Protecting Stormwater, Surface Waters and Wetlands

Duval County Regulations and the City's Environmental Quality Division's Erosion and Sediment Control Program

Erosion and Sediment Control (ESC) - not just environmental concern:

- Yes, environmental concerns exist for turbidity and sedimentation causing dieoff of wetland vegetation and subaquatic vegetation and carrying additional nutrients to our waterbodies (algae blooms)
- But also, from infrastructure and resiliency perspective, killing vegetation results in increased flows and velocities through wetlands and stormwater
- And sedimentation of stormwater and wetlands impacts flood capacity and control
- EQD has primary jurisdiction for environmental regulations and impacts in Duval County

Other City agencies may take action to ensure corrections to City infrastructure

DEP or the Water Management District may also take enforcement for permitting or remediation of state area impacts.

Jacksonville Environmental Protection Board (JEPB):

- Duval County and Jacksonville have a local pollution control program established in State statute
- Began in 1965 Duval County Air Improvement Authority existed continuously since – now named the JEPB
- 9 Member board appointed by City Council and Mayor
- JEPB has rulemaking authority to promulgate environmental rules closely aligned with state and federal due to National Pollution Discharge Elimination System (NPDES) and Clean Water Act regulations

JEPB Rule 3 – Water Pollution Control:

JEPB began water regulations in the 1980s with Rule 3

found on the web at coj.net/epb

JEPB Rule 3.103 Requirements and Prohibitions

* * *

B. It shall be unlawful ...unpermitted discharges of... other untreated waste or wastewater or other material [turbid discharge and sediment] to surface or groundwaters within Duval County...

After reviewing lessons learned beginning in 2009, in 2011 Rule 3.103 requirements were expanded to address current issues and concerns:

* * *

B. It shall be unlawful ...unpermitted discharges of... other untreated waste or wastewater or other material (turbid discharge and sediment) to surface or groundwaters within Duval County, by direct or indirect flow, or to the ground or surrounding environment ...

1. Activities ...that cause or contribute to a violation of the City of Jacksonville Municipal Separate Storm Sewer System National Pollution Discharge Elimination System (NPDES) permit... discharge of ... materials other than stormwater ... into the MS4 whether directly or indirectly, are prohibited, unless authorized under a NPDES permit.

2. In addition to the notification requirements of Chapter 754, Ordinance Code ... it shall be a violation ... to fail to notify the Division (EQD) within 72 hours after discovering an illicit discharge.

C. In addition to the notification requirements of Chapter 754, Ordinance Code . . . it shall be a violation ... to fail to notify . . . the Division (EQD) before ... construction sites discharge stormwater to an MS4....

D. It shall be a violation of this Rule for any person to violate any condition of the City of Jacksonville Municipal Separate Storm Sewer System NPDES Permit Number FLS000012 as amended or revised, or any other valid general or individual NPDES stormwater discharge permit.

City's NPDES Permit - (when you file NOI)

Very limited exceptions of what may be discharged to stormwater per Part II.A.7.a.:

(allowed as they may relate to construction activities)

- Water line flushing
- Diverted stream flows
- Rising ground waters
- Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)) to separate storm sewers
- Uncontaminated pumped ground water
- Springs
- Flows from riparian habitats and wetlands
- Street wash waters (but not containing sediment and no turbid discharge)

Florida Administrative Code water quality standards adopted in JEPB Rule 3.201

Florida water quality standard for turbidity for all classes and types of water pursuant to Florida Administrative Code 62-302.530(70):

not more than 29 Nephelometric Turbidity Units (NTU) over **background** conditions

background will be taken upstream in the same watershed flow

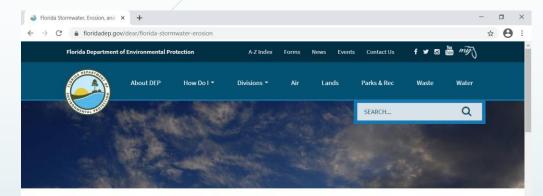
JEPB Rule 3.604 – Erosion and Sediment Control

Adopts as the more stringent requirements, the Florida Department of Environmental Protection *Erosion and Sediment Control Inspector's Manual, specifically DEP Tier I Manual* [Google Florida DEP Erosion and Sediment Control]

- Performance measures are just that, performance if it works to ensure no off-site discharge, it is acceptable
- DEP Manual provides recommendations for what may work for varied site conditions

Note: The DEP Manual is best used as a whole as many elements are built upon throughout the manual to cover project planning considerations.

