

## CHAPTER 2024-275

### Committee Substitute for Senate Bill No. 7040

An act relating to the ratification of the Department of Environmental Protection's rules relating to stormwater; ratifying a specified rule relating to environmental resource permitting for the sole and exclusive purpose of satisfying any condition on effectiveness pursuant to s. 120.541(3), F.S., which requires ratification of any rule exceeding the specified thresholds for likely adverse impact or increase in regulatory costs; providing construction; amending s. 373.4131, F.S.; ratifying rule 62-330.010, Florida Administrative Code, with specified changes; requiring that specified future amendments to such rule be submitted in bill form to, and approved by, the Legislature; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) The following rule is ratified for the sole and exclusive purpose of satisfying any condition on effectiveness imposed under s. 120.541(3), Florida Statutes; rule 62-330, Florida Administrative Code, titled "Environmental Resource Permitting," as filed for adoption with the Department of State pursuant to the certification package dated April 28, 2023.

(2) Except for the changes set forth in section 2 as to rule 62-330.010, Florida Administrative Code, this section serves no other purpose and may not be codified in the Florida Statutes. After this act becomes a law, its enactment and effective dates must be noted in the Florida Administrative Code, the Florida Administrative Register, or both, as appropriate. This section does not alter rulemaking authority delegated by prior law, does not constitute legislative preemption of or exception to any provision of law governing adoption or enforcement of the rule cited, and is intended to preserve the status of any cited rule as a rule under chapter 120, Florida Statutes. This section does not cure any rulemaking defect or preempt any challenge based on a lack of authority or a violation of the legal requirements governing adoption of any rule cited.

Section 2. Subsection (7) is added to section 373.4131, Florida Statutes, to read:

373.4131 Statewide environmental resource permitting rules.—

(7) The Legislature ratifies rule 62-330.010, Florida Administrative Code, titled "Purpose and Implementation," as filed for adoption with the Department of State pursuant to the certification package dated April 28, 2023, with the following changes:

(a) Section 3.1.2(e)3. of the Applicant's Handbook Volume I, incorporated in rule 62-330.010(4)(a), Florida Administrative Code, is changed to add,

after the last sentence, the following: “Nothing in Section 3.1.2(e)3. shall eliminate any grandfather provisions in Section 1.4.2 and other grandfather provisions of Section 3.1.2 in existence prior to [effective date]. Projects listed in Section 3.1.2(e)3. shall use all forms in effect at the time the permit was originally issued, except for those subsequent permits to construct and operate the future phases consistent with an unexpired conceptual approval permit which shall use the following forms effective [effective date]: Form 62-330.301(26) Financial Capability Certification; Form 62-330.301(25) Dam System Information; Form 62-330.311(1) Operation and Maintenance Certification; and Form 62-330.311(3) Inspection Checklists, as applicable.”

(b) Section 8.3.4(a)3. of the Applicant’s Handbook Volume I, incorporated in rule 62-330.010(4)(a), Florida Administrative Code, is changed to read: “the post-development condition average annual loading, of those pollutants not meeting water quality standards, that is less than that of the predevelopment condition.”

(c) Section 8.3.4(b)2. of the Applicant’s Handbook Volume I, incorporated in rule 62-330.010(4)(a), Florida Administrative Code, is changed to read: “the post-development condition average annual loading, of those pollutants not meeting water quality standards, that is less than that of the predevelopment condition.”

(d) Section 8.3.5 of the Applicant’s Handbook Volume I, incorporated in rule 62-330.010(4)(a), Florida Administrative Code, is changed to read: “Stormwater treatment systems serving redevelopment activities shall either meet the requirements of Sections 8.3.2 through 8.3.4 or provide an alternate level of treatment sufficient to accomplish:

(a) an 80 percent reduction of the post-development average annual loading of TP and a 45 percent reduction of the post-development average annual loading of TN from the project area; and

(b) for stormwater systems located within a HUC 12 sub-watershed containing an OFW and located upstream of that OFW, a 90 percent reduction of the post-development average annual loading of TP and a 60 percent reduction of the post-development average annual loading of TN from the project area; and

(c) for stormwater treatment systems located within a HUC 12 sub-watershed which contains an impaired water and located upstream of that impaired water, a level of treatment sufficient to accomplish a post-development condition average annual loading, of those pollutants not meeting water quality standards, that is less than that of the predevelopment condition.”

(e) The first sentence of Section 12.5(a) of the Applicant’s Handbook Volume I, incorporated in rule 62-330.010(4)(a), Florida Administrative Code, is changed to read: “All operation and maintenance entities, other than MS4 Entities, shall conduct and report inspections in accordance with

this section; except that those specific activities and best management practices regulated by the South Florida Water Management District pursuant to Chapter 40E-63, F.A.C., or by the Department of Agriculture and Consumer Services pursuant to Title 5M, F.A.C., and Section 403.067(7)(c)2., F.S., shall be inspected in accordance with such applicable rules and laws.”

(f) Section 8.2.2 of the Applicant’s Handbook Volume I, incorporated in rule 62-330.010(4)(a), Florida Administrative Code, is changed to add, after the last sentence, the following: “When an applicant demonstrates that its designs and plans, including any supporting information, meet the performance standards of Sections 8.2.3 and 8.3 by performing the analysis specified in Section 9 and, if applicable, in Volume II or Appendix O of Volume I, employing the structural best management practices specified therein as needed, and provides the information required by such sections, the applicant shall have satisfied the conditions for issuance of rule 62-330.301(1)(e), F.A.C., and rule 62-330.301(3), F.A.C., if applicable, and is entitled to the presumption of Section 373.4131(3)(b), F.S.”

