



# DEVELOPMENTS IN PHASE I AND PHASE II MS4 PERMITTING REQUIREMENTS IN FLORIDA

**Michelle Bull**

NPDES Stormwater Program  
Division of Water Resource Management  
Florida Department of Environmental Protection

FSA Winter Conference | Dec. 4, 2024



# AGENDA

- Municipal Separate Stormwater System (MS4) permitting recap.
- Proposed changes in the Phase I MS4 permit.
- Changes in the Phase II MS4 2021 generic permit.
- Potential Phase II MS4 permit designations.
- Program updates.





# MS4 PERMITTING RECAP

Developments in Phase I and Phase II MS4 Permitting  
Requirements in Florida





# MS4 PERMIT RECAP

- Permits are issued for a five-year period or cycle.
- Permittees are required to develop a stormwater management program (SWMP) and implement best management practices (BMPs) to reduce the discharge of pollutants to the maximum extent practicable.
- Permitting and implementation is iterative; permittees are required to evaluate and adjust their SWMPs as needed to make reasonable further progress toward permit goals.
- Some permittees have additional water quality related requirements if their MS4 discharges to a total maximum daily load (TMDL) waterbody.



# PERMITTING PROCESS

Application or Notice of Intent (NOI) is received.

Request for Additional Information (RAI).

The Florida Department of Environmental Protection (DEP) determines application is complete.

Decision schedule.

DEP sends draft permit package.

- Applicant to publish notice.
- Public comment period.

DEP sends intent to issue permit package.

- Applicant to publish notice.
- Public petition period.

DEP sends final permit package.

- Cover letter.
- Permit/NOI.
- Annual report.





# PROPOSED CHANGES IN THE PHASE I MS4 PERMIT

Developments in Phase I and Phase II MS4 Permitting  
Requirements in Florida





# PROPOSED CHANGES IN THE PHASE I MS4 PERMIT RESTRUCTURE AND REFORMAT

- |           |  |
|-----------|--|
| Part I    | Discharges authorized under this permit.                 |
| Part II   | Stormwater pollution prevention and management programs. |
| Part III  | Schedules for implementation.                            |
| Part IV   | Numeric effluent limitations.                            |
| Part V    | TMDLs.   |
| Part VI   | Assessment program.                                      |
| Part VII  | Reporting requirements.                                  |
| Part VIII | Additional specific conditions.                          |
| Part IX   | General conditions.                                      |
| Part X    | Definitions.   |



# PROPOSED CHANGES IN THE PHASE I MS4 PERMIT

## PART II

### PART II STORMWATER POLLUTION PREVENTION AND MANAGEMENT PROGRAMS

- Consolidated/clarified general SWMP requirements:
  - Responsibilities.
  - Written standard operating procedures (SOPs) for each permit element.
    - All up-to-date within 12 months of permit issuance.
  - SWMP modification process.
- Identification of legal authorities as a component of the reapplication.
  - Specified existing legal authority requirements for post-construction and construction site stormwater controls.
- Identification of previously approved TMDL implementation plans or basin management action plans.





# PROPOSED CHANGES IN THE PHASE I MS4 PERMIT

## PART III SCHEDULES FOR IMPLEMENTATION

### PART III.A.1 MS4 OPERATIONS

- Non-major outfall inventory and mapping.
- Increased inspection frequency for ditches and swales and catch basins.
- Added the “Catch Basin, Inlet, and Grate Management” section.

### PART III.A.2 ROADWAYS AND PUBLIC USE AREAS

- Added parks and public-use areas to litter control.
- Added requirement to conduct litter collection prior to mowing.



# PROPOSED CHANGES IN THE PHASE I MS4 PERMIT

## PART III SCHEDULES FOR IMPLEMENTATION (2)

### PART III.A.3 STORMWATER MANAGEMENT

- Moved environmental resource permit (ERP) notification and coverage confirmation.
- Updated code review requirements to include:
  - Language that may be prohibitive of low impact development, green stormwater infrastructure, or Florida-Friendly Landscaping™ principles.
  - Language that could be strengthened to improve operation and maintenance of private stormwater management systems.





# PROPOSED CHANGES IN THE PHASE I MS4 PERMIT

## PART III SCHEDULES FOR IMPLEMENTATION (3)

### **PART III.A.5 ILLICIT DISCHARGE DETECTION AND ELIMINATION (IDDE)**

- Combined the “proactive” and “reactive” components of IDDE.
- Clarified spill response and reporting requirements.
- Clarified limitation of sanitary sewer contamination section applies to permittees that own/operate sanitary sewer system.