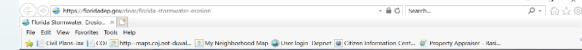
JEPB Rule 3.604 – DEP website for adopted manual:



Florida Stormwater, Erosion, and Sedimentation Control Inspector Training & Certification Program

Home » Divisions » Division of Environmental Assessment and Restoration » Florida Stormwater, Erosion, and Sedimentation Control Inspector Training & Certification Program

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Florida Stormwater, Erosion, and Sedimentation Control Inspector Training & Certification Program

Home > Divisions > Division of Environmental Assessment and Restoration > Norida Stormwater, Erosion, and Sedimentation Control Inspector Training & Certification Program

Florida Stormwater, Erosion, and Sedimentation Control Inspector

Training & Certification Program Quick Links

Florida Stormwater, Frosion, and Sedimentation Control Inspector Training Certification Program

ESESCI Manual (Tier I) FSESCI Manual (Tier II)

All Florida Stormwater,

Inspector Training &

The Florida Stormwater, Erosion, and Sedimentation Control Inspector Training & Certification Program

The Water Quality Restoration Program is currently implementing the Florida Stormwater, Ensoion, and Sedimentation Control Inspector (FSESCI) Qualification Program. The goals of this program are to better educate installers and inspectors on proper Best Management Practice (BMP) selection, installation, layering, and maintenance; and to train and qualify inspectors to correctly inspect BMPs for use during and after construction so that impacts from uncontrolled crosion and sedimentation on the construction site are minimized.

The Inspector's Training Program

This program is a two-day class that follows the curriculum provided in the <u>Florida Stormwater</u>, **Erosion and Sedimentation Control Inspector's Manual Tier(1, and Tier(1)**. Upon the complete the the class, a proctored examination is administered and approximately 1 hour is given to complete the

exam. In order to obtain the DEP qualification certificate, a minimum passing grade of 70 percent must be made on the exam.

The objectives of this training and qualification program are:

- To ensure that the desired benefits of stormwater management systems are being achieved.
- To ensure that both the public and private sectors have enough inspectors trained in the proper installation and maintenance of BMPs during and after construction.

Cartification Program BMPs during and after construction

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ESESCI Classes

Erosion, and Sedimentation Control

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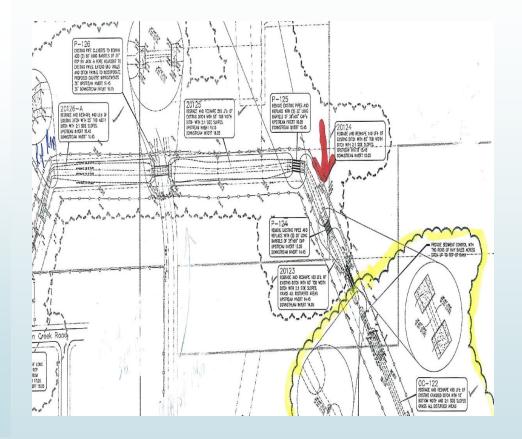


Areas of Impact:

To recap – no sediment or turbid water may discharge to wetlands, surface waters or public stormwater systems

IF your project involves construction of infrastructure (roads, improvements or connections to City stormwater, etc.)

THEN Approved plans (DEP, the District or the City) should show the areas of impact and the measures you are to take



In that case, you will likely have sediment and turbidity in the <u>immediate</u> area you are working in.

No enforcement if the impacts remain in the designated area of work

- Must have BMPs to prevent sediment and turbid water <u>from</u> <u>discharging beyond the immediate area</u>
- Must *remove all sediment* from that area *when complete*
- Must provide <u>complete soil stabilization</u> to that area <u>before</u> <u>beginning next segment</u> of the project





Private versus Public Stormwater impacts

You may utilize private stormwater system for water control during construction, but

Must treat for turbidity to be below 29 NTU of the background (background is upstream of location of discharge point)

Before private pond discharges to wetlands, surface waters or public stormwater

CAUTION!

Sedimentation to private stormwater pond may impact design, function and flood capacity of the private pond

All sediment discharge should be removed from private conveyances and pond to prevent future flooding

Recommend having engineer review pond after all construction is complete

A Stormwater Pollution Prevention Plan (approved plan) is NOT a static document:

