

FLORIDA BEACON

From the President's Desk Elva Peppers



Florida Association of
Environmental Professionals
Summer 2023



Hello FAEP Members,

Summer is here! With summer comes vacation, time with family and friends, the Florida heat and the Florida Chamber Summer School conference in Marco Island. Many in the environmental industry head to this conference in July and bring their families to enjoy the beautiful venue and enjoy nearby sights including Rookery Bay and the gorgeous water and beaches. The FAEP will also be in attendance and invite you to come by our booth #118 to check out information about each chapter, meet some of our other members, enter in our drawings for nice prizes and take advantage of a chance to win a gift card by joining FAEP or renewing your membership with a special conference code.

During the last quarter, things were busy for the FAEP and its chapters. We not only held the annual FAEP conference in Tallahassee, but the Central Florida chapter hosted a soils workshop on April 28th, in addition to many other chapter events around the state. The conference was held at the FSU Turnbull Center where we heard from more than 25 speakers from FDEP, FWC, City of Tallahassee, FDOT, and FGS, representatives from non-governmental agencies, private industry and some student poster presentations. The keynote speaker was Kevin Robertson, a fire ecology research scientist with Tall Timbers Research Station. He gave a very engaging and fascinating presentation about fire, research, and trends. I highly recommend taking the tour of Tall Timbers Research Station to see the fantastic work that has been done there for many decades if you are in the Tallahassee area.

FAEP is here to support our members through networking, meetings, educational events and the annual conference. Some offerings that you may not know are available are in-depth professional training opportunities for wetland soils identification, Phase 1 Environmental Site Assessment training, and our newest addition at the request of many members is the Wetland Delineation training. These opportunities are presented by FAEP and hosted by local chapters in an effort to get training courses nearer to our members. This is helpful in cutting costs as well as teaching attendees within the areas that they work in to better prepare them for their own geographic area. In order to do this, we count on sponsors and memberships in the state organization as well as individual chapters. There are many opportunities for sponsorships so I would encourage you to reach out to your local chapter representatives or the state membership office, info@faep-fl.org for more information. Thank you for being a member of FAEP and please let me know if there is anything you would like to ask or share.

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Thanks for reading our newsletter!

Florida's Water Quality Rules Pursuant to the Clean Waterways Act

By
Susan Roeder Martin
Nason, Yeager, Gerson, Harris, and Fumero

Significant Rulemaking

The Department of Environmental Protection (DEP) recently adopted (pending ratification) the most significant rules in its history pertaining to stormwater quality. The rules will drastically alter the environmental resource permit (ERP) requirements for water quality treatment. The rules will greatly enhance water quality in Florida, but will come with a significant cost, as discussed below. Virtually everyone supported DEP's efforts to improve water quality. However, there was not, and still is not, consensus on how this should be accomplished.

Legislative Direction

Florida recognizes that stormwater-related pollution is one of the largest potential contributors of nutrients throughout the State, especially pollution from excess nutrients. Because of this, the Legislature passed the Clean Waterways Act, with unanimous, bipartisan support. The legislation requires DEP and the water management districts to update the ERP stormwater design and operation regulations under Part IV of Chapter 373, Florida Statutes, using the latest scientific information. These provisions are set forth section 373.4131(6)(a) of the Florida Statutes, which required, by January 1, 2021:

The department and the water management districts [to] initiate rulemaking to update the stormwater design and operation regulations, including updates to the Environmental Resource Permit Applicant's Handbook, **using the most recent scientific information available**. As part of rule development, the department shall consider and address low-impact design best management practices and design criteria that increase the removal of nutrients from stormwater discharges, and measures for **consistent application of the net improvement performance standard** to ensure significant reductions of any pollutant loadings to a water body. (emphasis added)

The net improvement performance standard referenced in above section refers to section 373,414(b)3,, Florida Statutes which states:

If the applicant is unable to meet water quality standards because existing ambient water quality does not meet standards, the governing board or the department shall consider mitigation measures proposed by or acceptable to the applicant **that cause net improvement** of the water quality in the receiving body of water **for those parameters which do not meet standards**. (emphasis added)

Initiation of Rule Development

On November 19, 2020, DEP formally began rulemaking to update chapter 62-330, Florida Administrative Code and the ERP Applicant's Handbook Volume I ("AHI") that applies statewide. Each of the state's five water management districts also initiated rule development, primarily to delete water quality provisions that will be addressed in AHI. While DEP's rulemaking effort was widely supported, there were differences in opinion as to how to achieve improved water quality.