### **PART III.A.6 HIGH-RISK RUNOFF**

- Moved municipal facility pollution prevention/inspections.



# PROPOSED CHANGES IN THE PHASE I MS4 PERMIT

## PART III SCHEDULES FOR IMPLEMENTATION (4)

### PART III.A.8 EMPLOYEE TRAINING

- Consolidated training requirements.
- Added requirement for training for personnel that conduct MS4 inspections to identify conditions that trigger maintenance.
- Clarified requirements for annual training:
  - IDDE.
  - Spill prevention/response.
  - Construction site stormwater BMPs.





# PROPOSED CHANGES IN THE PHASE I MS4 PERMIT

## PART III SCHEDULES FOR IMPLEMENTATION (5)

### PART III.A.9 EDUCATION AND OUTREACH

- Consolidated education and outreach requirements.
- Separated illicit discharge topics: water quality impacts and public reporting.
- Added impacts of trash/litter as a topic.
- Added activities to encourage proper maintenance of private stormwater management systems or promotion of low impact development/green stormwater infrastructure.
- Increased material distribution frequency for household hazardous waste collection facilities/events to quarterly.



# PROPOSED CHANGES IN THE PHASE I MS4 PERMIT

## PART V. TMDLS

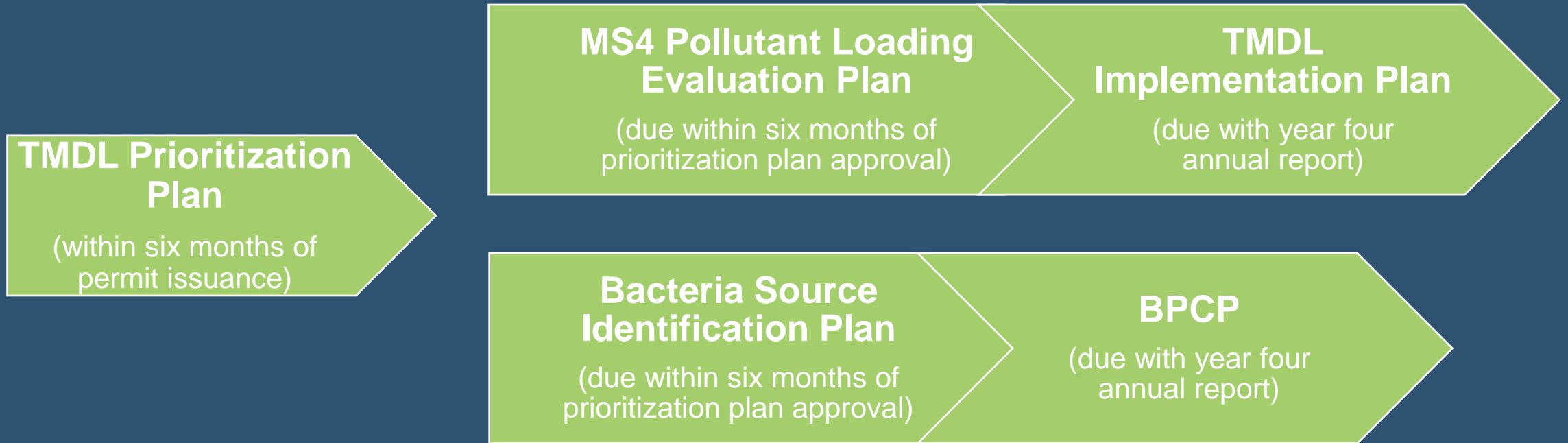
- Clarified requirement to prioritize a different waterbody each permit cycle.
- Added option to prioritize development of an alternative restoration plan.
- Added pollutant load reduction modeling as option to demonstrate reductions achieved relative to the wasteload allocation for non-bacteria plans.
- Added requirement to conduct a walk-the-watershed once per permit cycle for Bacteria Pollution Control Plans (BPCPs).





# PROPOSED CHANGES IN THE PHASE I MS4 PERMIT

## PART V. TMDL TIMELINE



- Aligned reporting/submittal timelines for both plan types.
- Updated/specified plan content requirements.
- Clarified that annual reporting includes previously approved implementation plans and BPCPs.





# CHANGES IN THE PHASE II PERMIT

Developments in Phase I and Phase II MS4 Permitting  
Requirements in Florida





# 2021 PHASE II PERMIT

## ADDITIONS TO THE PHASE II PERMIT

- Develop SOPs:
  - IDDE.
  - Construction site plan review.
  - Construction site inspection.
  - Pollution prevention employee training.
- Conduct proactive/planned IDDE inspections.
- Notify operators that ERP and/or construction generic permit (CGP) coverage may be required.
- Verify if ERP/CGP coverage has been obtained.
- Have procedures for disposal of waste from MS4 maintenance activities.
- Evaluate flood management projects for water quality protection.