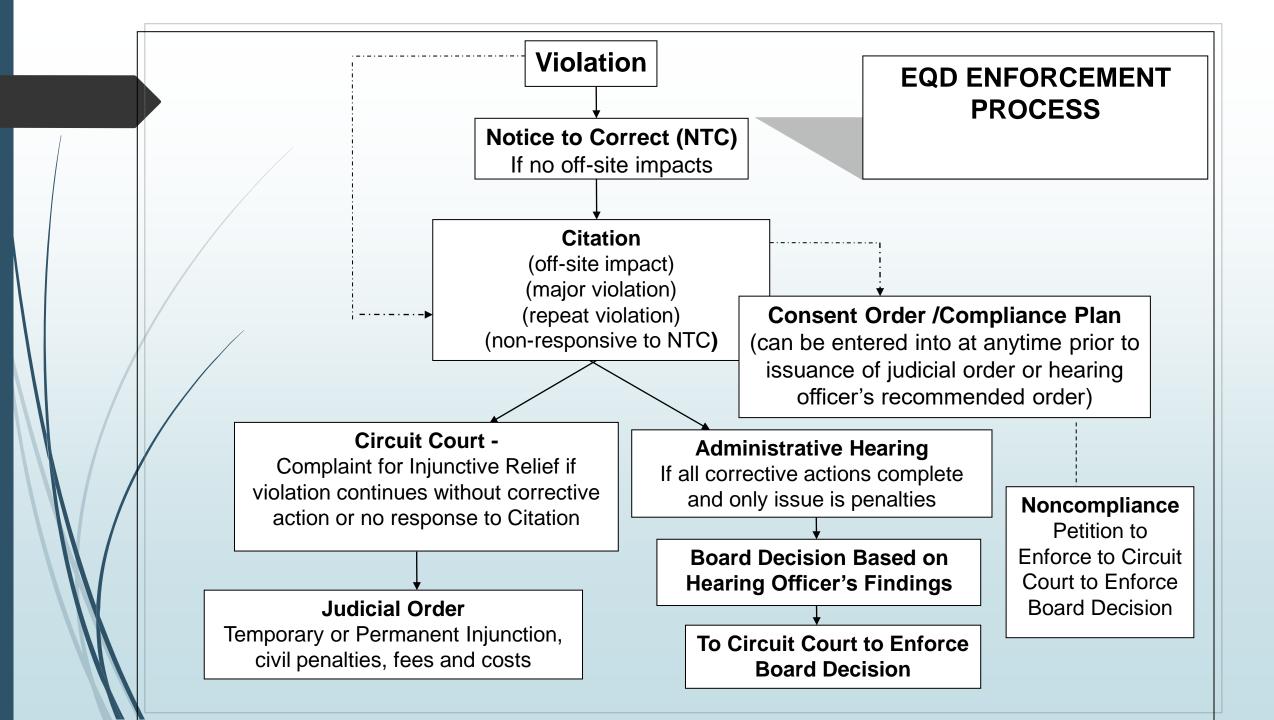
- Developed months or years before project start
- Each step/phase in construction changes site conditions and plan should be review and revised for the current site conditions
- Frequent review of BMPs is necessary to prevent discharges
- BMPs should be changed/improved as needed to prevent off-site discharge
- Sensitive areas may require more frequent monitoring than just weekly and after rain events and more frequent revision to BMPs
- Daily maintenance may be needed in sensitive areas

Environmental Quality Division Process for Review and Enforcement

If an inspection *documents a violation* for:

- 1. Repeat failure to comply with erosion and sediment control standards after notice, or
- 2. Any discharge with off-site impacts,

The enforcement process will be initiated.



Notices to Correct (NTC)

NTCs are issued for failure to comply with the DEP Manual recommendations [BMPs not sufficient for site conditions to protect against off-site impacts]

An NTC may be issued for insufficient BMPs, but

Off-site impacts are still referred to Enforcement for evaluation

Documents submitted for corrective actions or inspection may be scheduled to document corrective actions after issuing an NTC (reasonable assurance of future compliance)

If site returned to compliance, NTC is closed

If site is <u>not in compliance</u> but corrective actions in progress and discharge has not yet occurred, another inspection may be scheduled

If <u>no action has been taken</u> at the site, or <u>off-site impacts have since</u> <u>occurred</u>, a Cease and Desist Citation will be issued

Cease and Desist Citations

All Citations are issued to the Property Owner and to all indispensable parties readily identified.

 Cease the violations – not cease working Injunction required to stop project

- 14 days to respond in writing to Citation after receipt
- Work together to timely complete a Consent Order formalizing regulatory requirements for monitoring, with notification and reporting requirements

This is to provide reasonable assurance of future compliance until Final Stabilization of the project

Citation (off-site impact) (major violation) (repeat violation) (non-responsive to NTC)

Consent Orders or

Consent Order /Compliance Plan (can be entered into at anytime prior to issuance of judicial order or hearing officer's recommended order)

Resolution of Citation agreed upon-

- Consent Order is returned signed by the parties
- Then considered and approved by JEPB
- Payment is due 30 days after approval
- Other requirements are outlined by the Consent Order

If court action is required for injunction or hearing is requested-

- maximum penalty of \$10,000 to \$15,000 per day, per violation is requested by the City
- Plus attorneys' fees and costs if City prevails

Note: Nonpayment of Consent Order also results in court action to enforce the JEPB Order

Court Actions

Judicial Order

Temporary or Permanent Injunction, civil penalties, fees and costs Beginning in January 2021, after comments/suggestions from developers, contractors, engineers and JEPB Board members, the Consent Order resolution process has been revised

- <u>Owner and contractors</u> must sign Consent Order early on in enforcement case
- Consent Order provides clear summary of environmental regulation requirements for environmental protection and erosion and sediment control planning, monitoring and reporting
- These are not new regulation or requirements, but rather being formalized in a Consent Order
- Signing the Consent Order provides the reasonable assurance that appropriate BMPs for the site are installed, maintained and modified as needed to prevent off-site impacts

- With the new Consent Order process, if off-site impacts documented at MS4, EQD may have to conduct reinspections pursuant to the City's NPDES permit requirements
- Also, for off-site impacts to surface water or wetlands, state agencies may conduct inspections and may request or require EQD to conduct additional inspections
- EQD is hopeful that as the new Consent Order process with assessment, monitoring and reporting takes root, the requirements for reinspections will be minimized and reinspections will be based upon the accurate monitoring and reporting data provided by the project owner/contractors to EQD