(g) Section 8.3.1 of the Applicant’s Handbook Volume I, incorporated in rule 62-330.010(4)(a), Florida Administrative Code, is changed to read: “Each applicant shall demonstrate, through modeling or calculations as described in Section 9, that their proposed stormwater management system is designed to discharge to the required treatment level based on the performance standards described in Sections 8.3.2 through 8.3.5 below. For the purposes of this section, annual loading from the proposed project refers to post-development loads before treatment, as calculated in Section 9 of this volume. Stormwater treatment systems shall be designed to achieve at least an 80 percent reduction of the average annual post-development total suspended solids (TSS) load, or 95 percent of the average annual post-development TSS load for those proposed projects located within a HUC 12 sub-watershed containing an Outstanding Florida Water (OFW) and located upstream of that OFW. There is a rebuttable presumption that this standard is met when structural stormwater best management practices (BMPs) are designed to meet the applicable design standards in Sections 8.3.2 through 8.3.5 below.”

(h) Section 9.1 of the Applicant’s Handbook Volume I, incorporated in rule 62-330.010(4)(a), Florida Administrative Code, is changed to read: “Applicants are required to provide nutrient load reduction calculations in their application. To calculate the required stormwater nutrient load reduction for a project, the applicant should:

1. Determine whether the site falls within the same HUC 12 sub-watershed as, and is upstream of, an OFW or impaired water, and select the corresponding performance standard from Section 8.3 of this volume;

2. Determine the pre-development average annual average mass loading of the project area for both total nitrogen (TN) and total phosphorus (TP) through modeling or as described in Section 9.2;

3. Calculate the project area's post-development annual average mass loading before treatment for both TN and TP through modeling or as described in Section 9.2;

4. Determine the percent TN and TP reduction needed as defined within Sections 8.3 and 9.3 of this volume. The greater percent load reduction will be the requirement for the project; and

5. Determine which BMPs, or other treatment and reduction options, will be used to meet the required TN and TP load reductions that are equivalent to, or which exceed, the applicable performance standards in Sections 8.2.3 through 8.3.6. Information on how to calculate nutrient load reduction for BMP Treatment Train is found in Section 9.5 of this volume.

When an applicant provides reasonable assurance that its modeling, calculations, and applicable supporting documentation satisfy the provisions described above, the applicant shall have demonstrated that it meets the performance standards specified under Sections 8.2.3 through 8.3.6 of this volume.

(i) Section 3.1.2(e)4. of the Applicant's Handbook Volume I, incorporated in rule 62-330.010(4)(a), Florida Administrative Code, is changed to read: "Projects or activities that are the subject of a general or individual permit application that is deemed complete on or before [effective date + 18 months] shall be exempt from the amendments to Chapter 62-330, F.A.C., and Volume I adopted on [effective date], and the corresponding amendments to the applicable Volume II."

(j) Section 3.1.2(f) shall be added to the Applicant's Handbook Volume I, incorporated in rule 62-330.010(4)(a), Florida Administrative Code, and shall read: "Development or other construction projects for which stormwater management and design plans were submitted to a local or other government agency before January 1, 2024, shall be exempt from the amendments to Chapter 62-330, F.A.C., and Volume I adopted on [effective date], and the corresponding amendments to the applicable Volume II, for any of the following:

1. A project that was submitted as part of a local building permit or as part of an application for a site plan or subdivision plat approval.

2. An approved regional stormwater management system designed and permitted pursuant to an effective permit under part IV of chapter 373, F.S.

(k) Section 3.1.2(g) shall be added to the Applicant's Handbook Volume I, incorporated in rule 62-330.010(4)(a), Florida Administrative Code, and shall read: "Stormwater management systems constructed in accordance with a binding ecosystem management agreement executed by the department pursuant to Section 403.0752, F.S., before January 1, 2024, are exempt from the amendments to chapter 62-330, Florida Administrative Code, the

Applicant's Handbook Volume I adopted on [effective date], and corresponding amendments to the Applicant's Handbook Volume II."

(l) Section 3.1.2(h) shall be added to the Applicant's Handbook Volume I, incorporated in rule 62-330.010(4)(a), Florida Administrative Code, and shall read: "Stormwater management and design plans for a valid development of regional impact, as defined in Section 380.06, F.S., with a development order, as defined pursuant to Section 380.031, F.S., issued before January 1, 2024, are exempt, until October 1, 2044, from the amendments to chapter 62-330, Florida Administrative Code, the Applicant's Handbook Volume I adopted on [effective date], and corresponding amendments to the Applicant's Handbook Volume II, except where there has been an official determination or classification that an approved development of regional impact was essentially built out, as discussed in Section 380.06(4), F.S., after [effective date]."

(m) Section 3.1.2(i) shall be added to the Applicant's Handbook Volume I, incorporated in rule 62-330.010(4)(a), Florida Administrative Code, and shall read: "Stormwater management and design plans for a planned unit development final development plan approved pursuant to a local ordinance, resolution, or other final action by a local governing body before January 1, 2024, are exempt, until October 1, 2034, from the amendments to chapter 62-330, Florida Administrative Code, the Applicant's Handbook Volume I adopted on [effective date], and corresponding amendments to the Applicant's Handbook Volume II."

Any future amendments to those portions of the Applicant's Handbook Volume I, incorporated in rule 62-330.010(4)(a), Florida Administrative Code, included in this subsection must be submitted in bill form to the Speaker of the House of Representatives and to the President of the Senate for their consideration and referral to the appropriate committees. Such amendments shall become effective only upon approval by act of the Legislature.

Section 3. This act shall take effect upon becoming a law.

Approved by the Governor June 28, 2024.

Filed in Office Secretary of State June 28, 2024.