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STATE OF FLORIDA

DEPARTMENT OF ENVIRONMENTAL PROTECTION

GENERIC PERMIT

FOR

DISCHARGE OF STORMWATER FROM PHASE II
MUNICIPAL SEPARATE STORM SEWER SYSTEMS

May 1, 2003

Generic Permit for Discharge of Stormwater from Phase II
Municipal Separate Storm Sewer Systems

Contents

- I. Authorization to Discharge
 - A. Authorized Discharges
 - B. Limitations on Coverage

- II. Obtaining Authorization to Discharge
 - A. Discharge Prohibited Without Permit Coverage
 - B. Effective Date of Coverage
 - C. Deadline for Development of Stormwater Management Program
 - D. Change of Operator/Name

- III. Deadlines for Notification
 - A. Automatic Designation
 - B. Designation by the Department

- IV. Contents of Notice of Intent
 - A. BMPs/Measurable Goals
 - B. Menu of BMPs

- V. Stormwater Discharge Compliance and Water Quality Standards
 - A. The Maximum Extent Practicable (MEP) Standard
 - B. Total Maximum Daily Load (TMDL) Allocations.

- VI. Stormwater Management Programs/Six Minimum Control Measures

- VII. Evaluation and Assessment
 - A. Evaluation
 - B. Record Keeping
 - C. Reporting

- VIII. Sharing Responsibility for Minimum Control Measures
 - A. Sharing Responsibilities
 - B. Permittee/Operator Responsibilities

IX. Qualifying Alternative Program

- A. Department Authority to Recognize and Amend
- B. Permittee/Operator Responsibilities
- C. Recognized Qualifying Alternative Programs

X. General Permit Conditions

XI. Duty to Comply

XII. Term of Coverage and Re-Application

XIII. Operation and Maintenance

Generic Permit for Discharge of Stormwater from Phase II
Municipal Separate Storm Sewer Systems

(Rule 62-621.300(7)(a), F.A.C.)

This Generic Permit for Discharge of Stormwater from Phase II Municipal Separate Storm Sewer Systems (MS4s) implements, in part, Section 402(p)(6) of the Clean Water Act¹ pursuant to the Department's federally approved National Pollutant Discharge Elimination System (NPDES) stormwater program. The Department's NPDES stormwater program is authorized by Section 403.0885, Florida Statutes, and implemented through applicable provisions under Chapters 62-4, 62-620, 62-621 and Chapter 62-624, Florida Administrative Code (F.A.C.). This generic permit is incorporated by reference at Rule 62-621.300(7)(a), F.A.C.

I. Authorization To Discharge

A. Authorized Discharges. This generic permit allows the discharge of stormwater from Phase II MS4s consistent with Section 402(p)(6) of the federal Clean Water Act. To utilize this generic permit, the operator of a regulated Phase II MS4 must:

1. File a Notice of Intent to Utilize the Generic Permit for Discharge of Stormwater from Phase II Municipal Separate Storm Sewer Systems on Form 62-621.300(7)(b);
2. File a permit fee, which must accompany the NOI, as prescribed by Rule 62-4.050(4)(d), F.A.C.; and,
3. Comply with any and all applicable provisions of this generic permit as set forth herein.

B. Limitations on Coverage. Stormwater discharges that are mixed with non-stormwater, or stormwater discharges associated with industrial activity, are not authorized under this generic permit unless such discharges are:

1. In compliance with a separate NPDES permit; or,
2. Within one of the following categories of non-stormwater discharges and provided they do not cause a violation of water quality standards:

- . water line flushing,
- . landscape irrigation,
- . diverted stream flows,
- . rising ground waters,
- . uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)),
- . uncontaminated pumped ground water,
- . discharges from potable water sources,
- . foundation drains,
- . air conditioning condensate,
- . irrigation water,
- . springs,
- . water from crawl space pumps,
- . footing drains,
- . lawn watering runoff,
- . water from individual residential car washing,
- . flows from riparian habitats and wetlands,
- . dechlorinated swimming pool discharges,
- . residual street wash water, and
- . discharges or flows from fire fighting activities.

