

By the Appropriations Committee on Agriculture, Environment, and General Government; the Committee on Environment and Natural Resources; and Senator Harrell

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1 A bill to be entitled
2 An act relating to the ratification of the Department
3 of Environmental Protection's rules relating to
4 stormwater; ratifying a specified rule relating to
5 environmental resource permitting for the sole and
6 exclusive purpose of satisfying any condition on
7 effectiveness pursuant to s. 120.541(3), F.S., which
8 requires ratification of any rule exceeding the
9 specified thresholds for likely adverse impact or
10 increase in regulatory costs; providing construction;
11 amending s. 373.4131, F.S.; ratifying rule 62-330.010,
12 Florida Administrative Code, with specified changes;
13 requiring that specified future amendments to such
14 rule be submitted in bill form to and approved by the
15 Legislature; exempting specified developments and
16 projects and certain stormwater management systems
17 from the amended rules; providing an effective date.
18

19 Be It Enacted by the Legislature of the State of Florida:
20

21 Section 1. (1) The following rule is ratified for the sole
22 and exclusive purpose of satisfying any condition on
23 effectiveness imposed under s. 120.541(3), Florida Statutes:
24 rule 62-330, Florida Administrative Code, titled "Environmental
25 Resource Permitting," as filed for adoption with the Department
26 of State pursuant to the certification package dated April 28,
27 2023.

28 (2) Except for the changes set forth in section 2 as to
29 rule 62-330.010, Florida Administrative Code, this section

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30 serves no other purpose and may not be codified in the Florida
31 Statutes. After this act becomes a law, its enactment and
32 effective dates must be noted in the Florida Administrative
33 Code, the Florida Administrative Register, or both, as
34 appropriate. This section does not alter rulemaking authority
35 delegated by prior law, does not constitute legislative
36 preemption of or exception to any provision of law governing
37 adoption or enforcement of the rule cited, and is intended to
38 preserve the status of any cited rule as a rule under chapter
39 120, Florida Statutes. This section does not cure any rulemaking
40 defect or preempt any challenge based on a lack of authority or
41 a violation of the legal requirements governing adoption of any
42 rule cited.

43 Section 2. Subsections (7), (8), (9), and (10) are added to
44 section 373.4131, Florida Statutes, to read:

45 373.4131 Statewide environmental resource permitting
46 rules.—

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

52 (a) Section 3.1.2(e)3. of the Applicant's Handbook Volume
53 I, incorporated in rule 62-330.010(4)(a), Florida Administrative
54 Code, is changed to add, after the last sentence, the following:
55 "Nothing in Section 3.1.2(e)3. shall eliminate any grandfather
56 provisions in Section 1.4.2 and other grandfather provisions of
57 Section 3.1.2 in existence prior to [effective date]. Projects
58 listed in Section 3.1.2(e)3. shall use all forms in effect at

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59 the time the permit was originally issued, except for those
60 subsequent permits to construct and operate the future phases
61 consistent with an unexpired conceptual approval permit which
62 shall use the following forms effective [effective date]: Form
63 62-330.301(26) Financial Capability Certification; Form 62-
64 330.301(25) Dam System Information; Form 62-330.311(1) Operation
65 and Maintenance Certification; and Form 62-330.311(3) Inspection
66 Checklists, as applicable."

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

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

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

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

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88 and

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

94 (c) for stormwater treatment systems located within a HUC
95 12 subwatershed which contains an impaired water and located
96 upstream of that impaired water, a level of treatment sufficient
97 to accomplish a post-development condition average annual
98 loading, of those pollutants not meeting water quality
99 standards, that is less than that of the predevelopment
100 condition."

101 (e) The first sentence of Section 12.5(a) of the
102 Applicant's Handbook Volume I, incorporated in rule 62-
103 330.010(4)(a), Florida Administrative Code, is changed to read:
104 "All operation and maintenance entities, other than MS4
105 Entities, shall conduct and report inspections in accordance
106 with this section; except that those specific activities and
107 best management practices regulated by the South Florida Water
108 Management District pursuant to Chapter 40E-63, F.A.C., or by
109 the Department of Agriculture and Consumer Services pursuant to
110 Title 5M, F.A.C., and Section 403.067(7)(c)2., F.S., shall be
111 inspected in accordance with such applicable rules and laws."