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Rule Publication

DEP published the proposed rule on February 24, 2023, which included changes to chapter 62-330 of the Florida Administrative Code and changes or new language to the following parts of AH1: Part 2 (definitions); Part 3 (“grandfathering”ⁱ); Part 8 (criteria for evaluation); Part 9 (stormwater quality treatment calculations); and Part 12 (operations and maintenance). Changes and new language were also proposed for dams, appendices, and forms. The published rule contained the following additional permitting requirements:

- Modeling or calculations are required, rather than presumptive best management practice design.
- Minimum stormwater treatment performance standards for design are based on a pre/post analysis or a nutrient reduction efficiency, whichever is more protective.
- Treatment designs must provide eighty percent nutrient reduction for both total phosphorous (TP) and total nitrogen (TN).
- Additional removal requirements of ninety-five percent for projects discharging within Outstanding Florida Waters.
- Additional provisions for projects discharging to impaired waters to ensure consistent procedures for demonstrating that a project will provide a net improvement to receiving waters.
- For redevelopment, the proposed provisions would allow a reduced TN performance standard of forty-five percent, under limited conditions which are expected to support redevelopment in areas where there are likely little or no historical stormwater treatment.ⁱⁱ

The published rule also proposed changes to the operation and maintenance requirements in section 12 of AH1. These include strengthened training, documentation, and inspection frequency requirements to help ensure that new stormwater management systems will be properly operated and maintained over time. There are also new permitting requirements to ensure that entities will be capable of performing operation and maintenance over time.

Statement of Estimated Regulatory Costs (SERC)

Section 120.54(3)(b)1, Florida Statutes requires agencies to prepare a SERC when the rule would “increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after the implementation of the rule.”

The proposed rule tripped the statutory requirement for a SERC because DEP determined that regulatory costs exceed \$200,000 within one year. To prepare the SERC, DEP estimated the new design and permitting requirements to meet the minimum stormwater treatment design performance criteria for new or altered stormwater management systems. Specifically, DEP estimated the costs of a sample project under the new rule requirements. DEP determined the total estimated cost (prior to revisions made in response to lower regulatory cost alternatives) would be as follows:

1. Increased Stormwater Treatment Requirement	\$ 102,755
2. Additional Treatment System Design	\$ 1,004
3. New Operation and Maintenance Permitting	\$ 1,631
4. Strengthened Inspection and Reporting	\$ 443
5. Total Per Project Items (Add lines 1-4),	\$ 105,833

6. Number Projects, 5 years from implementation	14,032
7. Total Per Project Cost ⁱⁱⁱ	\$ 1,485,050,000
8. Dam safety total for 5 years	\$620,200
Total Proposed Rule Revisions	\$ 1,485,670,000

Chapter 120, the Florida Statutes allows affected persons to submit proposals for a lower cost regulatory alternative to the agency. Four Lower Cost Regulatory Alternatives (LCRAs) were submitted to DEP. Pursuant to section 120.541(1)(a), Florida Statutes, DEP was required to respond to each LCRA, revise the SERC, and either adopt the LCRA or provide a statement of the reasons for rejecting the LCRA.

Three of the LCRAs requested clarification of “grandfathering” language for construction permits that are consistent with their conceptual permits and clarification that minor permit modifications would not be subject to the new rule language. The fourth LCRA focused on the requirement that treatment designs provide eighty percent nutrient reduction for both TP and TN and the additional nutrient removal requirements of ninety-five percent for projects discharging within Outstanding Florida Waters. The fourth LCRA argued that the rule language was not based on the most recent scientific data or statutory authority.

