

**Chapter 40E-61 FAC Rule Development
Public Comments**

Commenter	Date Comment Received	Agency or Organization Represented	Comment Summary	SFWMD Response
Summary of Comments Received from SFWMD Rulemaking Website, via email, or regular mail (Up through March 13, 2020)				
Mr. Robert Norton	10/18/2019	Ecosystem Watch	Handwritten letter. May be reviewed upon request.	None needed.
Mr. R. Vince	11/4/2019	Private Citizen	"I strongly support the focus on improving water quality in the Lake Okeechobee Watershed and the Caloosahatchee estuary. The various water quality issues that the Southwest (SW) Florida coastline has been subject to in recent years as a result of harmful discharges has damaged local business and property values. SW Florida depends on tourism as an important income source and most businesses directly or indirectly depend on tourism as an important source of revenue. It is essential to take the steps to better manage discharges filter water all with the objective of reducing harmful flow to the estuaries and sending more water south to the Everglades. If these steps are not taken, the reputational damage to the tourism industry for the beaches of SW Florida is likely to become permanent."	None needed.
Mr. Robert Norton	11/7/2019	Ecosystem Watch	Handwritten letter. May be reviewed upon request.	None needed.
Mr. Robert Norton	11/14/2019	Ecosystem Watch	Handwritten letter. May be reviewed upon request.	None needed.
Mr. Robert Norton	11/22/2019	Ecosystem Watch	Handwritten letter. May be reviewed upon request.	None needed.
Mr. Michael Ellis	11/27/2019	U.S. Sugar	Letter. May be reviewed upon request.	None needed.
Mr. Gary Ritter	12/2/2019	Florida Farm Bureau	Letter. May be reviewed upon request.	None needed.
Mr. Gary Goforth	12/9/2019	Florida Oceanographic Society	Letter. May be reviewed upon request.	None needed.

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Mr. Matt Pearce	12/12/2019	Florida Cattleman's Association	Letter. May be reviewed upon request.	None needed.
Ms. Betsey Boughton	12/13/2019	Archbold Biological Station - Buck Island Ranch	Letter. May be reviewed upon request.	None needed.
Mr. Doug Gaston	12/19/2019	Audobon Florida	Letter. May be reviewed upon request.	None needed.
Mr. Robert Norton	1/21/2020	Ecosystem Watch	Handwritten letter. May be reviewed upon request.	None needed.
Mr. Robert Norton	1/29/2020	Ecosystem Watch	Handwritten letter. May be reviewed upon request.	None needed.
Mr. Robert Norton	2/18/2020	Ecosystem Watch	Handwritten letter. May be reviewed upon request.	None needed.
Summary of Comments Received from SFWMD Rulemaking Workshop in Okeechobee (November 5, 2019)				
Mr. Robert Norton	11/5/2019	Ecosystem Watch	Handwritten letter. May be reviewed upon request.	None needed.
Mr. Wes Williamson	11/5/2019	Williamson Cattle Company	Suggested drafting the rule try to avoid unintended consequences. For example, taxes in the south drove many cattle ranchers out of the area.	None needed.
Mr. Doug Bournique	11/5/2019	Indian River Citrus	Farmers have implemented Best Management Practices (BMPs) since 1998. The District should focus on septic tanks and land transitioning from agriculture to urban.	The Department of Health (DOH) currently regulates septic tanks. However, the water quality monitoring data associated with the rules will assist in identifying and addressing issues related to septic tanks. Additionally, the Blue Green Algae Task Force (BGATF) established by the Governor's Executive Order 19-12, has made recommendations related to regulatory oversight of septic tanks.