- Penalty calculation will be completed and provided to all parties for the Consent Order
- EQD cannot assign responsibility or liability to any one party
 The parties must work through their contractual issues on their own
- Owner of project and contractors must sign on to Consent Order or the matter proceeds to the City's attorneys for further action

Consent Order remains in effect until Final Stabilization so owner signs to ensure compliance of their rotating contractors

Penalties

Florida statute provides for civil penalties of up to \$15,000, and City Ordinance Code provides for up to \$10,000, per day/ per violation:

Consent Orders to the JEPB utilizes settlement penalty guidelines established through the JEPB

- Penalties range from \$300 to \$8,000
- Impacts to stormwaters, surface waters or wetlands assessed highest penalties

	MAJOR	MODERATE	MINOR
MAJOR	\$10,000	\$7,999	\$5,999
	TO	TO	TO
	\$8,000	\$6,000	\$4,900
MODERATE	\$4,899	\$3,499	\$2,299
	TO	TO	TO
	\$3,500	\$2,300	\$1,500
MINOR	\$1,499	\$899	\$499
	TO	TO	TO
	\$900	\$500	\$300

Multiple days of violations may receive 5% of assessed penalty or full assessment, if substantial efforts to comply are taken and in progress

Factors such as whether there were BMPs, but insufficient, where the discharge went and how it got there are considered in the calculation

Jacksonville Environmental Protection Rule 2 – Air Pollution Control

Rule 2.1303

Prohibits nuisance from emission of particulate matter creating a nuisance.

In addition, adopted regulations through EPA and DEP prohibit fugitive emission of particulate matter

<u>Control the dust from your projects</u> during dry periods and if using water to do so, use BMPs to protect against turbid off-site discharge

Jacksonville Environmental Protection Rule 4 – Noise Pollution Control

Rule 4.209

Prohibits construction equipment use between 10:00 p.m. and 7 a.m.

Exceptions - Generators, mudhogs, and well point pumps may be used during nighttime hours but shall not exceed 60 dBA.

Prohibits construction noise in excess of <u>65dBA in residential</u> and <u>75 dBA</u> in commercial/industrial areas between 7:00 a.m. and 10:00p.m.

May be able to apply for a *noise variance for construction activities* if you believe you will be in noncompliance with these regulations.

Erosion and Sedimentation Control Process





CITY OF JACKSONVILLE NOTES

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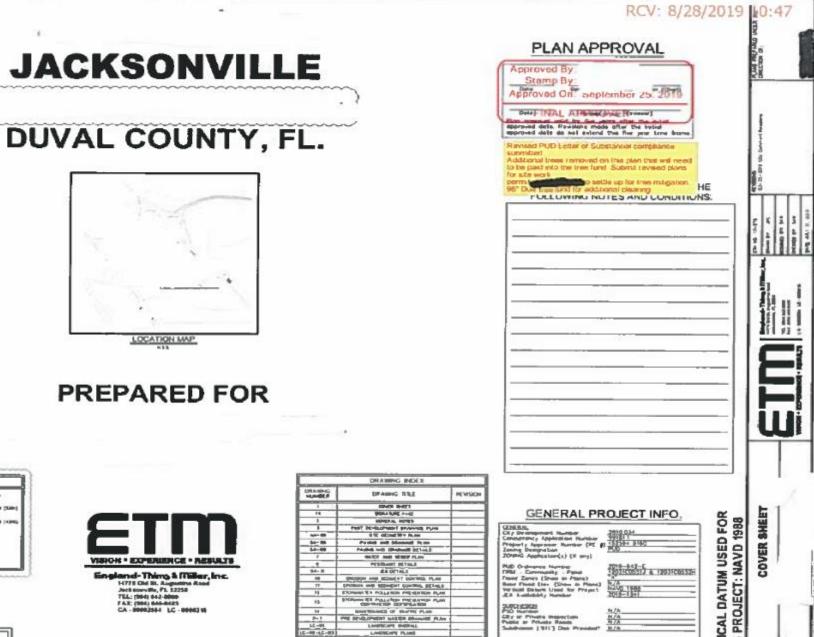
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Plan Approval:



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Stormwater Box

Box on front of plans regarding stormwater requirements, including the requirement to <u>contact EQD</u> for

an <u>pre-</u> construction inspection.

STORMWATER

Annual reports in compliance with the SJRWMD stormwater permits are required from the maintenance entity of all stormwater management facilities. Send copies of the reports to:

Engineering and Construction Management Edward Ball Building, 10th Floor 214 N. Hogan St. Jacksonville, FL 32202 http://www.coj.net/Departments/Public+Works/Engineering+and+Construction+Management/

The owner of any project one (1) acre or larger is required to provide a Notice of Intent (NOI) in accordance with criteria set forth in the city's NPDES permit within 48 hours of beginning construction. Send NOI and NOI fee to:

Florida Department of Environmental Protection NPDES Stormwater Notices Center, Mail Station #2510 2600 Blair Stone Road Tallahassee, Florida 32399-2400 (866) 336-6312 http://www.dep.state.fl.us/water/stormwater/npdes/

The contractor shall contact Environmental Quality Division, Erosion and Sedimentation Control Section (ESC) to provide verification that applicable stormwater permits have been obtained and to schedule a pre-construction ESC site inspection:

Environmental Quality Division 407 North Laura Street, Third Floor Jacksonville, FL, 32202 (904) 255-7222 Best contact for plan review meetings and pre-construction inspections is **ESC@ coj.net**.