Rule Adoption Hearing and Response to LRCAs

DEP conducted a rule adoption hearing on March 22, 2023, in which DEP not only presented the rule, but also considered the LCRAs. It also took general public comment. DEP published revised rule language on March 24, 2023, responding to the LRCAs.

DEP published amendments reducing some of the percentage reduction requirements set forth in the minimum performance standards. The general minimum performance standard was changed from an eighty to a fifty-five percent reduction in the average annual loading of TN from the proposed project. For Outstanding Florida Waters, the percentages were changed from a ninety-five percent reduction of the average annual loading of nutrients to a ninety percent reduction of the average annual loading of TP and eighty percent reduction of the average annual loading of TN.

DEP also clarified that activities which were approved by an unexpired conceptual approval, general, or individual ERP, Management and Storage of Surface Waters Permit, or Surface Water Management Permit issued prior to rule’s effective date, and subsequent permits to construct and operate the future phases consistent with an unexpired conceptual approval permit, will be exempt from the rule. The exemption does not apply to a major modification or one that will cause substantially different water resource impacts. Additionally, the new rule will not apply to permit transfers of grandfathered permits, or conversion of such permits to the operation phase. However, operation phase permits will be subject to the Inspections and Reporting Requirements of sections 12.5 and 12.6 of AHI. These grandfathered permits will be reviewed under the rule in effect at the time the permit was originally issued, unless the applicant elects to have such modification reviewed under the new rule.

In addition to grandfathered activities, the rule has a delayed application date. Pursuant to section 3.1.2(e)(4) of AHI:

Projects or activities that are the subject of a general or individual permit application that is deemed complete on or before [effective date + 12 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.

Legislative Ratification

Because of the great cost of this rule, section 120.541(3) of the *Florida Statutes*, required DEP to have the rule ratified by the Legislature. The proposed rule was considered by the Legislature in the 2023 session, but not adopted, primarily due to the costs associated with the proposed rule. DEP will now need to seek legislative ratification in 2024. In the meantime, DEP will need to learn what changes to the language are necessary for successful ratification in 2024. If alternative language is proposed, it will have to be formalized by the initiation of rule development, prior to the 2024 legislative session.

Water Management District Rulemaking

Early in 2023, each of the water management districts also held workshops to present its proposed amendments to its individual ERP Applicant's Handbook Volume II (AHII). Each water management district currently has its own rules on water quality and water quantity in its individual AHII. Due to the proposed revisions to address the new statewide stormwater requirements in AHI, each water management district proposed the necessary changes within its AHII to be consistent with AHI. The stated purpose of the rulemaking is to address redundant rule language; obsolete rule language; refinement of rule language; and the expansion of existing rule language for better clarification.

The water quantity or flood control provisions will continue to remain in each water management district's AHII. While the Legislature has called for statewide consistency in ERP rules, these differences in AHII are acceptable because they are based on the differences in physical and natural characteristics of the geographic areas in each water management district.^{iv}

Water Quality Enhancement Areas- a Potential Tool to Address Increased Water Quality Requirements

Section 373.4134, *Florida Statutes*, sets forth an authorization for water quality enhancement areas to provide an additional tool to assist in water quality enhancement.

A WQEA is a natural system that is constructed, operated, managed, and maintained pursuant to a permit to provide offsite, compensatory, regional treatment within an identified enhancement service area. It is much like a mitigation bank, but will be used to offset water quality rather than wetland impacts. Section 373.4134, *Florida Statutes*, is modeled after the mitigation banking provisions in *Florida Statutes*. All the protections included in the mitigation banking legislation, such as financial assurances, ownership, conservation easements are required for WQEA. Additionally DEP will keep a ledger, like it does for mitigation banks.

During the of the WQEA legislation, the rule was limited to use by governmental entities. While anyone can construct and permit a WQEA, credit sales are limited at this time to governmental entities. It is hoped that the statute will be expanded, so that WQEA can be a tool for other entities to meet water quality requirements. On March 14, 2023, DEP initiated rulemaking to implement the requirements of section 373.4134, *Florida Statutes* to adopt rules for the implementation of WQEA.