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Mr. Wes Carlton	11/5/2019	Private Citizen	Inquired about monitoring locations in the St. Lucie River Watershed (in particular along the C-23 canal east of I-95 and the C-25 canal).	<p>The urban areas to the north of the C-23 canal predominantly drain northeast towards North Fork St. Lucie River. Water that flows south from the urban areas in the vicinity of the C-23 canal would be captured in monitoring conducted at the S-48 structure. There are several water quality monitoring stations along the North and South Forks of the St. Lucie River and along the St. Lucie Estuary.</p> <p>Water quality monitoring is not conducted along the C-25 canal because the water from the basin drains towards the canal, which flows east into the Indian River Lagoon, outside of the Northern Everglades and Estuaries Protection Program (NEEPP) boundaries. Water that flows from the urban areas in the vicinity of the C-25 canal would be captured in monitoring conducted at the S-50 structure.</p>
Mr. Tony Federico	11/5/2019	Federico & Associates	Inquired about the status of monitoring stations in the St. Lucie River Watershed.	The green dots on the maps provided at the workshop indicate active upstream monitoring sites. See meeting handouts.
Mr. Gary Ritter	11/5/2019	Florida Farm Bureau	Suggested studying legacy phosphorus and nutrient dynamics within the flood control system. Also, tailwater recovery systems have been difficult to permit.	None needed.
Ms. Nyla Pipes	11/5/2019	One Florida	Suggested studying legacy phosphorus and nutrient dynamics within the flood control system. Also, study soil dredge materials that have been placed on the land.	None needed.

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Dr. Paul Gray	11/5/2019	Audubon	Inquired about the rule coverage in the Northern Everglades since some of the lands are outside of the South Florida Water Management District (SFWMD) designation. Asked if those lands will be covered under this rule.	The SFWMD will work towards having agreements with the other water management districts for geographic areas outside our jurisdiction if needed.
Mr. Brad Phares	11/5/2019	Lazy JP Ranch	Inquired about monitoring in the northern portion of the Lake Okeechobee Watershed, and it appears that there are no sampling sites in the urban areas along the I-4 corridor near the headwaters.	Monitoring in the headwaters is being conducted by other entities such as the Reedy Creek Improvement District and Osceola County. The Florida Department of Environmental Protection (https://ca.dep.state.fl.us/mapdirect/?webmap=5234166c10744a9a91715434a9ff067d) website provides a Watershed Monitoring Map showing sampling sites.
Ms. Beth Lewis	11/5/2019	The Nature Conservancy	Concerned with economic viability and tailwater recovery programs. Would like to see opportunities through cost-share programs.	None needed.
Ardis Hammon	11/5/2019	Frienson Farms	There is no monitoring in Lee County or in Hutchinson Island. The District needs a map showing FDEP and other agencies' monitoring locations.	Monitoring in Lee County is currently being monitored by other government agencies. Hutchinson Island is outside of the NEEPP boundary. The FDEP website (https://ca.dep.state.fl.us/mapdirect/?webmap=5234166c10744a9a91715434a9ff067d) provides a Watershed Monitoring Map showing sampling sites.
Ms. Benita Whalen	11/5/2019	Florida Cattlemen's Association	Wanted confirmation that the intent of the monitoring upstream is to capture data and flow from the natural system, and the intent of the NEEPP legislation direction is for a collaboration among agencies. Appreciates the opportunity SFWMD has provided to the Association by allowing them to showcase their agricultural lands to SFWMD Governing Board members.	None needed.