The owner or contractor shall contact EQD, Erosion and Sedimentation Control Section (ESC) by email <u>esc@coj.net</u> to:

- provide verification that all applicable stormwater permits have been obtained prior to commencement of any clearing, grading, or excavation
- schedule a pre-construction ESC site inspection
- submit the NOI 48 hours prior to beginning construction
- seek ESC compliance assistance



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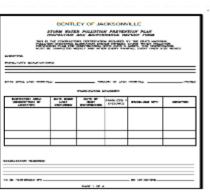
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EQD Inspections:

Plan Review Meeting

Conducted when you email esc@coj.net

For example, many plans only call for single row of silt fence around perimeter – but this may not be sufficient depending on surrounding areas.

EQD will look for additional protections outlined in the DEP Manual at stormwater, surface water and wetland adjacent areas to protect against sediment or turbid discharge. The DEP manual does recommend multiple BMPs in order to protect these sensitive areas. You should consider scheduling a <u>plan</u> <u>review meeting</u> with EQD staff to review the plans and the site, identifying potential deficiencies. *Projects adjacent to MS4, surface waters, and wetlands are given highest priority.*

 Plan review meetings are <u>not required</u>, but may provide great insight for potential issues.

EQD Inspections:

NPDES - requires *a minimum of 3* inspections:

- 1. Pre-construction (BMPs installed)
 - Conducted when you
 email esc@coj.net

Note – projects adjacent to MS4, surface waters, and wetlands are given highest priority and may have additional inspections.

- 2. One mid-construction
- 3. One final stabilization

Other EQD Inspections:

Inspections may occur at multiple phases of construction

- Preconstruction
- Clearing and grubbing
- Rough Grading
- Finish grading
- Final Stabilization
- Closeout

Other EQD Inspections may be conducted when:

EQD <u>receives a complaint</u> of construction activity causing offsite impacts, including MS4 illicit discharge investigations

Projects are <u>adjacent to surface waters that EQD is monitoring</u> for various reasons (BMAP, ambient water quality, etc.)

<u>Inspections</u> are necessary after deficiencies are noted in any given inspection, especially if a violation is documented

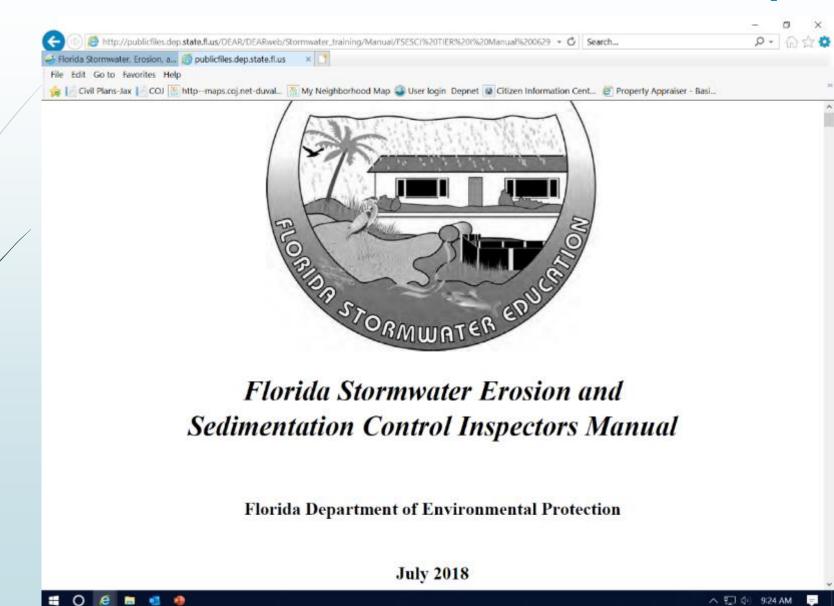
<u>Requested by other agencies</u>, especially the Water Management District or the Department of Environmental Protection for areas adjacent to surface waters or wetlands

Importance of Site Self-Inspections:

- EQD's <u>plan review</u> is only a <u>compliance assistance</u> measure
- The site owner and operator are responsible for conducting their own inspections throughout all phases of construction
- Effectiveness of ESC measures is <u>performance based</u> – determined at time of inspection
- Deficiencies noted during selfinspection should be promptly reported to the site engineer



JEPB Rule 3.604 – DEP website for adopted manual:



Silt Fence Poorly Maintained





Most Commonly Used BMP for Perimeter Control

BLACK WOVEN – NO GOOD FOR TURBIDITY CONTROL

Silt fence not appropriate for site



DEP Manual points out that black fabric does not protect against turbidity – recommends *double row* of silt fence and other turbidity controls

3.4.2 Silt Fence

Purpose

The purpose of a silt fence is to slow the velocity of water and retain sediment onsite. It is important to understand that regular black woven silt fencing will not stop turbid water or fine silty particles from going through the fencing and into an adjacent waterway, causing turbidity and other surface water quality compliance issues. *** Planning Considerations

Planning Considerations

Silt fences can trap a much higher percentage of suspended sediments than straw bales and are preferable to straw barriers in many cases. The most effective application is to install two parallel silt fences spaced a minimum of three feet apart.