This is a separate rulemaking docket from the Clean Waterways Act rulemaking docket. This means the rulemaking process can proceed and be finalized while the Clean Waterways rulemaking awaits legislative ratification.

ⁱ Grandfathering means an exemption from new rules or laws for a person or entity that already engages in certain activities or had a permit before the rules take effect.

ⁱⁱ Clean Waterways Act Stormwater Rulemaking Public Hearing, Div. of Water Res. Mgmt., Fla. Dep't of Env'tl. Prot. (March 22, 2023), at 4 (available at <https://floridadep.gov/sites/default/files/Hearing%20Presentation.pdf>).

ⁱⁱⁱ Statement of Estimated Regulatory Costs [from Revisions to Fla. Admin. Code R. 62-330], Div. of Water Res. Mgmt., Fla. Dep't of Env'tl. Prot. (March 23, 2023), at 3 (available at <http://publicfiles.dep.state.fl.us/dwrm/draftuledocs/stormwater/noc/serc-template-updated.pdf>).

Tampa Bay Chapter

The Tampa Bay Chapter provided funding for two student members to attend the 2023 FAEP Symposium in Tallahassee. Ryan Jones from Everglades University and Michael Chase from USF enjoyed their opportunity to interact with Symposium attendees. These two students have provided us with a review of the event from their perspective.

The 2023 FAEP ANNUAL SYMPOSIUM By Ryan Jones

Once a year there is a special gathering. One that seems out of the ordinary at first glance. However, upon closer examination one soon realizes that they are bearing witness to a spectacle that rivals any in nature. It is a multidisciplinary gathering of scientists and engineers, lawyers, stakeholders, and enthusiasts. A gathering of dedicated individuals, perfectionists in their field, working tirelessly to foster real change. It is a gathering of heroes, a gathering of environmental professionals. Captain Planet, step aside.

This year, I had the wonderful opportunity to attend this gathering thanks to the Tampa Bay Association of Environmental Professionals. Their sponsorship made this possible and I could not be more grateful, nor more overjoyed with the experience. At times the roar of conversation was almost deafening. It was excitement, it was the sound of ideas being shared and partnerships being forged. It was the sound of progress. For two days I was enraptured by talks on water quality restoration, water quality monitoring and innovation. The geology of Florida, our aquifers, limestone, and sinkholes and mitigation of carbon dioxide emission through landfill abatement and fossil fuel replacement by a company called Nucycle Energy (more on this later.) Speakers from AECOM discussed their technology to harvest intact algae cells from distressed bodies of water to mitigate harmful algal blooms ("intact," being important because obviously if they are not, they're dead, and decomposition consumes oxygen in the water). Representatives from FDOT shared their efforts of preserving Florida heritage during new road construction projects. Perhaps more importantly, they discussed recent wildlife corridor projects bringing the current total to 60 corridors throughout the state of Florida. This was especially important to me as the concept is something I have been dreaming about since I was a kid. I was truly among my own kind. The overarching theme was stormwater runoff. The realization of stormwater as a fundamental issue has gained considerable traction lately and though I was not surprised, still I was quite pleased to see it was at the forefront of everyone's mind. The developing technologies for mitigation are equally impressive. Technologies such as smart-ponds. Yes, you read that right. Smart-ponds. Imagine a drainage pond with something akin to a pumphouse for a pool, which has a computer inside linked with the internet; it reads the local weather forecast and lowers its own water level in accordance with the predicted rainfall. Well, stop imagining. There are already three prototypes.

Eventually, as all good things do, the symposium ended, and although I enjoyed my time in the capital, it was now time to head home. Spirits up, windows down, Spotify open, Rascal Flats queued, I set out on my trek back to Tampa. However, my experience was not over yet. A week later I met with Mark Barasch in Plant City. Mark was one of the speakers at the symposium and is the CEO of Nucycle Energy, a company that manufactures a type of fuel made from discarded materials that would have otherwise ended up in a landfill. He gave me a tour of his facility and walked me through the entire process, from their suppliers to their customers. It was fascinating watching the staff sort and compile what would have been waste; they knew precisely what to mix to maximize combustion. I have never seen a group of people so aware of the BTU value of various materials. Again, they are perfectionists in their field.