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Mr. John Small	11/5/2019	Cal-Maine Foods	Inquired about the frequency of monitoring in the watershed.	In August 2019, SFWMD Governing Board approved an expansion of its monitoring network by increasing the frequency to biweekly and increasing the parameters collected at the upstream monitoring sites.
Mr. Rick Hartman	11/5/2019	Private Citizen	Inquired about the sampling parameters near the St. Lucie Estuary, and suggested SFWMD should sample for coliform.	SFWMD's monitoring under the rule will focus on nutrients.
Mr. Doug Danzen	11/5/2019	Audubon	Asked how this program will integrate with FDEPs program such as BGATF, septic tanks, BMPs and Basin Management Action Plans (BMAPs).	SFWMD is working with FDEP on a weekly basis to finalize the monitoring network. FDEP is updating the BMAP monitoring plan sites based on SFWMD sampling sites as a coordinated effort, that include the BGATF. The BGATF has provided recommendations to the Governor on septic tank oversight.
Ms. Kate English	11/5/2019	Pavese Law	Asked if SFWMD use data from other sources, and how will the programs integrate.	Data collected by other agencies is integrated through the BMAP. SFWMD will consider those data for 40E-61. SFWMD may use data from other agencies for investigative work if there is a priority site of water quality concern.
Mr. Wes Carlton	11/5/2019	Private Citizen	Suggested we use all available data from other agencies and look at what they are sampling for and their frequency. Suggested SFWMD should be sampling for bacteria.	FDEP is looking at sources of all publicly available monitoring data and is coordinating with SFWMD and BGATF. The NEEPP legislation specifies phosphorus for the Lake Okeechobee Watershed and "pollutants" for the Caloosahatchee River and St. Lucie River Watersheds which has been determined to include nitrogen. Other agencies like FDEP, BGATF, and Department of Health will be considering bacteria.
Mr. Gary Ritter	11/5/2019	Florida Farm Bureau	Inquired about the data gaps and how will this be picked up by monitoring, and which agency will be responsible for urban, agriculture or industrial lands, and what their roles are with data gaps. It seems SFWMD's Governing Board is in favor of regulation that may be associated with the rule.	The three agencies (FDEP, Florida Department of Agriculture & Consumer Services (FDACS) and SFWMD) are working together to fill in the gaps in monitoring data.

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Mr. Gary Lee	11/5/2019	Southport Ranch LLC	Concerned with monitoring along Lake Toho's tributaries. Inquired about ongoing hydrilla projects in Orange County, and about the Florida Department of Transportation (FDOT) lands such as retention areas and ditches along roadways.	FDEP is considering water quality monitoring to represent each tributary, and ensuring all data being used is accessible to other agencies and the public. FDOT is permitted through environmental resource permits and has extensive BMP requirements.
Ms. Susan Gosselin	11/5/2019	Osceola County	Mentioned there is water quality monitoring occurring in the northern part of the watershed. Osceola County entered a collaborative agreement with SFWMD for water quality; their staff is conducting the sampling and using the SFWMD lab for analysis.	None needed.
Ms. Nyla Pipes	11/5/2019	One Florida	Commented on one of the slides in the presentation being unclear of the responsibilities of each agency.	SFWMD will provide clarification of each agency and their roles and responsibilities at future workshops.
Comments Received from SFWMD Rulemaking Workshop in Ft. Myers (November 15, 2019)				
Mr. Roland Ottolini	11/15/2019	Lee County	Asked what is meant by monitoring "in lieu of" BMPs, and what the monitoring is compared to (e.g. numeric nutrient criteria).	The NEEPP statute allows entities under BMAPS to conduct monitoring in lieu of implementing BMPs (agriculture or urban). FDEP has adopted a monitoring rule that defines the general state-wide monitoring requirements. The monitoring requirements relate to the total maximum daily load (TMDL) established for the specific area under a BMAP. FDEP's rule does not specify how the monitoring will be implemented nor the benchmark for comparison.
Mr. James Evans	11/15/2019	City of Sanibel	Stated that it appears that the NEEPP rules focus on phosphorus, and asked if there would be any monitoring of nitrogen since it is the nutrient downstream that typically impacts the estuaries.	In August, SFWMD Governing Board approved an expanded monitoring network that includes data collection for nitrogen in all three watersheds of the Northern Everglades.

