



841004

LEGISLATIVE ACTION

Senate

.

House

.

.

Floor: 1/AD/2R

.

02/22/2024 10:09 AM

.

.

Senator Harrell moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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.



12 (2) Except for the changes set forth in section 2 as to
13 rule 62-330.010, Florida Administrative Code, this section
14 serves no other purpose and may not be codified in the Florida
15 Statutes. After this act becomes a law, its enactment and
16 effective dates must be noted in the Florida Administrative
17 Code, the Florida Administrative Register, or both, as
18 appropriate. This section does not alter rulemaking authority
19 delegated by prior law, does not constitute legislative
20 preemption of or exception to any provision of law governing
21 adoption or enforcement of the rule cited, and is intended to
22 preserve the status of any cited rule as a rule under chapter
23 120, Florida Statutes. This section does not cure any rulemaking
24 defect or preempt any challenge based on a lack of authority or
25 a violation of the legal requirements governing adoption of any
26 rule cited.

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

29 373.4131 Statewide environmental resource permitting
30 rules.-

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

36 (a) Section 3.1.2(e)3. of the Applicant's Handbook Volume
37 I, incorporated in rule 62-330.010(4)(a), Florida Administrative
38 Code, is changed to add, after the last sentence, the following:
39 "Nothing in Section 3.1.2(e)3. shall eliminate any grandfather
40 provisions in Section 1.4.2 and other grandfather provisions of



841004

41 Section 3.1.2 in existence prior to [effective date]. Projects
42 listed in Section 3.1.2(e)3. shall use all forms in effect at
43 the time the permit was originally issued, except for those
44 subsequent permits to construct and operate the future phases
45 consistent with an unexpired conceptual approval permit which
46 shall use the following forms effective [effective date]: Form
47 62-330.301(26) Financial Capability Certification; Form 62-
48 330.301(25) Dam System Information; Form 62-330.311(1) Operation
49 and Maintenance Certification; and Form 62-330.311(3) Inspection
50 Checklists, as applicable."

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

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

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

69 (a) an 80 percent reduction of the post-development average



70 annual loading of TP and a 45 percent reduction of the post-
71 development average annual loading of TN from the project area;
72 and

73 (b) for stormwater systems located within a HUC 12 sub-
74 watershed containing an OFW and located upstream of that OFW, a
75 90 percent reduction of the post-development average annual
76 loading of TP and a 60 percent reduction of the post-development
77 average annual loading of TN from the project area; and

78 (c) for stormwater treatment systems located within a HUC
79 12 sub-watershed which contains an impaired water and located
80 upstream of that impaired water, a level of treatment sufficient
81 to accomplish a post-development condition average annual
82 loading, of those pollutants not meeting water quality
83 standards, that is less than that of the predevelopment
84 condition."

85 (e) The first sentence of Section 12.5(a) of the
86 Applicant's Handbook Volume I, incorporated in rule 62-
87 330.010(4)(a), Florida Administrative Code, is changed to read:
88 "All operation and maintenance entities, other than MS4
89 Entities, shall conduct and report inspections in accordance
90 with this section; except that those specific activities and
91 best management practices regulated by the South Florida Water
92 Management District pursuant to Chapter 40E-63, F.A.C., or by
93 the Department of Agriculture and Consumer Services pursuant to
94 Title 5M, F.A.C., and Section 403.067(7)(c)2., F.S., shall be
95 inspected in accordance with such applicable rules and laws."

96 (f) Section 8.2.2 of the Applicant's Handbook Volume I,
97 incorporated in rule 62-330.010(4)(a), Florida Administrative
98 Code, is changed to add, after the last sentence, the following:



99 "When an applicant demonstrates that its designs and plans,
100 including any supporting information, meet the performance
101 standards of Sections 8.2.3 and 8.3 by performing the analysis
102 specified in Section 9 and, if applicable, in Volume II or
103 Appendix O of Volume I, employing the structural best management
104 practices specified therein as needed, and provides the
105 information required by such sections, the applicant shall have
106 satisfied the conditions for issuance of rule 62-330.301(1) (e),
107 F.A.C., and rule 62-330.301(3), F.A.C., if applicable, and is
108 entitled to the presumption of Section 373.4131(3) (b), F.S."

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



841004

128 below.”

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

135 1. Determine whether the site falls within the same HUC 12
136 sub-watershed as, and is upstream of, an OFW or impaired water,
137 and select the corresponding performance standard from Section
138 8.3 of this volume;

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

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

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

150 5. Determine which BMPs, or other treatment and reduction
151 options, will be used to meet the required TN and TP load
152 reductions that are equivalent to, or which exceed, the
153 applicable performance standards in Sections 8.2.3 through
154 8.3.6. Information on how to calculate nutrient load reduction
155 for BMP Treatment Train is found in Section 9.5 of this volume.

156



841004

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

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

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

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

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

185 (k) Section 3.1.2(g) shall be added to the Applicant's



841004

186 Handbook Volume I, incorporated in rule 62-330.010(4) (a),
187 Florida Administrative Code, and shall read: "Stormwater
188 management systems constructed in accordance with a binding
189 ecosystem management agreement executed by the department
190 pursuant to Section 403.0752, F.S., before January 1, 2024, are
191 exempt from the amendments to chapter 62-330, Florida
192 Administrative Code, the Applicant's Handbook Volume I adopted
193 on [effective date], and corresponding amendments to the
194 Applicant's Handbook Volume II."

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

209 (m) Section 3.1.2(i) shall be added to the Applicant's
210 Handbook Volume I, incorporated in rule 62-330.010(4) (a),
211 Florida Administrative Code, and shall read: "Stormwater
212 management and design plans for a planned unit development final
213 development plan approved pursuant to a local ordinance,
214 resolution, or other final action by a local governing body



215 before January 1, 2024, are exempt, until October 1, 2034, from
216 the amendments to chapter 62-330, Florida Administrative Code,
217 the Applicant's Handbook Volume I adopted on [effective date],
218 and corresponding amendments to the Applicant's Handbook Volume
219 II."

220
221 Any future amendments to those portions of the Applicant's
222 Handbook Volume I, incorporated in rule 62-330.010(4) (a),
223 Florida Administrative Code, included in this subsection must be
224 submitted in bill form to the Speaker of the House of
225 Representatives and to the President of the Senate for their
226 consideration and referral to the appropriate committees. Such
227 amendments shall become effective only upon approval by act of
228 the Legislature.

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

230
231 ===== T I T L E A M E N D M E N T =====

232 And the title is amended as follows:

233 Delete everything before the enacting clause
234 and insert:

235 A bill to be entitled

236 An act relating to the ratification of the Department
237 of Environmental Protection's rules relating to
238 stormwater; ratifying a specified rule relating to
239 environmental resource permitting for the sole and
240 exclusive purpose of satisfying any condition on
241 effectiveness pursuant to s. 120.541(3), F.S., which
242 requires ratification of any rule exceeding the
243 specified thresholds for likely adverse impact or



841004

244 increase in regulatory costs; providing construction;
245 amending s. 373.4131, F.S.; ratifying rule 62-330.010,
246 Florida Administrative Code, with specified changes;
247 requiring that specified future amendments to such
248 rule be submitted in bill form to, and approved by,
249 the Legislature; providing an effective date.