The symposium was an amazing experience. It was inspiring to see so many people come together for environmental conservation. There may not have been any Planeteers around, but science is power, and collectively the participants with their various fields of discipline wielded the science of earth, fire, wind, and water. And everyone brought something that was the same - Heart.

I saw these powers combined at the symposium. However, what I saw was not Captain Planet. It was the Florida Association of Environmental Professionals.

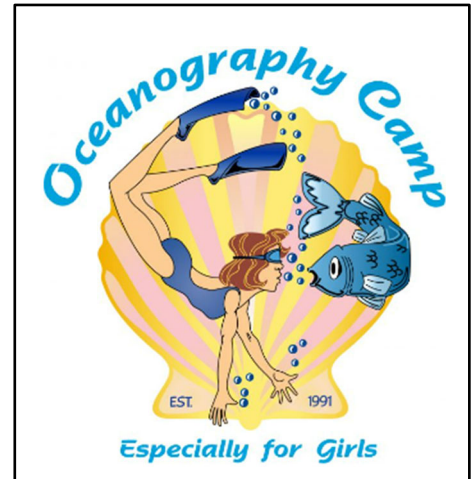
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My name is Michael Chase and I am a recent graduate of the University of South Florida with concurrent B.S. degrees in environmental science & policy and integrative animal biology. Following a more recent career focus change from wildlife veterinary medicine towards environmental policy and law, I became part of a small group of USF students that helped to restart the TBAEP student chapter on our campus in 2022. I was delighted to serve as a student representative for TBAEP at the FAEP symposium in Tallahassee this year. The conference provided me with a look into the professional landscape of this dynamic career field while I was able to expand my professional network and connect with fellow students as well. I want to thank the TBAEP board for providing funding to cover my symposium travel fees, as well as Gabriella Balsam, TBAEP President, for organizing the process and reaching out to me with the opportunity.

This year TBAEP also provided a \$2,000 donation to the Oceanography Camp for Girls (OCG) offered by the USF College of Marine Sciences. Funding for the donation came from the Annual Tampa Bay and Central Florida Chapters Golf Tournament. This Camp is offered every summer and involves Professors, Graduate and Undergraduate students, high school students (former participants) and volunteers. The camp typically has about 30 attendees and entry is very competitive. The OCG Mission Statement is: ***The Oceanography Camp for Girls was developed to inspire and motivate young women entering high school to consider career opportunities in the sciences.***

Their motto is: **“Encouraging a positive sense of self, science, and the environment through ocean exploration.”** Camp isn’t only about science, the team environment also provides opportunities for young women to develop their sense of self-worth: **“The all-girls setting dissolves social barriers to learning, creates a comfortable “risk-free” environment, and cultivates a positive sense of self”.**



From gathering data in the field, analyzing their findings, conducting experiments, working in laboratories, and reporting on their findings, OCG campers get to live life like a marine scientist. As a culmination of their group’s work, campers create and present on their mentor-guided projects during closing ceremonies on the last day of camp. You can view those presentations by [clicking here](#).

If you would like to make a donation or find out more about the [USF OCG click here](#).

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ABCEP



The Academy of Board Certified Professionals (ABCEP) is the certifying body for NAEP and the lead organization certifying environmental professionals; maintaining exemplary standards of ethics and technical practice; and supporting individuals, our profession, and the public relying upon our services. It is a board-certified recognition. Beyond the acknowledgement by your peers, earning and maintaining the Certified Environmental Professional (CEP) designation is beneficial as a key differentiator when bidding on projects. It also opens new doors personally and professionally.

ABCEP would like to enhance the CEP (and CEP-IT) by growing our numbers and raising the awareness and value of the credential. If interested, you can find more details about the CEP and the application process on our website <https://www.abcep.org>. If you email the office (office@abcep.org), our Administrator will follow up to see if you have additional questions about the application process and offer to assign a mentor to help guide you through it.