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Mr. John Cassani	11/15/2019	Calusa Water Keeper	Inquired about attributing load to a specific property or a non-point source discharger. It seems most of the programs use modeling to address this.	SFWMD rules will have specific individual monitoring requirements for entities under a BMAP not implementing BMPs. The rule will also address SFWMD monitoring that represents entities "collectively" in a hydrologic area. This monitoring will provide "measured" data. FDEP's BMAPs use modeling to estimate nutrient load contributions. FDEP also uses SFWMD's measured data.
Ms. Rae Ann Wessel	11/15/2019	Sanibel-Captiva Conservation Foundation	Asked what is the standard or threshold that will be used to determine the need for actions. Inquired if the Lake will be assigned a nitrogen criteria and if the Caloosahatchee Estuary will be assigned a specific phosphorus criteria.	FDEP is the authority for determining action under the BMAP umbrella for water quality. FDEP is currently establishing benchmarks, in addition to the established TMDLs, to identify priority areas. SFWMD rules will be aligned with FDEPs requirements.
Ms. Lisa Kreiger	11/15/2019	Lee County	Inquired about monitoring from urban areas (private developments) or non-point source dischargers from stormwater management systems. Asked if any of this information can be used to dovetail into any Environmental Resource Permitting (ERP) processes if stormwater management systems are a contributor to pollutant loading.	SFWMD monitoring locations are selected to represent hydrologic drainage areas of different scales. Conceptually, triggers could include ERP action, FDACS Notice of Intent action, FDEP National Pollutant Discharge Elimination System (NPDES) action, or any other existing tools to assist in solving the water quality issues.
Mr. Gary Ritter	11/15/2019	Florida Farm Bureau	Stated that many agencies at the local and state level are conducting monitoring that could be used to make decisions in the watershed. Asked if the data being used will be sampled in accordance with the FDEP 62-160 Criteria, and will split sampling occur between agencies.	Any data considered by SFWMD would have to be collected in accordance with FDEP's quality assurance requirements, 62-160 F.A.C. Also, SFWMD could audit other entities and collect split samples.
Ms. Wanda Klopff	11/15/2019	Clean Water Now	Seeking a timeline and a statement of goals, and asked if the statement includes " saving Florida's wildlife and providing clean water for all now and in the future."	The goal for the overall restoration strategies is to restore and protect the Everglades. The goal of this particular rule is covered by the statute and is one component of the overall strategy.

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Comments Received from SFWMD Rulemaking Workshop in Kissimmee (November 19, 2019)				
Unidentified	11/19/2019	Unknown	Asked what will the responsibilities be for those already implementing BMPs under this rule.	Under the BMAP, for those implementing BMPs through a FDACS or FDEP program, no individual monitoring is required.
Mr. Roland Overstreet	11/19/2019	Overstreet Packing, LTD.	Inquired about the TMDL goals set for the Lake and how it compares to other states and their requirements. Commented on consideration of availability of phosphorus.	FDEP is the agency that determines the load requirements for the receiving water bodies to maintain their ecosystem.
Mr. Kevin Whaley	11/19/2019	Private Citizen	Asked if urban areas will have to follow the same rules as the agricultural areas.	Yes, the BMAPs and rules are for agricultural and non-agricultural areas.
Mr. Todd Harvey	11/19/2019	Unknown	Asked if a landowner with 1/2-acre lot need to follow the same rules as an agricultural landowner.	FDEP is responsible for regulating non-agricultural lands and FDACS is responsible for regulating agricultural lands. Both agencies are looking at ways to address smaller properties. SFWMD rules will be applicable to monitoring discharges regardless of land uses.
Unidentified	11/19/2019	Unknown	Asked if FDEP reviews data from all sources.	FDEP is currently reviewing monitoring data from other sources.
Unidentified	11/19/2019	Unknown	Requested a color coded map depicting areas of "hot spots".	FDEP is currently in the process identifying areas of concern.
Unidentified	11/19/2019	Unknown	Asked if the rules are for phosphorus only.	SFWMD is focusing on monitoring for nutrients. The NEEPP legislation specifies phosphorus for Lake Okeechobee. However, for the Caloosahatchee River and St. Lucie River watersheds and estuaries, it specifies "pollutants" for which the BMAPs include nitrogen.
Unidentified	11/19/2019	Unknown	Asked if the monitoring sites marked as a yellow dots have data.	The yellow dots indicate proposed monitoring locations. Most of those stations have historical data.
Mr. John White	11/19/2019	Osceola County	Commented that monitoring has been ongoing for years, and asked what the trends are for water quality.	The South Florida Environmental Report (SFER) Chapter 8, provides water quality data for the basins and subwatersheds. The report is updated every year, and can be found on the SFWMD website.

