



April 20, 2020

Florida Department of Environmental Protection
2600 Blair Stone Road
Tallahassee, FL 32399

Attn.: Heather Mason
Via Email: Heather.Mason@FloridaDEP.gov

**RE: Proposed Rules Related to State Assumption of the Clean Water Act Section 404
Program: Public Comment Deadline Suspension Request**

Ms. Mason,

On behalf of our respective organizations and our thousands of members, we are writing to express our concerns regard the Florida Department of Environmental Protection's ("FDEP or the Department") proposal to assume jurisdiction under Section 404(a) of the Clean Water Act, 33 U.S.C. § 1344, for wetland permitting in waters of the United States. This letter speaks specifically to the proposed revisions to Chapter 62-330, the proposed promulgation of Chapter 62-331, the Draft 404 Handbook, and the Department's Statement of Estimated Regulatory Costs ("SERC") all of which were published on February 19, 2020.

Each signatory below is an independent organization, member of Waterkeepers Florida, and a member of Waterkeeper Alliance, a global movement of on-the-water advocates who patrol and protect over 100,000 miles of rivers, streams, and coastlines. More than 350 Waterkeeper Organizations worldwide combine firsthand knowledge of their waterways with an unwavering commitment to the rights of their communities and to the rule of law.

On March 23, 2020, the Department issued a notice which superseded the March 11, 2020 Notice of Hearing for the State 404 Program Rulemaking. In the March 23 notice, FDEP announced that the public hearing related to this rulemaking would take place via three separate video conferences in order to remain "[c]onsistent with COVID-19 social distancing guidance from the U.S. Center for Disease Control and Prevention[.]" These video conferences were scheduled for April 2, 6, and 10th and the public comment period for the rulemaking was extended until midnight on April 17, 2020.

On April 17, 2020, the Department again notified interested parties that "due to these extenuating circumstances" related to COVID-19, FDEP would hold two additional telephonic hearings on April 24 and April 27, 2020. The Department also extended the public comment period for this rulemaking to midnight on April 30, 2020.

It is the position of Waterkeepers Florida that moving forward with this rulemaking is deeply inappropriate at this time. At the drafting of this letter, there have been more than 26,000 COVID-19 cases in the state of Florida, more than 3,800 hospitalizations as a result of the virus, and more than 780 deaths (see <https://floridahealthcovid19.gov/#latest-stats>). Additionally, more than 450,000 people in the State of Florida have filed for unemployment in the last month as a result of the pandemic. Moreover, K-12 schools across the state will remain closed through the end of the school year, forcing many parents to juggle childcare responsibilities. Finally, on April 1, 2020 Governor DeSantis issued a state-wide stay home order, instructing Floridians to stay home but for essential activities.

Given this body of evidence, we ask: is FDEP's rulemaking an essential activity at this time? We believe the answer to be a resounding "no."

Waterkeepers Florida is deeply committed to ensure public involvement in this rulemaking process. In fact, public involvement is the hallmark of our collective mission. We do not feel that these rulemaking proceedings have been adequately inclusive for all members of the public. Not only is it our position that this rulemaking and its motivations are deeply flawed to begin with, but the Department's attempts to fast track these decisions while the public is preoccupied with a global pandemic is unsettling at best.

We formally request that FDEP suspend Clean Water Act Section 404 rulemaking until, at a minimum, Governor DeSantis has lifted his stay at home order. We also request that FDEP schedule in-person public hearings at that time.

Respectfully,

Lisa Rinaman
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Board Chair of Waterkeepers Florida





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