormwater characteristics**
- **Establish criteria for net improvement for redevelopment**
- **Make stormwater criteria more consistent throughout state**
- **Survey local governments to see what regulations they have in place**



# Public Recommendations - 4

- **Review the 10-2 General Permit – documentation**
- **Require higher removal of both Total Nitrogen and Total Phosphorus in all areas**
- **Require redesign and retrofit of existing failing systems**
- **Eliminate the presumption of compliance; require post-construction monitoring and management**
- **Establish statewide minimum standards**
- **Allow local governments to pass more protective regulations**
- **Establish a grant or revolving loan program**



# Engagement

**At this point, over a dozen organizations and interest groups have submitted comments and recommendations.**

***Thank you!***



# Common Themes

- **Establish a TAC**
- **Start with 2010 TAC recommendations**
- **Develop/approve high-tech BMPs**
- **Establish statewide consistency**
- **Tackle net improvement**
- **Require higher standards for impaired areas**



## 10-2 General Permit

- **Section 403.814(12), F.S.**
- **Stormwater management systems must be designed, operated and maintained in accordance with applicable rules**



# Updates

- **Any updates to the stormwater rules will need to be incorporated into the 10-2 General Permit criteria**
- **Plus, any other changes made specifically to the General Permit**



# 10-2 Compliance Data

- **Preliminary review of 10-2 project information obtained from 2018 – 2019**
- **Compliance review conducted to assess contributing factors for non-compliance**





# Reasons for Non-Compliance

- **No stormwater pond**
- **Pond undersized**
- **Project area greater than 10 acres**
- **Part of a larger plan**
- **Existing permitted site**
- **Construction within works of the Districts**
- **Wetland or surface water impacts**
- **Wrong self-certification (dock)**
- **Lack of BMPs**
- **Coastal Construction permit needed**



## Reduce Abuse

**What mechanisms can be imposed to reduce out-right non-compliance of the General Permit?**



# Improvements

- **Increase inspections during and post construction**
- **Perform desktop audits within initial “certification”**
- **Require submittal of engineering plans**
- **Construction completion certification**



## Improvements – 2

- **Prohibit use of General Permit in impaired watersheds**
- **Incorporate Geographic Information System (GIS) improvements**
- **Automatic kick-out if within a permitted site**
- **Penalties for frequent abuse**
- **Submittal 30 days prior to construction**



# What's Next?

- **Publish a Notice of Rule Development**
- **Hold Rule Workshops**
- **Review past rulemaking efforts**
- **Continue to solicit recommendations**
- **Draft rule revisions**
- **Submit 10-2 report to Legislature**



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