

September 10, 2021

Florida Department of Environmental Protection
3900 Commonwealth Boulevard
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Submitted via email: Stormwater2020@floridadep.gov



Re: Stormwater Rulemaking Recommendations

Good afternoon Stormwater Technical Advisory Committee Members,

On behalf of the 15 Waterkeeper organizations across the state of Florida working to protect our waterways, we thank you for your efforts towards identifying and outlining recommendations for strengthening our state's stormwater design and operation regulations. We would like to provide some brief comments on the draft recommendations from the Stormwater Rulemaking Technical Advisory Committee (SW TAC) that you will be reviewing at your upcoming meeting.

- The current draft recommendations do not address the fallacy of the “presumption of compliance” with water quality standards despite the fact that [studies have shown that most systems fail to meet their presumed pollution reduction goals](#). There needs to be a stormwater system inspection and monitoring program to identify failing systems so that corrective action can be taken.
- Defining “Predevelopment” conditions as “long standing use” of the site (and defining “long standing use” as 5 years) creates a shifting baseline that will institutionalize the water quality issues that we already have and facilitate further water quality degradation over time. “Predevelopment” should be defined as the natural condition of an area in order to ensure that the baseline against which additional pollutant loading is measured stays constant at a level that a waterbody is able to assimilate.
- There is no provision to address the 76,000+ stormwater treatment ponds that currently exist and are contributing to water quality issues. [Studies suggest that wet detention ponds, if not properly maintained \(as is the case with many\), can become sources of nutrient pollution rather than sinks](#). The draft SW TAC recommendations should include a requirement for evaluating, and if necessary, retrofitting and recertifying existing, failing systems.
- The draft SW TAC recommendations provide heightened protections for Outstanding Florida Waters and “Impaired” waters only. Heightened protections should be afforded to all Waters Not Attaining Standards. An impaired WBID (Category 5) is a water that fails to meet water quality standards and therefore a TMDL needs to be developed, however there are other categories of waters that fail to meet water quality standards and therefore warrant additional protections. For example, Category 4a WBIDs are waters that fail to meet water quality standards, but a TMDL has already been developed. Category 4b WBIDs are waters that fail to meet water quality standards but a Reasonable Assurance Plan is in place to attempt to remedy the issue. To be clear, in these situations there is an ongoing attempt to restore these WBIDs, but they have not yet attained water quality standards. We urge you to provide heightened protections to all Waters Not Attaining Standards (Categories 4a, 4b, 4d, 4e, and 5) and not limit these protections to WBIDs on the Verified Impaired List.

- The draft SW TAC recommendations do not provide any specific guidance for actually updating the design standards for stormwater treatment systems (i.e. treatment volume, residency time, vegetation requirements, etc.). They modify the treatment goals without providing specific design updates to help meet those goals. The draft SW TAC recommendations should include specific, scientifically defensible design criteria for different types of stormwater treatment systems in order to ensure that these systems will meet the prescribed pollution reduction goals and to provide clarity and consistency for developers.

The stormwater regulations currently in place have failed to protect water quality, as evidenced by [rampant impairment across the state](#). The SW TAC recommendations, as currently drafted, will allow that trend to continue. **Without regular monitoring and enforcement, any regulations will merely be aspirational.** We thank this TAC for their efforts and urge you to provide recommendations that will reverse the statewide declining trend in water quality that we have been witnessing for years.

Thank you for your consideration.



Respectfully,
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