

**SEFLUC**  
**Regulatory Update**  
**June 11, 2018**

- **SFWMD Chapter 40E-21 Water Shortage Plan**
  - Rulemaking to address comments received from the Joint Administrative Procedures Committee (JAPC). District staff proposes to amend existing Rules 40E-21.221, .251, .275, .and .551, Florida Administrative Code (F.A.C.), to clarify language, and delete unnecessary language in Rule 40E-21.421, F.A.C. The District is also working with the JAPC attorney to address her comments regarding 40E-21.271(2) & (3), F.A.C.
  
- **State Assumption of CWA 404 Permit Program**
  - 404 Permitting Workshops conducted May 30-June 1
  - Applicant's handbook for applying for 404 permit (70 pages)
    - Does what legislation directs
    - Identifies additional permitting process for 404 permits on top of ERP (does not supplant ERP, rather in addition to)
      - Incorporates federal rules by reference and lays out in rule language and applicant's handbook
    - Projects that take longer than 5 years
      - Can only get 404 permit from state that is 5 years in duration.
    - FDEP draft rule addresses longer term projects as requiring project phasing every 5 years
      - Legislation does not specify the process and does discuss option for permit renewals, but this is not the approach being used in rules
    - Criteria for review of 404 permits
    - Mitigation requirements
  - Affect people differently depending on who you are and what type of permit you have
  - Impact on existing long term ACOE permits
    - Issue of what to do with existing permits will be addressed by MOAs
    - Prior statements from DEP are that if have existing ACOE that is lengthy in duration, will continue to operate under that permit and will only be required to change the process when go in for a renewal.
    - Remain Cautious
  - Expected Implementation
    - First adopt this rule, then enter into MOAs with ACOE and EPA, then submit program for review and approval by EPA to actually assume the authority from ACOE, which will include public comment and process
    - There will still be months to go (earliest late 2018)

- **FDEP Clarification of Rule 62-550.822 Disinfection Byproducts (DBP) Requirements: TTHM and HAA5**
  - For systems that monitor quarterly, regulatory offices must review DBP monitoring plans to identify the specific week of the quarter that will be sampled. For systems on annual monitoring, schedules must designate the specific month that will be sampled.
  - Clarification:
    - a. 62-550.822 F.A.C adopted 40 CFR 141, Subpart U (Section 141.600-141.605) and 40 CFR 141, Subpart V (Section 141.620-141.629).
    - b. As stated in Subpart V in 40 CFR 141.621(a)(2) Footnote 2, Subpart U in §141.605(b) Footnote 2 and §141.605(e), systems on quarterly monitoring must sample every 90 days. The 90-day rule was developed to allow an equal amount of time between sampling. It is understood that there are more than 90 days in some quarters and that a specific day may fall on a weekend in certain years. To work with these factors, facilities can collect samples during the designated week of monitoring. For example: the 2<sup>nd</sup> week of the 2<sup>nd</sup> month for each quarter.
    - c. Samples used for compliance purposes must be designated in the system's State approved monitoring plan. Systems may collect more than the required number and frequency of sampling. However, in order to be used in the calculation of the quarterly average used for compliance purposes, the additional samples must be included in the monitoring plan and approved prior to collecting samples. Consideration should be given to assuring that the sampling is equally separated.
    - d. The definition of “normal operating conditions” include any routine maintenance practices. An event such as a chlorine burn, a switch from chloramine to chlorine, is considered to be part of the normal operations of a system for periodic maintenance. A water line break or other disruptive event which is outside the control of the facility is considered non-normal operating condition.
    - e. The length of chlorine burns should be kept to a maximum of 21 days. Whenever possible, systems should try to optimize processes using guidance such as AWWA manual “A Guide for the Implementation and Use of Chloramines” (2004).
  
- **USEPA Per- and Polyfluoroalkyl Substances (PFAS)**
  - National Leadership Summit and Engagement in Washington, D.C. on May 22-23, 2018. <https://www.epa.gov/newsreleases/historic-epa-summit-provides-active-engagement-and-actions-address-pfas>
    - EPA will initiate steps to evaluate the need for a maximum contaminant level (MCL) for PFOA and PFOS. We will convene our federal partners and examine everything we know about PFOA and PFOS in drinking water.

- EPA is beginning the necessary steps to propose designating PFOA and PFOS as “hazardous substances” through one of the available statutory mechanisms, including potentially CERCLA Section 102.
    - EPA is currently developing groundwater cleanup recommendations for PFOA and PFOS at contaminated sites and will complete this task by fall of this year.
    - EPA is taking action in close collaboration with our federal and state partners to develop toxicity values for GenX and PFBS by this summer.”
  - EPA also just released a call for Per- and Polyfluoroalkyl Substances (PFAS) research proposals.
- **Water Infrastructure Finance and Innovation Act**
  - Call for letters of interest by noon July 31st.
  - April 23<sup>rd</sup> WIFIA webinar
    - new point criteria system that includes major sections for “Repair, rehabilitation, or replacement” projects as well as ones that “Reduces exposure to lead.”
  - First WIFIA loan was closed with King County recently
    - Miami Dade Update?
  - <https://www.epa.gov/wifia>
- **EPA Requests Comments on Conduit Theory**
  - February 20, 2018 – EPA is requesting comments on whether it should clarify “the applicability of the CWA NPDES permit program to pollutant discharges from point sources that reach jurisdictional surface waters via groundwater or other subsurface flow that has a direct hydrologic connection to jurisdictional surface waters.” 83 Fed. Reg. at 7128. **Comment Period Ended May 21, 2018**
    - **FWEA Comment Letter**
      - EPA has no authority to regulate discharges of pollutants to or through groundwater under the CWA;
      - The CWA leaves the regulation of discharges to or through groundwater to the states;
      - FDEP’s existing groundwater program regulates discharges to surface waters through
      - groundwater;
      - Any EPA policy or guidance asserting NPDES jurisdiction over discharges through groundwater would federalize state programs and result in regulatory chaos making any discharge of pollutants to groundwater through land application, reuse or deep well injection subject to the requirement of the NPDES permitting program due the mere potential of a pollutant to eventually reach a surface water;



standards by July 14, 2020, and submit a one-time compliance report certifying such by October 12, 2020.

- Dental dischargers whose first discharge to a POTW occurs after July 14, 2017 (“new sources”) must be in compliance with the standards immediately and submit a **one-time compliance report certifying such within 90 days after first discharge** to a POTW.
- **Sample Compliance Report**
  - [Sample Dental Office Compliance Report \(DOCX\)](#)
- Additional FAQs: [https://www.epa.gov/sites/production/files/2017-12/documents/dental-office-category\\_frequent-questions\\_nov-2017.pdf](https://www.epa.gov/sites/production/files/2017-12/documents/dental-office-category_frequent-questions_nov-2017.pdf)