112 (f) Section 8.2.2 of the Applicant's Handbook Volume I,
113 incorporated in rule 62-330.010(4)(a), Florida Administrative
114 Code, is changed to add, after the last sentence, the following:
115 "When an applicant demonstrates that its designs and plans,
116 including any supporting information, meet the performance

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117 standards of Sections 8.2.3 and 8.3 by performing the analysis
118 specified in Section 9 and, if applicable, in Volume II or
119 Appendix O of Volume I, employing the structural best management
120 practices specified therein as needed, and provides the
121 information required by such sections, the applicant shall have
122 satisfied the conditions for issuance of rule 62-330.301(1)(e),
123 F.A.C., and rule 62-330.301(3), F.A.C., if applicable, and is
124 entitled to the presumption of subsection 373.4131(3)(b), F.S."

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

145 (h) Section 9.1 of the Applicant's Handbook Volume I,

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146 incorporated in rule 62-330.010(4)(a), Florida Administrative
147 Code, is changed to read: "Applicants are required to provide
148 nutrient load reduction calculations in their application. To
149 calculate the required stormwater nutrient load reduction for a
150 project, the applicant should:

151
152 Determine whether the site falls within the same HUC
153 12 subwatershed as, and is upstream of, an OFW or
154 impaired water, and select the corresponding
155 performance standard from Section 8.3 of this volume;

156
157 Determine the pre-development average annual average
158 mass loading of the project area for both total
159 nitrogen (TN) and total phosphorus (TP) through
160 modeling or as described in Section 9.2;

161
162 Calculate the project area's post-development annual
163 average mass loading before treatment for both TN and
164 TP through modeling or as described in Section 9.2;

165
166 Determine the percent TN and TP reduction needed as
167 defined within Sections 8.3 and 9.3 of this volume.
168 The greater percent load reduction will be the
169 requirement for the project; and

170
171 Determine which BMPs, or other treatment and reduction
172 options, will be used to meet the required TN and TP
173 load reductions that are equivalent to, or which
174 exceed, the applicable performance standards in

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175 Sections 8.2.3 through 8.3.6. Information on how to
176 calculate nutrient load reduction for BMP Treatment
177 Train is found in Section 9.5 of this volume.

178
179 When an applicant provides reasonable assurance that its
180 modeling, calculations, and applicable supporting documentation
181 satisfy the provisions described above, the applicant shall have
182 demonstrated that it meets the performance standards specified
183 under Sections 8.2.3 through 8.3.6 of this volume."

184
185 Any future amendments to those portions of the Applicant's
186 Handbook Volume I, incorporated in rule 62-330.010(4)(a),
187 Florida Administrative Code, included in this subsection must be
188 submitted in bill form to the Speaker of the House of
189 Representatives and to the President of the Senate for their
190 consideration and referral to the appropriate committees. Such
191 amendments shall become effective only upon approval by act of
192 the Legislature.

193 (8) In addition to the grandfather provisions ratified by
194 this section, the department shall exempt from the amendments to
195 chapter 62-330, Florida Administrative Code, the Applicant's
196 Handbook Volume I, and corresponding amendments to the
197 Applicant's Handbook Volume II, development or other
198 construction projects for which construction or permitting
199 design drawings have been signed and sealed by a registered
200 professional pursuant to chapter 62-330, Florida Administrative
201 Code, and which were submitted to a local or other government
202 agency before January 1, 2024, for any of the following:

203 (a) A project for which construction or permitting design

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204 drawings were submitted as part of a local building permit or as
205 part of a rezoning application provided to demonstrate
206 consistency with a local government's comprehensive plan adopted
207 pursuant to s. 163.3184.

208 (b) An approved regional stormwater management system
209 designed and permitted pursuant to an effective permit under
210 part IV of chapter 373.

211 (9) Stormwater management systems constructed in accordance
212 with a binding ecosystem management agreement executed by the
213 department pursuant to s. 403.0752 before January 1, 2024, are
214 exempt from the amendments to chapter 62-330, Florida
215 Administrative Code, the Applicant's Handbook Volume I, and
216 corresponding amendments to the Applicant's Handbook Volume II.

217 (10) Designs for a development of regional impact as
218 defined in s. 380.06 that have been signed and sealed by a
219 registered professional pursuant to chapter 62-330, Florida
220 Administrative Code, before January 1, 2024, are exempt from the
221 amendments to chapter 62-330, Florida Administrative Code, the
222 Applicant's Handbook Volume I, and corresponding amendments to
223 the Applicant's Handbook Volume II.

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