II. Obtaining Authorization To Discharge

A. Discharge Prohibited Without Permit Coverage: No discharge from a Phase II MS4 is authorized unless and until the operator of the regulated Phase II MS4 has applied for and received coverage under this generic permit, or alternatively has received coverage under an individual permit. To apply for coverage under this generic permit, the operator of the Phase II MS4 must submit the NOI,

¹ 33 U.S.C. Section 1342(p)(6)

additional information as set out in Part IV.A. herein, and the required permit fee, to:

NPDES Stormwater Notices Center, MS# 2510
Florida Department of Environmental Protection
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

B. Effective Date of Coverage: Coverage under this generic permit shall be effective upon written notification by the Department. The Department shall process requests for coverage under this generic permit pursuant to the provisions of Rule 62-620.510(1)-(5) and (8), F.A.C. Coverage under this generic permit is limited to a term not to exceed five years from the effective date of coverage.

C. Deadline for Development of Stormwater Management Program. The operator of a Phase II MS4 must develop and implement all components of its stormwater management program no later than five (5) years from the date of receiving initial coverage under this generic permit.

D. Change of Operator/Name: If the operator of the Phase II MS4 changes, such that a different entity is responsible for operating the Phase II MS4, a new NOI and permit fee must be filed with the Department. If the change is a name change only, the operator must notify the Department by letter, directed to the same address as used for submitting an NOI, advising of the name change. The name change must be reflected, and an explanation for the basis of the name change must be included, in the next Annual Report immediately following the name change.

III. Deadlines for Notification

A. Automatic Designation:

1. 1990 Census. If designated under Rule 62-624.800(1)(a), F.A.C., based upon the 1990 federal Census, the operator of the Phase II MS4 must apply for coverage under this generic permit, or apply for individual permit coverage under Rule 62-624.810, F.A.C., as an alternative to coverage under this generic permit, by June 1, 2003.

2. 2000 Census. If designated under Rule 62-624.800(1)(a), F.A.C., based upon the 2000 federal Census, the operator of the Phase II MS4 must apply for coverage under this generic permit, or apply for individual permit coverage under Rule 62-624.810, F.A.C., as an alternative to coverage under this generic permit, by June 1, 2004.

B. Designation by the Department: If designated under Rule 62-624.800(1)(b), F.A.C., the operator of the Phase II MS4 must apply for coverage under this generic permit, or apply for individual permit coverage under Rule 62-624.810, F.A.C., as an alternative to coverage under this generic permit, within one year of notice, unless the Department grants a later date.

IV. Contents of Notice of Intent

A. BMPs/Measurable Goals: As a part of the NOI, an outline of a proposed stormwater management program, including proposed best management practices (BMPs) to be implemented and proposed measurable goals for each of the required elements for the six minimum control measures, as set forth in this generic permit, must be submitted. The outline shall estimate the year in which

the operator will start and fully implement each element of the required minimum control measures, or indicate the frequency of the action if more appropriate, and identify the entity or department expected to be responsible for implementing and/or coordinating each BMP.

B. Menu of BMPs. The Department encourages operators to use the Florida Development Manual: A Guide to Sound Land and Water Management (DER, 1988), and the U.S. Environmental Protection Agency's National Menu of Best Management Practices for Storm Water Phase II, in developing their stormwater programs. Operators may rely upon the EPA BMP menu as the Department's menu of best management practices as required under 40 CFR 123.35(g). The national menu is maintained at the Department's website.

Part V. Stormwater Discharge Compliance and Water Quality Standards

A. The Maximum Extent Practicable (MEP) Standard: The stormwater management program must be designed and implemented to reduce the discharge of pollutants from the Phase II MS4 to surface waters of the State to the maximum extent practicable (MEP). Narrative effluent limitations requiring implementation of best management practices (BMPs) are generally the most appropriate form of effluent limitations when designed to satisfy technology requirements (including reduction of pollutants to the MEP) and to protect water quality. Implementation of BMPs consistent with the provisions of the stormwater management program required pursuant to this generic permit constitutes compliance with the standard of reducing pollutants to the MEP. The MEP standard is applied to MS4s in recognition of the fact that an operator typically

does not have total control over the quality or quantity of stormwater entering its system and ultimately entering waters of the State. Stormwater management programs must be assessed and adjusted, as part of an iterative process, to maximize their efficiency and make reasonable further progress toward an ultimate goal of reducing the discharge of pollutants to the extent necessary to protect the designated uses of receiving waters.