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Unidentified	11/19/2019	Osceola County	Inquired about the implementation of BMPs on District owned lands and on private homeowner's land.	Yes, lessees of SFWMD-owned lands are held, at minimum, to the same BMP requirements as other landowners. Additionally, FDEP is considering ways to address smaller entities.
Mr. Todd Harvey	11/19/2019	Crespens Bar Carrier	Asked if homeowners with 1/4 acre lots are going to be held to the same standards as agriculture, and if they will be doing the testing.	FDEP is considering ways to address smaller entities.
Ms. Kimberly Lawrence	11/19/2019	Reedy Creek Improvement District	She added a comment about local governments and their permitting requirements for subdivisions.	None needed.
Mr. Stacy Strickland	11/19/2019	IFAS	Inquired about BMPs and if there is a presumption of compliance to avoid monitoring.	Entities implementing BMPs are granted, by statute, a presumption of compliance with water quality standards.
Ms. Kimberly Lawrence	11/19/2019	Reedy Creek Improvement District	Commented that one of the data gaps is the lack of flow data. How are hot spots being measured if there is no flow data?	Currently, SFWMD measures flow at the primary basin level monitoring stations. Monitoring flow at a smaller scale exists at some locations. Monitoring may be expanded in the future based on identified needs and prioritized resources.
Mr. Clifton Chapman	11/19/2019	Double C Bar Ranch	Stated that agricultural lands have decreased in the state of Florida and development has increased. A stronger focus should be on septic tanks and new development.	None needed.
Summary of Comments Received from SFWMD Rulemaking Workshop in Stuart (November 19, 2019)				
Mr. Newton Cook	11/19/2019	United Waterfowlers-Florida	The United States Fish and Wildlife Service (USFWS) Refuge Project has several cooperative programs and projects occurring in the Lake Okeechobee Watershed, and encourages SFWMD to coordinate with USFWS.	None needed.
Mr. Gary Goforth	11/19/2019	Florida Oceanographic Society	Wants to see actions in the rule to reduce phosphorus concentrations in the Lake. Recommended using technical support documents from 2013 for the foundation of the rule revisions.	None needed.

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Mr. Merritt Mathesa	11/19/2019	City of Stuart	How often is SFWMD communicating with FDEP regarding the BMAP revisions?	SFWMD and FDEP, at times, communicate weekly regarding the BMAP revisions and at routine coordination meetings several times a month.
Mr. Merritt Mathesa	11/19/2019	City of Stuart	Inquired about the sampling frequency and parameters for sampling sites (like Roosevelt Bridge), and who is responsible for the sampling and enforcement.	The Roosevelt Bridge is a long-term monitoring site where a grab sample is collected biweekly by SFWMD. The data is presented in the SFER available on SFWMD's website. FDEP reviews the data for BMAP purposes, and is responsible for BMAP enforcement.
Mr. Gary Ritter	11/19/2019	Florida Farm Bureau	Commented on the Works of the District (WOD) program in the late 1980's and that 750 permits were issued, but it was primarily an administrative task. SFWMD lacked the knowledge and expertise to help landowners develop BMPs.	None needed.
Mr. Gary Goforth	11/19/2019	Florida Oceanographic Society	SFWMD and their water quality monitoring program should be commended. FDEP ignores real data and uses a computer model to calculate nutrient reductions. There is a discrepancy between SFWMD and FDEP's data.	None needed.
Ms. Jacqui Thurlow-Lippisch	11/19/2019	SFWMD Governing Board Member	Asked for clarification on the types of monitoring described in the draft concept.	The draft concept includes two types of water quality monitoring. Individual monitoring of a property's discharges is required if not implementing BMPs (agriculture or urban land uses). The other type of monitoring conducted by the SFWMD is at a "collective" level to represent larger (regional and sub-regional) hydrologic areas.
Summary of Comments Received from SFWMD Rulemaking Workshop in West Palm Beach (November 20, 2019)				
Ms. Susan Caruso	11/20/2019	Broward Sierra Club	Inquired about the timeline for rule development, and if the presentation from today's meeting is available.	The timeline is our best estimate at this time. The presentation is posted on the SFWMD website under the rulemaking page at the link below. https://www.sfwmd.gov/sites/default/files/documents/40E_61_rd_wksp_1_presentation2019_11_05.pdf