# POTENTIAL PERMIT DESIGNATIONS

Developments in Phase I and Phase II MS4 Permitting Requirements in Florida





# DESIGNATION OF REGULATED PHASE II MS4

## RULE 62-624.800, FLORIDA ADMINISTRATIVE CODE (F.A.C.)

### REGULATED MS4

Population of at least 1,000 (62-624.200(13), F.A.C.), **AND**

- Located within an urbanized area (UA) based on latest census; **OR**
- Meets designation criteria; **OR**
- Petition.

### URBANIZED AREA = URBAN AREA

- The U.S. Census Bureau eliminated the definitions of “urbanized area” and “urban cluster.”
- The U.S. Environmental Protection Agency updated rule to regulate small MS4s located within an “urban area with a population of 50,000 or more people.”



# DESIGNATION OF REGULATED PHASE II MS4

## RULE 62-624.800, F.A.C. (2)

### DESIGNATION CRITERIA

1. Discharges to a waterbody with a TMDL; **OR**
2. Outside UA with a population density of at least 1,000 people/mi<sup>2</sup> and a population of at least 10,000 (40 CFR 123.35), **AND**
  - a. Discharges to Class I/II waters or Outstanding Florida Water (OFW), **OR**
  - b. Interconnected to a regulated MS4.

### PETITION

1. Designation criteria.
2. Population density less than 1,000 people/mi<sup>2</sup> and population of less than 10,000, **AND**
  - a. Discharges to Class I/II waters, OFW, **OR**
  - b. Interconnected to regulated MS4.





# DESIGNATION TIMELINE

Developments in Phase I and Phase II MS4 Permitting  
Requirements in Florida





# DESIGNATION TIMELINE

## YEAR ONE – PRIORITIZATION

- Develop initial list of MS4s for potential designation.
  - Decennial census.
  - TMDL development.
  - Special districts.
- Prioritize list by region to designate in stages.



# DESIGNATION TIMELINE

## YEAR ONE – RESOURCE DEVELOPMENT

- **Develop outreach to educate potential designees on the purpose and importance of the MS4 permit:**
  - Website/story map.
  - Videos and PowerPoint presentations.
  - Maps of regulated areas: receiving waters, urban areas, TMDLs, jurisdictions.
- **Resources will help newly designated MS4s develop their stormwater program:**
  - Focus on intra-agency cooperation and allocating resources.
  - SWMP development.
  - NOI development.
  - Tracking and annual reporting.





# DESIGNATION TIMELINE

## YEAR TWO – DESIGNATE MS4S

- Gather designee contact information.
  - Responsible authority.
  - Program contacts.
  - Legal counsel, etc.
- Contact designees regarding potential designation as a regulated MS4.
  - Meet with potential designees using outreach developed in year 1.
  - Determine eligibility for designation or waiver.
- Send designation letters.
  - Staggered based on priority list developed in year 1.
  - Letters require designees to submit an NOI and proposed SWMP within one year.



# DESIGNATION TIMELINE

## YEAR TWO – CONDUCT OUTREACH

- Host regional and local workshops to educate MS4 contacts on permit requirements and available resources.
- Host virtual statewide workshops on developing the NOI and SWMP.
- Send reminders to designees at three months and one month before the due date.



# DESIGNATION TIMELINE

## YEARS THREE AND FOUR – APPLICATION REVIEW

- Process NOIs according to program procedures.
  - RAIs.
  - Virtual application meetings (as needed).
  - Issue Draft, Intent to Issue and Final Permit packages.
- Initiate compliance assistance and enforcement for non-submittals.





# DESIGNATION TIMELINE

## YEARS FIVE AND ONGOING OVERSIGHT AND COMPLIANCE ASSISTANCE

- Review annual reports in accordance with program procedures.
  - All new permittees submit reports annually on their first permit cycle.
  - Send reminders.
- Conduct audits to ensure permittees are meeting SWMP development milestones.
  - Initiate compliance assistance and enforcement according to program procedures (if needed).
  - Work with permittees to develop/improve SWMPs as needed.
- Assess new designation needs annually.
  - TMDL development.
  - Petition.
  - Decennial census.
- Update resources as needed.