When silt fence is properly maintained & appropriate for site.





Silt fencing – Has improved!

Black Woven Silt Fence (FDOT Type III) Nonwoven – Belted Silt **Retention Fence** (BSRF) Priority I and II **Woven Belted Silt** Fence (WBSF)

Other Perimeter Controls



Staked Turbidity Fencing

- Great for wetland/ surface water adjacent
 - Diversion
- Perimeter control for temporary sediment basin

• Water will find a way and is typically the path of least resistance.

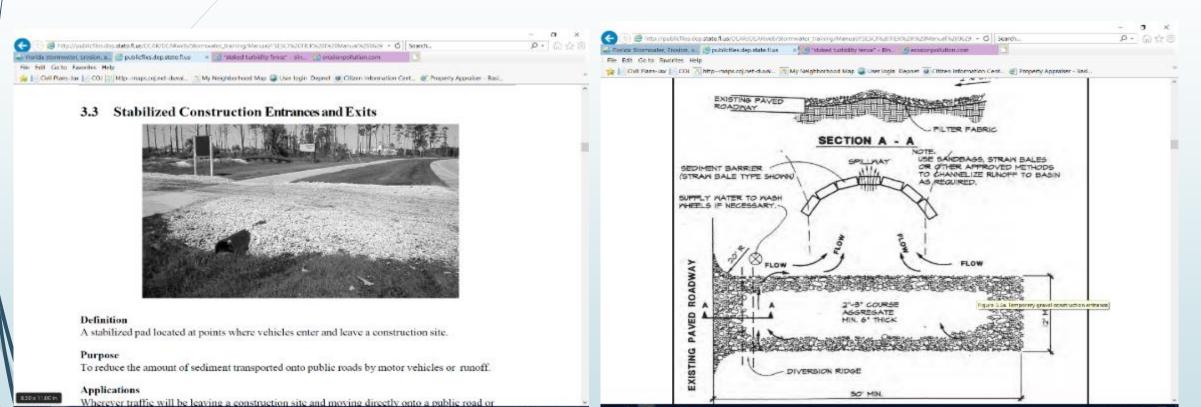
Construction Exit Stabilization



Stabilization to prevent track out is outlined with specificity in the manual. Track out is one of the largest contributors to unlawful discharges to stormwater. There are also reusable technologies available such as fods, rumble strips, etc.







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RUMBLE RACKS







Drain and Inlet Protection

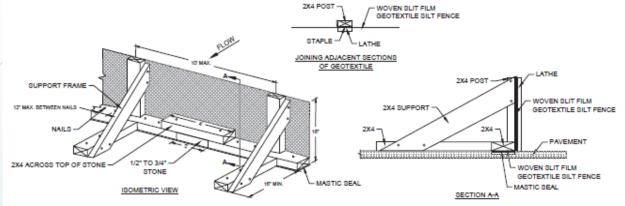
Black fabric and 'gutter buddies' not proving effective in most inspections unless maintained very frequently and there is no risk of turbid discharge.

<u>MS4</u> Municipal Separate Storm Sewer System





Simple solutions



TYPICAL SILT FENCE ON PAVEMENT DETAIL

SILT FENCE ON PAVEMENT CONSTRUCTION SPECIFICATION

- 1. SPACE UPRIGHT SUPPORTS NO MORE THAN 10 FEET APART.
- PROVIDE A TWO FOOT OPENING BETWEEN EVERY SET OF SUPPORTS AND PLACE STONE IN THE OPENING OVER GEOTEXTILE.
- KEEP SILT FENCE TIGHT AND SECURELY STAPLE TO THE UPSLOPE SIDE OF UPRIGHT SUPPORTS. EXTEND GEOTEXTILE UNDER 2X4.
- WHERE TWO SECTIONS OF GEOTEXTILE ADJOIN: OVERLAP, FOLD, AND STAPLE TO POST IN ACCORDANCE WITH THIS DETAIL. ATTACH LATHE TO SECURE OVERLAP.
- PROVIDE A MASTIC SEAL BETWEEN PAVEMENT, GEOTEXTILE, AND 2X4 TO PREVENT SEDIMENT-LADEN WATER FROM ESCAPING BENEATH SILT FENCE INSTALLATION.
- 6. SECURE BOARDS TO PAVEMENT WITH 40D 5" MINIMUM LENGTH NAILS.
- REMOVE ACCUMULATED SEDIMENT AND DEBRIS WHEN BULGES DEVELOP IN SILT FENCE OR WHEN SEDIMENT REACHES 25% OF FENCE HEIGHT. REPLACE GEOTEXTILE IF TORN. MAINTAIN WATER TIGHT SEAL ALONG BOTTOM. REPLACE STONE IF DISPLACED.





Diversion, wrap, sandbag, etc. Appropriateness and installation may differ at each project.