B. Total Maximum Daily Load (TMDL) Allocations. If a TMDL is approved for any water body into which the Phase II MS4 discharges, and the TMDL includes requirements for control of stormwater discharges, the operator must review its stormwater management program for consistency with the TMDL allocation. If the Phase II MS4 is not meeting its TMDL allocation, the operator must modify its stormwater management program to comply with the provisions of the TMDL Implementation Plan applicable to the operator in accordance with the schedule in the Implementation Plan.

VI. Stormwater Management Program Requirements/Six Minimum Control Measures

A. The operator of the MS4 must develop, implement, and enforce a stormwater management program. The stormwater management program must include the following six (6) minimum control measures:

1. Public Education and Outreach as to Stormwater Impacts

a. The operator of the Phase II MS4 must:

(1) Implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of

stormwater discharges on water bodies and the steps that the public can take to reduce pollutants in stormwater runoff.

b. Acceptable efforts may include but are not limited to:

- (1) Using stormwater educational materials provided by the State, EPA, environmental, public interest or trade organizations, or other MS4s;
- (2) Informing individuals and households about the steps they can take to reduce stormwater pollution, such as ensuring proper septic system maintenance, modifying landscapes in accordance with principles described in the Florida Yards and Neighborhoods Program, disconnecting directly connected impervious area (such as roof downspouts), ensuring the proper use and disposal of landscape and garden chemicals including fertilizers and pesticides, protecting and restoring riparian vegetation, and properly disposing of used motor oil, household hazardous wastes, or pet wastes;
- (3) Informing individuals and groups on how to become involved in local stream and water body restoration and clean-up activities as well as activities that are coordinated by youth service and conservation corps or other citizen groups;
- (4) Tailoring the program, using a mix of locally appropriate strategies, to target specific audiences and communities. The operator should direct some of the materials or outreach programs toward targeted groups of commercial, industrial, and institutional entities likely to have significant stormwater impacts. For example, providing information to restaurants on the impact of grease clogging storm drains and to garages on the impact of oil discharges to the storm drain;

(5) Tailoring the outreach program to address the viewpoints and concerns of all communities, including minority and disadvantaged communities, as well as any special concerns relating to children.

c. The operator of the Phase II MS4 must define appropriate BMPs for this minimum control measure and measurable goals for each BMP. In the context of this minimum control measure, the term BMP is understood to include activities and programs undertaken to implement the public information and outreach efforts required under this generic permit.

2. Public Involvement/Participation

a. The operator of the Phase II MS4 must:

(1) Comply with State and local public notice requirements when implementing a public involvement/participation program.

b. Acceptable efforts may include but are not limited to:

(1) Including the public in developing, implementing, and reviewing the stormwater management program and making efforts to reach out and engage all economic and ethnic groups. Opportunities for members of the public to participate in program development and implementation include serving as citizen representatives on a local stormwater management panel, attending public hearings, working as citizen volunteers to educate other individuals about the program, assisting in program coordination with other pre-existing programs, or participating in volunteer monitoring efforts.

c. The operator of the Phase II MS4 must define appropriate BMPs for this minimum control measure and measurable goals for each BMP. In the context of

this minimum control measure, the term BMP is understood to include activities and programs undertaken to implement the efforts to assure public participation required under this generic permit.

3. Illicit Discharge Detection and Elimination

a. The operator of the Phase II MS4 must:

(1) Develop, implement and enforce a program to detect and eliminate illicit discharges (as defined by Rule 62-624.200(2)) into the Phase II MS4 including:

(a) Develop, if not already completed, a storm sewer system map, showing the location of all known outfalls and the names and location of all surface waters of the State that receive discharges from those outfalls;

(b) To the extent allowable under State or local law, effectively prohibit, through ordinance, or other regulatory mechanism, non-stormwater discharges into the storm sewer system and implement appropriate enforcement procedures and actions;

(c) Develop and implement a plan to detect and address non-stormwater discharges, including illegal dumping, to the system; and,

(d) Inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste.

b. Acceptable efforts may include but are not limited to:

(1) Ensuring that the plan to detect and address illicit discharges include the following four components: procedures for locating priority areas likely to have illicit discharges; procedures for tracing the source of an illicit discharge;

procedures for removing the source of the discharge; and procedures for program evaluation and assessment.

