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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,
15 the Legislature; providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

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

26 (2) Except for the changes set forth in section 2 as to
27 rule 62-330.010, Florida Administrative Code, this section
28 serves no other purpose and may not be codified in the Florida
29 Statutes. After this act becomes a law, its enactment and

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30 effective dates must be noted in the Florida Administrative
31 Code, the Florida Administrative Register, or both, as
32 appropriate. This section does not alter rulemaking authority
33 delegated by prior law, does not constitute legislative
34 preemption of or exception to any provision of law governing
35 adoption or enforcement of the rule cited, and is intended to
36 preserve the status of any cited rule as a rule under chapter
37 120, Florida Statutes. This section does not cure any rulemaking
38 defect or preempt any challenge based on a lack of authority or
39 a violation of the legal requirements governing adoption of any
40 rule cited.

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

43 373.4131 Statewide environmental resource permitting
44 rules.—

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

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

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59 consistent with an unexpired conceptual approval permit which
60 shall use the following forms effective [effective date]: Form
61 62-330.301(26) Financial Capability Certification; Form 62-
62 330.301(25) Dam System Information; Form 62-330.311(1) Operation
63 and Maintenance Certification; and Form 62-330.311(3) Inspection
64 Checklists, as applicable."

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

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

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

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

87 (b) for stormwater systems located within a HUC 12 sub-

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88 watershed containing an OFW and located upstream of that OFW, a
89 90 percent reduction of the post-development average annual
90 loading of TP and a 60 percent reduction of the post-development
91 average annual loading of TN from the project area; and

92 (c) for stormwater treatment systems located within a HUC
93 12 sub-watershed which contains an impaired water and located
94 upstream of that impaired water, a level of treatment sufficient
95 to accomplish a post-development condition average annual
96 loading, of those pollutants not meeting water quality
97 standards, that is less than that of the predevelopment
98 condition."

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

110 (f) Section 8.2.2 of the Applicant's Handbook Volume I,
111 incorporated in rule 62-330.010(4) (a), Florida Administrative
112 Code, is changed to add, after the last sentence, the following:
113 "When an applicant demonstrates that its designs and plans,
114 including any supporting information, meet the performance
115 standards of Sections 8.2.3 and 8.3 by performing the analysis
116 specified in Section 9 and, if applicable, in Volume II or

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

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

143 (h) Section 9.1 of the Applicant's Handbook Volume I,
144 incorporated in rule 62-330.010(4)(a), Florida Administrative
145 Code, is changed to read: "Applicants are required to provide

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146 nutrient load reduction calculations in their application. To
147 calculate the required stormwater nutrient load reduction for a
148 project, the applicant should:

149 1. Determine whether the site falls within the same HUC 12
150 sub-watershed as, and is upstream of, an OFW or impaired water,
151 and select the corresponding performance standard from Section
152 8.3 of this volume;

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

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

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

164 5. Determine which BMPs, or other treatment and reduction
165 options, will be used to meet the required TN and TP load
166 reductions that are equivalent to, or which exceed, the
167 applicable performance standards in Sections 8.2.3 through
168 8.3.6. Information on how to calculate nutrient load reduction
169 for BMP Treatment Train is found in Section 9.5 of this volume.

170
171 When an applicant provides reasonable assurance that its
172 modeling, calculations, and applicable supporting documentation
173 satisfy the provisions described above, the applicant shall have
174 demonstrated that it meets the performance standards specified

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175 under Sections 8.2.3 through 8.3.6 of this volume.

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

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

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

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

199 (k) Section 3.1.2(g) shall be added to the Applicant's
200 Handbook Volume I, incorporated in rule 62-330.010(4) (a),
201 Florida Administrative Code, and shall read: "Stormwater
202 management systems constructed in accordance with a binding
203 ecosystem management agreement executed by the department

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204 pursuant to Section 403.0752, F.S., before January 1, 2024, are
205 exempt from the amendments to chapter 62-330, Florida
206 Administrative Code, the Applicant's Handbook Volume I adopted
207 on [effective date], and corresponding amendments to the
208 Applicant's Handbook Volume II."

209 (l) Section 3.1.2(h) 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 valid development of regional
213 impact, as defined in Section 380.06, F.S., with a development
214 order, as defined pursuant to Section 380.031, F.S., issued
215 before January 1, 2024, are exempt, until October 1, 2044, 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, except where there has been an official determination or
220 classification that an approved development of regional impact
221 was essentially built out, as discussed in Section 380.06(4),
222 F.S., after [effective date]."

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

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233 II."

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

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