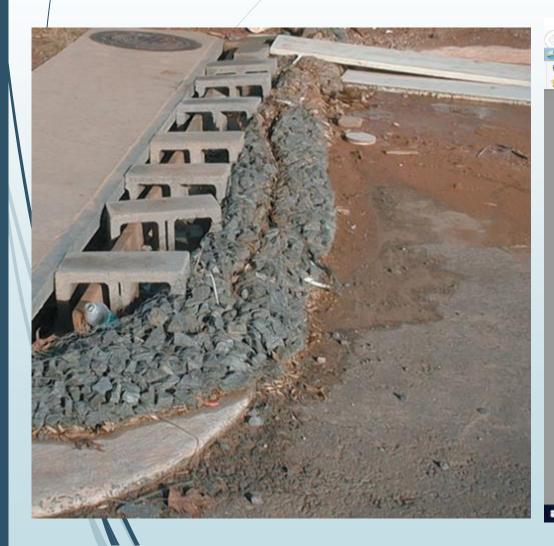


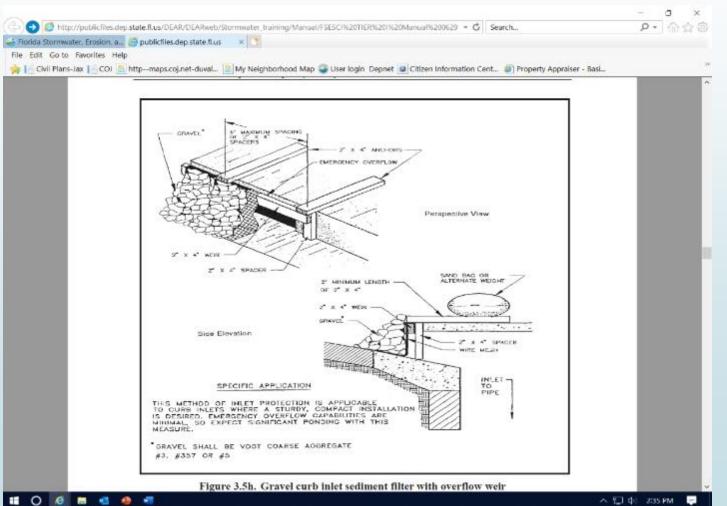


Diversion, wrap, sandbag, etc. The DEP Manual gives details on appropriateness and installation of different BMPs.



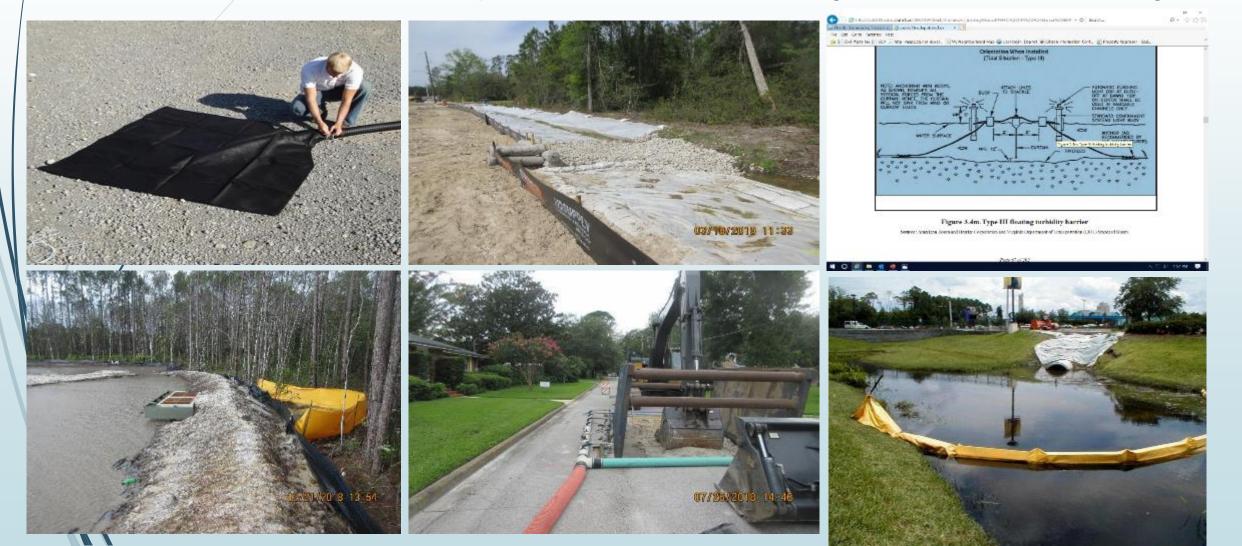
Alternative inlet protection





Turbidity and Dewatering Measures in DEP Manual:

The manual discusses multiple turbidity protection methods including proper design, construction and installation, using diversion, and sheeting of earthen measures such as ditches, basins and berms to prevent that material becoming a source of turbid discharge.





< Type 1

Type II or III >

Poorly maintained turbidity curtains











Measures need to be as advanced and as protective as necessary to prevent off-site impacts, up to and include filter tanks and trucks.



Know you discharge location!