(2) Conducting visual screening of the outfalls during dry weather and conducting field tests of selected pollutants as part of the procedures for locating priority areas.

c. The operator of the Phase II MS4 must define appropriate BMPs for this minimum control measure and measurable goals for each BMP. In the context of this minimum control measure, the term BMP is understood to include activities and programs undertaken to implement the illicit discharge elimination efforts required under this generic permit.

4. Construction Site Stormwater Runoff Control

a. The operator of the Phase II MS4 must:

(1) Develop, implement, and enforce a program to reduce pollutants in any stormwater runoff to the Phase II MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. Construction activity disturbing less than one acre must be included in your program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. The term “larger common plan of development” does not refer to local comprehensive plans or growth management plans.

The program must include the development and implementation of:

(a) An ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under State, or local law;

- (b) Requirements for construction site operators to implement appropriate erosion and sediment control best management practices;
- (c) Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;
- (d) Procedures for site plan review which incorporate consideration of potential water quality impacts;
- (e) Procedures for receipt and consideration of information submitted by the public; and
- (f) Procedures for site inspection and enforcement of control measures.

b. Acceptable efforts may include but are not limited to:

- (1) Sanctions to ensure compliance. Examples include stop-work orders, non-monetary penalties, fines, bonding requirements and/or permit denials for non-compliance;
- (2) Procedures for site plan review including the review of individual pre-construction site plans to ensure consistency with Department, Water Management District, or local sediment and erosion control requirements as appropriate;
- (3) Steps to identify priority sites for inspection and enforcement based on the nature of the construction activity, topography, and the characteristics of soils and receiving water quality;

(4) Providing educational and training measures for construction site operators which may include inspector training under the Florida Stormwater Erosion and Sedimentation Control Inspector Training Program; and

(5) Requiring submittal of proof of an issued Department of Water Management District Stormwater Discharge or Environmental Resource Permit before issuance of local approvals for site clearing or construction.

c. The operator of the Phase II MS4 must define appropriate BMPs for this minimum control measure and measurable goals for each BMP. In the context of this minimum control measure, the term BMP is understood to include activities and programs undertaken to implement the construction site stormwater runoff control efforts required under this generic permit.

5. Post-construction Stormwater Management in New Development and Redevelopment

a. If the operator chooses not to utilize an available Qualifying Local Program as provided in Part IX of this permit, then the operator of the Phase II MS4 must:

(1) Develop, implement, and enforce a program to address post-construction stormwater runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into the Phase II MS4. The program must require that controls are in place that would prevent or minimize water quality impacts from new development or redevelopment including:

(a) Develop and implement strategies which include a combination of structural and/or non-structural best management practices (BMPs) appropriate for the community; and

(b) Use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under State or local law; and

(c) Require adequate long-term operation and maintenance of BMPs.

b. Acceptable efforts may include but are not limited to:

(1) Ensuring that the BMPs chosen are appropriate for the local community, minimize water quality impacts, and attempt to maintain pre-development runoff conditions;

(2) Requiring submittal of proof of an issued Department or Water Management District Stormwater Discharge or Environmental Resource Permit before issuance of local approvals for site clearing or construction;

(3) Participating in locally-based watershed planning efforts which attempt to involve a diverse group of stakeholders, including interested citizens, in choosing appropriate BMPs. When developing a program that is consistent with this measure's intent, it is recommended that the operator adopt a planning process that identifies the operator's program goals (e.g., minimize water quality impacts resulting from post-construction runoff from new development and redevelopment), implementation strategies (e.g., adopt a combination of structural and/or non-structural BMPs), operation and maintenance policies and procedures, and enforcement procedures;

(4) In developing the program, assess existing ordinances, policies, programs and studies that address stormwater runoff quality. In addition to assessing these existing documents and programs, the operator of the Phase II MS4 should provide opportunities to the public to participate in the development of the program;

(5) Ensure the appropriate implementation of the structural BMPs by considering some or all of the following: pre-construction review of BMP designs; inspections during construction to verify BMPs are built as designed; post-construction inspection and maintenance of BMPs; and penalty provisions for the noncompliance with design, construction or operation and maintenance; and

(6) Ensure that the requirements are responsive to the constantly changing stormwater technologies, developments or improvements in control technologies.

c. The Department has recognized qualifying alternative programs under Part IX.C. of this generic permit, for implementation of this minimum control measure.