# PROGRAM UPDATES

Developments in Phase I and Phase II MS4 Permitting Requirements in Florida





# PROGRAM UPDATES

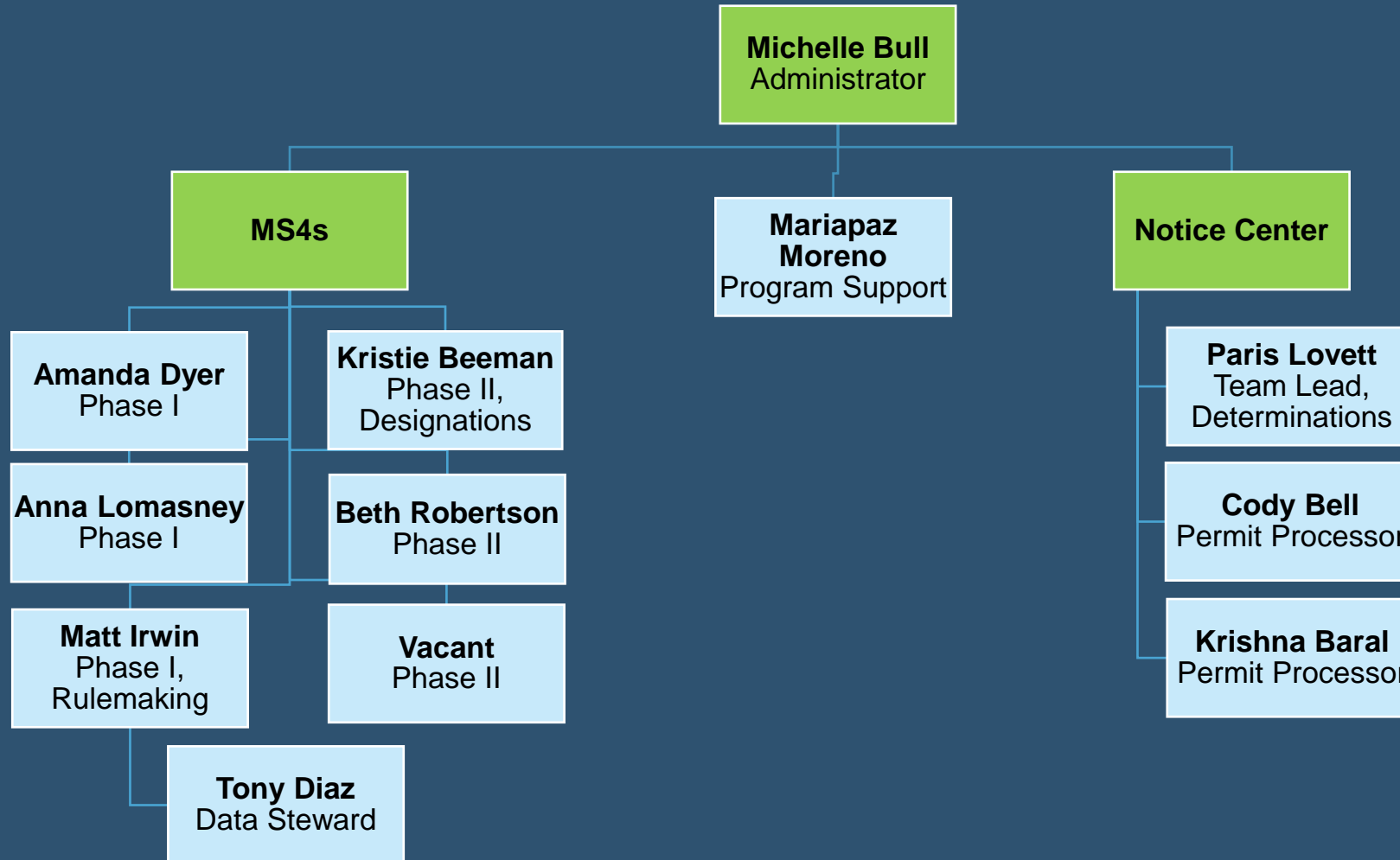
- 62-624, F.A.C., Rulemaking
  - Remove phase I annual report; consolidate high level reporting requirements.
  - Update “urbanized area” to “urban area with a population of 50,000 or more people” as needed.
- MS4 Resource Manual.
- MS4s and the new state stormwater rule (Chapter 62-330, F.A.C.).
  - Operation and maintenance manual.
  - Inspection frequency.
- Federal eReporting Rule.





# NPDES STORMWATER PROGRAM

## 2024 ORGANIZATIONAL CHART







# THANK YOU

**Michelle Bull, FCPM, FCCM**  
NPDES Stormwater Program  
Division of Water Resource Management  
Florida Department of Environmental Protection

Contact Information:  
850-245-7561  
[Michelle.Bull@FloridaDEP.gov](mailto:Michelle.Bull@FloridaDEP.gov)