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Ms. Susan Caruso	11/20/2019	Broward Sierra Club	Inquired about SFWMD's example of the rule possibly being practical for 60% of the stakeholders, but not the remaining 40%. Which stakeholders belong to each group?	The 60/40 was a hypothetical example.
Ms. Susan Caruso	11/20/2019	Broward Sierra Club	Inquired about monitoring instead of BMPs, and if the farmer would be required to conduct monitoring if he is already grandfathered in. Asked if BMPs effective, and what are some examples of BMPs.	<p>Under a BMAP, if an entity or person is implementing BMPs through FDACS or FDEP, individual monitoring is not required. A landowner that is implementing BMPs is granted, by statute, a presumption of compliance with water quality standards. There are BMPs from three categories: nutrient controls, sediment/erosion control, and water management controls. Agriculture BMPs can be found at: https://www.fdacs.gov/Agriculture-Industry/Water/Agricultural-Best-Management-Practices</p> <p>Non-Agriculture BMPs can be found at: https://floridadep.gov/dear/dear/documents/best-management-practices-enhancement-environmental-quality-golf-courses https://ffl.ifas.ufl.edu/pdf/GIBMP_Manual_Web_English_2015.pdf https://floridadep.gov/sites/default/files/BMP%20Efficiencies%20July%202018.pdf</p>
Ms. Laura Reynolds	11/20/2019	Issac Walton League, Native Plant Society	Asked if a hot spot is found during monitoring, and the landowner is not implementing BMPs, would the landowner be required to do anything additional under any of the rules.	Agricultural landowners should be enrolled in a program under FDACS or FDEP. If the landowner is not implementing BMPs, FDACS would report the landowner to FDEP to initiate enforcement, if needed.
Ms. Laura Reynolds	11/20/2019	Issac Walton League, Native Plant Society	Inquired how a hot spot is handled, and if it is raised to another level, or is the BMP sufficient.	The rule will assist with identifying and addressing hot spots. SFWMD would assess the data that is showing increasing trends and notify FDEP or FDACS. The actions to take are not in place yet; it is anticipated that the revisions to the rule will require and outline appropriate actions under certain circumstances.

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Ms. Susan Caruso	11/20/2019	Broward Sierra Club	Asked for confirmation of agricultural lands being considered non-point source dischargers, and if it is too expensive to sample each individual landowner. Asked how does SFWMD identify the source of a particular hot spot.	Agricultural lands are non-point source dischargers. Monitoring would be required if an individual agricultural landowner is not implementing BMPs. Monitoring would also be conducted by SFWMD at the basin level and upstream; downstream of multiple land owners and upstream of our basin monitoring stations.
Ms. Susan Caruso	11/20/2019	Broward Sierra Club	Mentioned the uncertainty of identifying the individual source with the District monitoring proposed. Asked if there any government programs that could assist farmers with more effective BMPs.	Additional monitoring in areas of concern would assist in delineating drainage basin areas. FDACs has cost share funding to assist farmers with implementing their BMPs.
Mr. HM Ridgely	11/20/2019	Evans Properties	Inquired about how legacy phosphorus is going to be addressed versus a current discharge. An example was provided for an area with no agricultural lands for several years, but the phosphorus concentrations are increasing.	It is possible that the data considered under the rules may support legacy phosphorus research.
Mr. Yogesh Khare	11/20/2019	Everglades Foundation	Suggested the rule should consider basin load allocations consistent with Lake Okeechobee's TMDL. The assimilative coefficients in the rule are being used as constants.	None needed.