As such, the operator of the Phase II MS4 is not required to develop and implement BMPs and measurable goals for this measure. However, if the operator chooses to implement BMPs in addition to the efforts of the qualifying alternative program, it should provide a description of the BMPs and measurable goals for each BMP in its proposed stormwater management program.

6. Pollution Prevention/Good Housekeeping for Municipal Operations

a. The operator of the Phase II MS4 must:

(1) Develop and implement an operation and maintenance program that has the ultimate goal of preventing or reducing pollutant runoff from municipal operations; and

(2) Using training materials that are available from EPA, the State, or other organizations, the program must include employee training to prevent and reduce stormwater pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and stormwater system maintenance.

b. Acceptable efforts may include but are not limited to:

(1) Maintenance activities, maintenance schedules, and long-term inspection procedures for structural and non-structural stormwater controls to reduce floatables and other pollutants discharged from separate storm sewers;

(2) Controls for reducing or eliminating the discharge of pollutants from streets, roads, highways, municipal parking lots, maintenance and storage yards, fleet or maintenance shops with outdoor storage areas, and waste transfer stations;

(3) Procedures for properly disposing of wastes removed from the separate storm sewers and areas listed above (such as dredge spoil, accumulated sediments, floatables, and other debris);

(4) Ways to ensure that new flood management projects are designed in such a way that they minimize or reduce pollutant loading to the MS4 or waters of the State and examine existing projects for incorporating additional water quality protection devices or practices; and

(5) Inclusion of operation and maintenance as an integral component of all stormwater management programs. This measure is intended to improve the efficiency of these programs and require new programs where necessary.

c. The operator of the Phase II MS4 must define appropriate BMPs for this minimum control measure and measurable goals for each BMP. In the context of this minimum control measure, the term BMP is understood to include activities and programs undertaken to implement the pollution prevention/good housekeeping efforts required under this generic permit.

VII. Evaluation And Assessment

A. Evaluation. The permittee must evaluate program compliance, the appropriateness of identified best management practices, and progress towards achieving identified measurable goals.

B. Record Keeping. The permittee must keep records required by this generic permit for at least 3 years from the date permit coverage expires. The permittee must submit its records to the Department when specifically asked to do so. The permittee must make its records, including a description of its stormwater management program, available to the public at reasonable times during regular business hours. A reasonable charge for copying may be assessed not to exceed the maximum allowed under Section 119.07, Fla. Stat. A member of the public may be required to provide reasonable advance notice prior to inspecting the records.

C. Reporting. The permittee must submit Annual Reports to the Department for the first five (5) year permit term. Annual Reports are due within six months of the

anniversary date of permit coverage. For subsequent permit terms, the permittee must submit reports in years two and four unless the Department requires more frequent reports. Annual Reports must be signed in accordance with the requirements of Rule 62-620.305, F.A.C. The report must include:

1. The status of compliance with permit conditions, an assessment of the appropriateness of identified best management practices and progress towards achieving identified measurable goals for each of the required elements of the six minimum control measures;
2. Summaries or results of information collected and analyzed. If independent monitoring is performed, provide monitoring data collected during the reporting period;
3. A summary of the stormwater activities the permittee plans to undertake during the next reporting cycle;
4. A change in any identified best management practices, measurable goals or schedules for implementation for any of the required elements of the six minimum control measures; and,
5. Notice that the permittee is relying on another governmental entity to satisfy any part of its permit obligations (if applicable).

VIII. Sharing Responsibility for Minimum Control Measures

A. Sharing Responsibilities. A permittee may rely upon another entity or entities to satisfy its permit obligations to implement one or more minimum control measures if:

1. The other entity, in fact, implements the control measure;

2. The particular control measure, or component thereof, is at least as stringent as the corresponding permit requirement;
3. The other entity agrees to implement the control measure on the permittee's behalf. Sharing arrangements for fulfilling permit obligations must be established in the form of written agreement between entities;
4. In periodic reports submitted, as required by this generic permit, the permittee must also specify that it is relying upon another entity to satisfy some of its permit obligations; and
5. If relying upon another entity regulated under Chapter 62-624, F.A.C. to satisfy all of its permit obligations, including its obligation to file periodic reports, the permittee must note that fact in its NOI, but is not required to file the periodic reports.