The initial CEP application fee is typically \$200. ABCEP is offering a 10% discount through the end of 2020 reducing the initial CEP application fee to \$180. This is a great time to submit your application! We also have a CEP-IT application for those that don't quite meet the CEP requirements.

Making the decision to pursue a certification can feel like a daunting task, but in this climate, having the designation after your name can prove that crucial differentiator. Please share this with anyone in your office that might be interested.

NAEP

CALL FOR ARTICLES FOR THE ENVIRONMENTAL PRACTICE BULLETIN

The NAEP Environmental Practice Bulletin is published four times a year and emailed to all NAEP members. The newsletter is published in mid-February, May, August and November. Deadline for submissions is the end of the month prior to publication. NAEP is always looking for articles for this great practitioner-based publication. Consider providing NAEP's nationwide audience a bit of your professional experience and insight. For more information about publishing in the Environmental Practice Bulletin visit: <https://www.naep.org/publications>.



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Be Connected

Upcoming Conferences and Workshops

Event	Date	Place
37 th Environmental Permitting Summer School	July 18 – 21, 2023	Marco Island, FL
2023 AWWA Water Infrastructure Conference	Sept. 10 – 13, 2023	Philadelphia, PA
Florida Redevelopment Association Annual Conference	October 24 – 27, 2023	Ponte Vedra Beach, FL
2023 Florida Remediation Conference	Nov. 1 – 3, 2023	Orlando, FL
2023 Natural Disaster Resilience Conference	Nov. 6 – 9, 2023	Clearwater Beach, FL
Clean Gulf 2023	Nov. 7 – 9, 2023	San Antonio, TX

FAEP shares information about conferences pertaining to the environmental professions. FAEP does not endorse any of the referenced conferences.

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Science Shorts ~NPR Short Wave~ The Science Behind the Headlines

Tick check! Meet the tiny bloodsuckers in our backyards



We hope you had a restful holiday! Maybe even got outside for some relaxing fresh air. If so, you might've come across cute and not-so-cute critters like ticks. With ticks in mind, we're heading to Big Thicket National Preserve in Texas. Among the trees and trails, researchers like Adela Oliva Chavez search for blacklegged ticks that could carry Lyme disease. She's looking for answers as to why tick-borne illnesses like Lyme disease are spreading in some parts of the country and not others. Today, what Adela's research tells us about ticks and the diseases they carry, and why she's dedicated her career to understanding what makes these little critters ... tick. (encore)

Why finding kelp in the Galapagos is like finding a polar bear in the Bahamas



Salomé Buglass discovered an unexpected kelp forest while studying underwater mountains in the Galapagos. Kelp—a type of seaweed—usually grows in shallower, cooler areas. So why was an entire kelp forest growing in these deeper, tropical waters? Today on the show, Salomé talks to host Regina G. Barber about what it means, and how it could help in the fight against climate change.

Why researchers are searching for the drama queens of the animal kingdom



For generations, scientists have leaned on seven key species, including rats and mice, for research. They're called model organisms and they've been standardized over the years — removing as much individuality as possible. But as research questions become more complicated, some researchers are turning to more niche critters to study. Host Regina Barber talks to reporter Anil Oza about the shift.

This satellite could help clean up the air



In pockets across the U.S., communities are struggling with polluted air — often in neighborhoods where working class people and people of color live. A new NASA satellite called Tropospheric Emissions: Monitoring Pollution (TEMPO) could detail just how polluted those pockets are. Today, NPR climate reporters Rebecca Hersher and Seyma Bayram talk to host Emily Kwong about how this new satellite could help communities like Curtis Bay, a Maryland neighborhood where residents have been fighting for clean air for decades.

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THANK-YOU
to the organizations who continue to support FAEP
with group memberships for five or more of their employees.**

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*GROUP MEMBERSHIP Each group membership will be for a minimum of 5 qualified employees.

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1 Page	\$250	\$900

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