

Q1: PD&E Study commenced after June 28, 2024 (ERP AH Vol. 1 effective date) but is scheduled to be complete before June 28, 2026 (effective date +2 years), what water quality criteria is required?

- In coordination with FDEP, the PD&E Study completion date will be interpreted as the controlling criteria if any start/end date conflicts arise.
 - If the PD&E Study is completed before June 28, 2026, the previous BMP treatment volume design and performance criteria listed in the appropriate AH Vol. 2 may be used.
 - If the PD&E Study is completed after June 28, 2026, the new BMP efficiency rate design and performance criteria listed in Section 8.3 AH Vol. 1 will apply.
- A PD&E Study is deemed complete once the initial study's environmental document is approved, and Location Design Concept Acceptance (LDCA) is issued. Thereafter, re-evaluations occur to document design changes and in advance of construction advertisement to ensure the integrity of the underlying document. The PD&E Study is "complete" prior to any re-evaluations.

Q2: Project was previously permitted for the Ultimate Buildout but only constructed the Interim Condition. Will the new water quality criteria apply to the already permitted system?

- If permit modification is submitted before Jun 28, 2029 – No, use rules in effect with the existing ERP
- If permit modification is submitted after June 28, 2029 – Yes, use ERP rules in effect at time of application

Q3: What are the grandfathering provisions for FDOT projects?

Table 1 - ERP Grandfathering Guidance Summary

Scenarios	Grandfathered?
Projects with PD&E Studies⁽¹⁾	
PD&E Study completed by 6/28/2026	Yes ⁽²⁾
PD&E Study completed after 6/28/2026	No
Projects without PD&E Studies	
Design or construction phase began before 6/28/2024	Yes ⁽²⁾
Design phase begins after 6/28/2024 & Permit application deemed complete by 12/28/2025	Yes ⁽²⁾
Design phase begins after 6/28/2024 & not likely to be permitted by 12/28/2025	No
Permit Modifications⁽³⁾	
Projects permitted with future capacity; modification submitted by 6/28/2029	Yes ⁽³⁾
Modifications for design changes solely for purposes of public safety	Yes ⁽³⁾
Modifications which increase impervious area by ≤10%	Yes ⁽³⁾
Modifications which increase impervious area by >10% ⁽⁴⁾	No

(1) Refer to Q1 for details.

(2) ERP scenarios only include water quality design and performance criteria grandfathering, all other criteria listed in rule at time of application will apply (e.g. O&M, new forms, dam criteria, etc.). Water quality criteria grandfathering includes the use of the previous BMP treatment volume design and performance criteria listed within the appropriate AH Vol. 2 in lieu of the new BMP efficiency rate design and performance criteria listed within Section 8.3 of the AH Vol. 1. [Section 3.1.2(e), AH Vol. 1]

(3) Permit Modifications that include grandfathering provisions are subject to the rules in effect at the time of the initial permit being modified. [Section 3.1.2(e)1-2 & Section 8.3, AH Vol. 1]

(4) Refer to Project with and without PD&E Studies scenarios for appropriate guidance.

For additional questions, contact your District Drainage Engineer and/or District Environmental Permits Coordinator for guidance. If needed, the District will reach out to Central Office to expand this FAQ Document.

Q4: Will Conceptual Permit approval grandfather water quality design and performance criteria?

- If the conceptual permit was issued before 6/28/2024: Yes, all subsequent general or individual permit applications shall be consistent with the designs and conditions of the issued Conceptual Permit as well as the grandfathering provisions as described in AH Volume 1 Section 3.1.2(e)3.
- If the conceptual permit is issued after 6/28/2024: No, all subsequent general or individual permits will follow current ERP criteria. This includes the water quality design and performance criteria grandfathering timeframe listed in Section 3.1.2(e)4 and Section 8.3, AH Vol. 1:
 - If the subsequent general or individual permit application is **deemed complete before 12/28/2025**, then BMP treatment volume design and performance criteria within the conceptual permit (WMD AH Vol. 2) may be used.
 - If the subsequent general or individual permit application is **deemed complete after 12/28/2025**, it will require the Conceptual Permit to be modified to conform to the new BMP efficiency rate design and performance criteria for any subsequent applications thereafter.

Q5: Project is located within or adjacent to a HUC 12 that has an identified impaired waterbody listed as impaired for parameter(s) other than nutrients (ERP AH Vol. 1, Section 8.2.3). How do I demonstrate net improvement?

- If the proposed improvements will not be a contributing source to the impairment, include a narrative demonstration for reasonable assurance that the proposed project will not contribute to the impairment.
 - Example of when to use a narrative demonstration:
Bacteria impairment for most FDOT projects – the proposed project does not include elements which would create an additional source for bacteria (i.e. no wastewater or septic tanks on site, does not increase pet waste potential, etc.).

Q6: Do I need to perform nutrient loading analysis for WBIDs on the Study List?

- No - Pursuant to Rule 62- 303.150, F.A.C., the inclusion of a waterbody on the planning or study lists shall not be used as evidence of a waterbody failing to meet applicable water quality standards.
- Additionally, Rule 62-303.390(2)(d), F.A.C., alternative ongoing restoration activities (assessment category 4e) are maintained on the Study List and cannot be used as evidence of a waterbody being classified as impaired.

Q7: How do I develop an O&M Plan and Cost Estimate for an FDOT project?

- In lieu of project-specific O&M Plans, FDOT has implemented a statewide Comprehensive O&M Program. The FDOT Drainage Manual includes the FDOT O&M Plan and Cost Estimate Forms to be used for ERP applications at [Drainage Manual Forms \(fdot.gov\)](https://www.fdot.gov/DrainageManualForms)
- Complete FDOT O&M Plan and Cost Estimate Form as well as FDEP's Form 62-330.301(26) for submittal with the ERP permit application.
- Regardless of whether the project is located within or outside of an MS4 regulated area, submit the FDOT O&M Plan form with the ERP application.