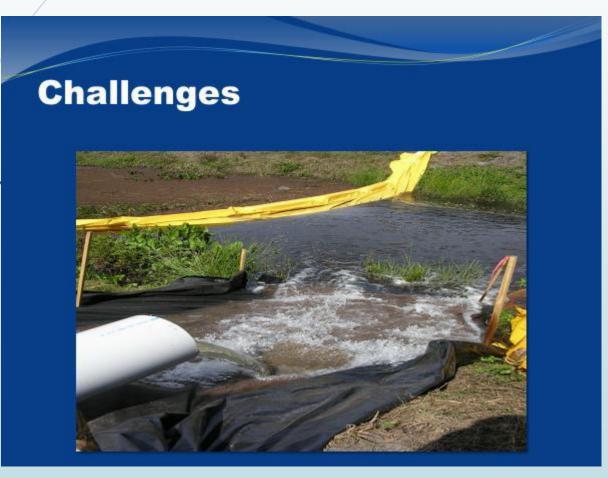
Turbidity!!

Sandbar scouring

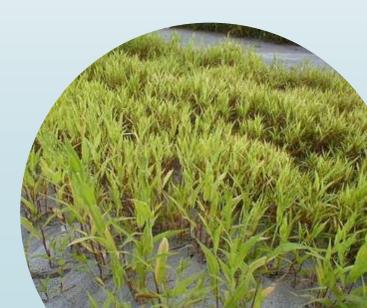




Velocity control with sheeting/matting and check dams, etc. EQD has also seen diversion, sheeting, land applied polyacrylamide and, worst case, using a weir truck for confined sites.



Most Cost-Effective Form of Erosion Control is Through the Use of **Vegetation**



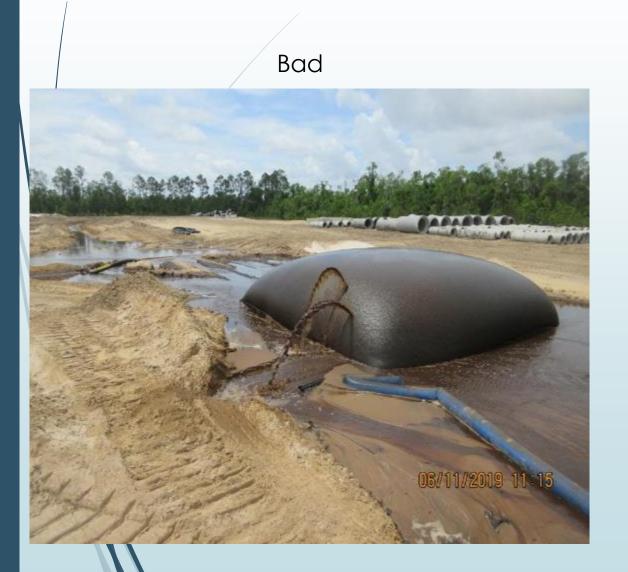












Better







Land applied polyacrylamide



Turbidity Filtration & Treatments

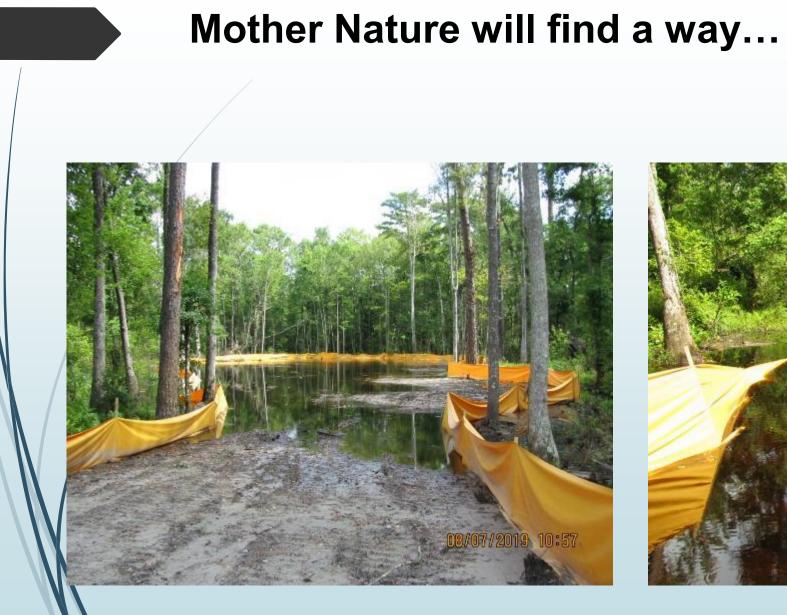


The link manifold is designed to eliminate the need for open dewatering ditches and allow for water treatment in-line with anionic polyacrylamide(PAM).

<u>Turbidity Filtration & Treatments</u> PAM Link Logs – Designed for In-Line Manifolds









QUESTIONS???

Questions on BMP's or the inspection process, please contact:

Patrick Mando Environmental Quality Division <u>enforcement@coj.net</u> (904) 255-7100

Questions on regulations or enforcement process, please contact:

Patricia Gee-Jones Environmental Quality Division <u>enforcement@coj.net</u> (904) 255-7100









Perimeter Control

