

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Environmental Assessment and Restoration

Bureau of Watershed Restoration

Mercury TMDL for the State of Florida

Appendix K

Background Information on Federal and State Stormwater Programs

Watershed Evaluation and TMDL Section



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Appendix A: Background Information on Federal and State Stormwater Programs

In 1982, Florida became the first state in the country to implement statewide regulations to address the issue of nonpoint source pollution by requiring new development and redevelopment to treat stormwater before it is discharged. The Stormwater Rule, as authorized in Chapter 403, F.S., was established as a technology-based program that relies on the implementation of BMPs that are designed to achieve a specific level of treatment (i.e., performance standards) as set forth in Rule 62-40, F.A.C. In 1994, the Department's stormwater treatment requirements were integrated with the stormwater flood control requirements of the water management districts, along with wetland protection requirements, into the Environmental Resource Permit regulations.

Rule 62-40, F.A.C., also requires the state's water management districts to establish stormwater pollutant load reduction goals (PLRGs) and adopt them as part of a Surface Water Improvement and Management (SWIM) plan, other watershed plan, or rule. Stormwater PLRGs are a major component of the load allocation part of a TMDL. To date, they have been established for Tampa Bay, Lake Thonotosassa, the Winter Haven Chain of Lakes, the Everglades, Lake Okeechobee, and Lake Apopka.

In 1987, the U.S. Congress established Section 402(p) as part of the federal Clean Water Act Reauthorization. This section of the law amended the scope of the federal NPDES permitting program to designate certain stormwater discharges as "point sources" of pollution. The EPA promulgated regulations and began implementing the Phase I NPDES Stormwater Program in 1990. These stormwater discharges include certain discharges that are associated with industrial activities designated by specific standard industrial classification (SIC) codes, construction sites disturbing 5 or more acres of land, and the master drainage systems of local governments with a population above 100,000, which are better known as MS4s. However, because the master drainage systems of most local governments in Florida are interconnected, the EPA implemented Phase I of the MS4 permitting program on a countywide basis, which brought in all cities (incorporated areas), Chapter 298 urban water control districts, and the Florida Department of Transportation throughout the 15 counties meeting the population criteria. The Department received authorization to implement the NPDES Stormwater Program in 2000.

An important difference between the federal NPDES and the state's stormwater/environmental resource permitting programs is that the NPDES Program covers both new and existing discharges, while the state's program focus on new discharges only. Additionally, Phase II of the NPDES Program, implemented in 2003, expands the need for these permits to construction sites between 1 and 5 acres, and to local governments with as few as 1,000 people. While these urban stormwater discharges are now technically referred to as "point sources" for the purpose of regulation, they are still diffuse sources of pollution that cannot be easily collected and treated by a central treatment facility, as are other point sources of pollution such as domestic and industrial wastewater discharges. It should be noted that all MS4 permits issued in Florida include a reopener clause that allows permit revisions to implement TMDLs when the implementation plan is formally adopted.



**Florida Department of Environmental Protection
Division of Water Resource Management
Bureau of Watershed Management
2600 Blair Stone Road, Mail Station 3565
Tallahassee, Florida 32399-2400
(850) 245-8561
www2.dep.state.fl.us/water/**