B. Permittee/Operator Responsibilities. Regardless of whether relying on another entity or entities for some or for all of the minimum control measures, the permittee:

1. Must complete and submit a Notice of Intent that specifies the entity or entities that the permittee is relying upon to satisfy its permit obligation(s). The Notice of Intent must also include the information required under Part IV.A. for each measure(s) to be satisfied by the other entity;
2. Must specify in the periodic reports, as required by this generic permit under Part VII.C., that it is relying upon another entity to satisfy some of its permit obligations. The permittee must also include the information required under Part VII.C. for each measure or measures provided by the other entity. However, if

relying upon another entity to satisfy all of its permit obligations, including its obligation to file periodic reports, the permittee is not required to file the periodic reports; and

3. Remains ultimately responsible for compliance with its permit obligations if the other entity fails to implement the control measure(s) or components thereof.

IX. Qualifying Alternative Program

A. Department Authority to Recognize and Amend. The Department has the authority to recognize where other governmental entities are already responsible for implementing one or more of the minimum control measures in a Phase II MS4's jurisdiction or where the Department itself is responsible. Where the Department does so, the qualifying alternative program is specified in this generic permit and the permittee is not required to include the corresponding minimum control measure(s) in its stormwater management program. This generic permit, however, may be reopened and modified to require the permittee to develop and implement the minimum control measure(s) if the other entity fails to implement it or if the Department has determined that the qualifying alternative program does not assure compliance with this generic permit, or applicable state or federal law.

B. Permittee/Operator Responsibilities. The permittee is not required to implement the minimum measure(s) for which a qualifying alternative program has been recognized, unless the qualifying alternative program is no longer recognized by the Department as set forth in a subsequent revision of this generic permit. If the permittee chooses to implement BMPs in addition to the

efforts of the qualifying alternative program(s), it should include a description of the BMPs and measurable goals for each BMP in its proposed stormwater management program.

C. Recognized Qualifying Alternative Programs. For meeting the requirements for the minimum control measures as described in Part VI.A.5., Post-construction Stormwater Management in New Development and Redevelopment, the program(s) implementing the regulation of construction and operation of stormwater management and treatment systems under Part IV, Chapter 373, F.S., are recognized by this generic permit as a qualifying alternative program, within specific geographic boundaries and by the specific programs as indicated below.

1. For MS4s operated in the Northwest Florida Water Management District, the program(s) implementing Rule 62-25, F.A.C., Regulation of Stormwater Discharge.
2. For MS4s operated in the Suwannee River Water Management District, the program(s) implementing Rule 40B-4, F.A.C., Environmental Resource and Works of the District Permits.
3. For MS4s operated in the St. Johns River Water Management District, the program(s) implementing Rule 40C-42, F.A.C., Regulation of Stormwater Management Systems.
4. For MS4s operated in the Southwest Florida Water Management District, the program(s) implementing Rule 40D-4, F.A.C., Management and Storage of Surface Waters.

5. For MS4s operated in the South Florida Water Management District, the program(s) implementing Rule 40E-4, F.A.C., Surface Water Management.

X. General Permit Conditions

This generic permit incorporates by reference the permit conditions set forth in Rule 62-621.250, F.A.C.

XI. Duty to Comply

Violation of a permit condition, failure to obtain a required permit, or a violation of any applicable statute, rule, regulation or standard, may result in the Department seeking civil, criminal or administrative relief pursuant to Chapter 403, Fla. Stat., and rules promulgated thereunder.

XII. Term of Coverage and Re-Application

The term of coverage provided under this generic permit is five years and begins on the date of the written notification of coverage issued by the Department in accordance with Part II.B. A permittee that desires to continue coverage under this generic permit after the initial permit term must file an NOI for coverage at least 180 days prior to the expiration of the five year permit term. Permit coverage shall be administratively continued if a timely NOI is filed for Re-application, and the permittee is in compliance with the conditions and terms of this generic permit.

XIII. Operation and Maintenance

All facilities and systems of treatment and control that are installed or used to achieve compliance with the conditions of this generic permit and with the

conditions of the stormwater management program must be properly operated and maintained at all times. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures.