

CHAPTER 62-25 REGULATIONS OF STORMWATER DISCHARGE

62-25.001	Scope.
62-25.020	Definitions.
62-25.025	Design and Performance Standards.
62-25.027	Legal Operation/Maintenance Entity Requirements.
62-25.030	Exemptions.
62-25.035	Stormwater General Permits.
62-25.040	Construction Permit Requirements for New Stormwater Discharge Facilities.
62-25.042	Permit Requirements for Wetland Stormwater Discharge Facilities.
62-25.050	Delegation.
62-25.060	Relationship to Other Permitting Requirements.
62-25.080	General Provisions.
62-25.801	General Permit for New Stormwater Discharge Facilities.
62-25.900	Stormwater.

62-25.001 Scope.

(1) The discharge of untreated stormwater may reasonably be expected to be a source of pollution of waters of the state and is, therefore, subject to Department regulation. The Department shall prevent pollution of waters of the state by discharges of stormwater, to ensure that the designated most beneficial uses of waters, as prescribed by Chapter 62-302, Florida Administrative Code, are protected.

(2) A permit under this chapter will be required only for new stormwater discharge facilities as defined herein. This provision shall not affect the Department's authority to require appropriate corrective action, pursuant to Sections 403.121-.161, Florida Statutes, whenever existing facilities cause or contribute to violations of state water quality standards.

(3) Stormwater discharges to groundwaters shall be regulated under the provisions of Section 62-28.700, F.A.C. and other applicable rules of the Department.

(4) The Department intends that, to the greatest extent practicable, the provisions of this chapter be delegated to either local governments or water management districts seeking such delegation.

Specific Authority 373.026(7), 373.043, 373.4145, 403.805(1) FS. Law Implemented 373.4145 FS. History—Formerly 17-4.248, Amended and Renumbered 2-1-82, Amended 1-26-84, Formerly 17-25.01, 17-25.001.

62-25.020 Definitions.

(1) "Artificial Watercourse" means a man-made waterway that was totally dredged or excavated prior to October 1, 1984 and which connects formerly isolated, nonjurisdictional wetlands to other waters. The Department shall bear the burden to show that such artificial watercourse was not totally dredged or excavated or that the connected wetlands were formerly jurisdictional.

(2) "Completion of Construction" means the time at which the stormwater discharge facility is first placed into operation or when the project passes final building inspection or when the project receives a certificate of occupancy, whichever comes first.

(3) "Conservation Plan" means a formal document, prepared or approved by a local Soil and Water Conservation District Board organized pursuant to Chapter 582, Florida Statutes, which outlines a system of management practices to control soil erosion, reduce sediment loss or protect the water quality on a specific parcel of property.

(4) "Construction" means any on-site activity which will result in the creation of a new stormwater discharge facility, including the building, assembling, expansion, modification or alteration of the existing contours of the property, the erection of buildings or other structures, or any part thereof, or land clearing.

(5) "Detention" or "To Detain" means the collection and temporary storage of stormwater in such a manner as to provide for treatment through physical, chemical, or biological processes with subsequent gradual release of the stormwater.

(6) "Engineer" means a Professional Engineer registered in Florida, or other person exempted pursuant to the provisions of Chapter 471, Florida Statutes, who is competent in the fields of hydrology and stormwater pollution control.

(7) "Effective Grain Size" means the diameter of filter sand or other aggregate that corresponds to the 10 percentile finer by dry weight on the grain size distribution curve.

(8) "Filtration" or "To Filter" means the selective removal of suspended matter from stormwater by passing the water through at least 2 feet of suitable fine textured granular media such as porous soil, uniformly graded sand and gravel, or other natural or artificial aggregate, which may be used in conjunction with filter fabric and/or underdrain pipe.

(9) "Intermittent Watercourse" means a stream or waterway that flows only at certain times of the year, flows in direct response to rainfall, and is normally an influent stream except when the groundwater table rises above the normal wet season level.

(10) "New Stormwater Discharge Facility" means a stormwater discharge facility which was not in existence on February 1, 1982, or for which a completed stormwater discharge, dredge or fill, or other Department permit or license application had not been received before February 1, 1982, or an existing stormwater discharge facility which is modified, as specified in Section 62-25.040(3), Florida Administrative Code, on or after February 1, 1982. A stormwater discharge facility approved or found to be

exempt by the Department before February 1, 1982, or a facility which had been determined by the Department not to be significant pursuant to Section 62-4.248(5), F.A.C., before February 1, 1982, or a facility exempted pursuant to Section 62-25.030(2) shall not be considered a new stormwater discharge facility unless modified pursuant to Section 62-25.040(3).

(11) "Regional Stormwater Discharge Facility" means a stormwater discharge facility which is permitted pursuant to Section 62-25.040(6) and is designed and constructed to accept stormwater from multiple parcels within the drainage area served by the regional facility. Drainage area refers to the land or development that is served by and/or contributes stormwater to the regional facility.

(12) "Retention" or "To Retain" means the prevention of, or to prevent the discharge of, a given volume of stormwater runoff into surface waters of the State by complete on-site storage.

(13) "Stormwater" means the flow of water which results from, and which occurs immediately following, a rainfall event.

(14) "Stormwater Discharge Facility" means a stormwater management system which discharges stormwater into surface waters of the State.

(15) "Stormwater Management System" means the designed features of the property which collect, convey, channel, hold, inhibit or divert the movement of stormwater.

(16) "Swale" means a manmade trench which:

(a) has a top width-to-depth ratio of the cross-section equal to or greater than 6:1, or side slopes equal to or greater than 3 feet horizontal to 1 foot vertical; and,

(b) contains contiguous areas of standing or flowing water only following a rainfall event; and,

(c) is planted with or has stabilized vegetation suitable for soil stabilization, stormwater treatment, and nutrient uptake; and,

(d) is designed to take into account the soil erodibility, soil percolation, slope, slope length, and drainage area so as to prevent erosion and reduce pollutant concentration of any discharge.

(17) "Uniformity Coefficient" means the number representing the degree of homogeneity in the distribution of particle sizes of filter sand or other granular material. The coefficient is calculated by determining the D^{60}/D^{10} ratio where D^{10} and D^{60} refer to the particle diameter corresponding to the 10 and 60 percentile of the material which is finer by dry weight.

(18) "Waters" are as defined in Section 403.031(13), Florida Statutes.

(19) "Wetlands" means, for the purposes of this rule, those waters which are dominated by those plant species listed in Section 62-301.400, F.A.C. and which meet the conditions specified in Section 62-25.042(2), F.A.C.

(20) "Wetlands Stormwater Discharge Facility" means a new stormwater discharge facility which incorporates those wetlands identified in Section 62-25.042(2), F.A.C. into the stormwater management system to provide stormwater treatment.

Specific Authority 373.026(7), 373.043, 373.4145, 403.805(1) FS. Law Implemented 373.4145 FS. History—Formerly 17-4.248, Amended and Renumbered 2-1-82, Amended 3-30-82, 1-26-84, 5-8-85, Formerly 17-25.02, 17-25.020.

62-25.025 Design and Performance Standards.

The following design and performance standards are established for the purpose of determining compliance with this chapter, however, in some instances they may not result in compliance with water quality standards set forth in Chapters 62-302 and 62-4, F.A.C. No discharge from a stormwater discharge facility shall cause or contribute to a violation of water quality standards in waters of the state. Unless the applicant provides reasonable assurance that the discharge will not cause or contribute to a violation of water quality standards in waters of the state, the Department may require more stringent design and performance standards than are otherwise required by this chapter:

(1) Detention basins shall again provide the capacity for the specified treatment volume of stormwater within 72 hours following a storm event.

(2) Filtration systems shall have pore spaces large enough to provide sufficient flow capacity so that the permeability of the filter is equal to or greater than the surrounding soil. The design shall ensure that the particles within the filter do not move. When sand or other fine textured aggregate other than natural soil is used for filtration, the filter material should be of a quality sufficient to satisfy the following requirements:

(a) Washed (less than 1 percent silt, clay and organic matter) unless filter cloth is used which is suitable to retain the silt, clay and organic matter within the filter;

(b) Uniformity coefficient 1.5 or greater; and

(c) Effective grain size of 0.20 to 0.55 millimeters in diameter. These criteria are not intended to preclude the use of multilayered filters nor the use of materials to increase ion exchange, precipitation or pollutant adsorption capacity of the filter.

(3) Filtration systems shall be designed with a safety factor of at least two unless the engineer affirmatively demonstrates based on plans, test results, calculations or other information that a lower safety factor is appropriate for the specific site conditions. Examples of how to apply this factor include but are not limited to reducing the design percolation rate by half, doubling the length of underdrain or designing for the required drawdown within 36 hours.

(4) Retention basins shall again provide the capacity for the given volume of stormwater within 72 hours following the storm event. The additional storage volume must be provided by a decrease of stored water caused only by percolation through soil, evaporation or evapotranspiration.

(5) Swales shall be designed to percolate 80% of the runoff resulting from a three-year, one-hour design storm within 72 hours after a storm event, assuming average antecedent conditions.

(6) Unless applicable local regulations are more restrictive, for purposes of public safety, permanently wet retention and detention basins shall either be fenced or otherwise restricted from public access or contain side slopes that are no steeper than 4:1 (horizontal:vertical) out to a depth of two feet below the control elevation. All side slopes shall be stabilized by either vegetation or other materials to minimize erosion and subsequent sedimentation of the basins.

(7) Erosion and sediment control best management practices shall be used as necessary during construction to retain sediment on-site. These management practices shall be designed by an engineer or other competent professional experienced in the fields of soil conservation or sediment control according to specific site conditions and shall be shown or noted on the plans of the stormwater management system. The engineer or designer shall furnish the contractor with information pertaining to the construction, operation and maintenance of the erosion and sediment control practices.

(8) Stormwater discharge facilities which receive stormwater from areas which are a potential source of oil and grease contamination in concentrations exceeding applicable water quality standards shall include a baffle, skimmer, grease trap or other mechanism suitable for preventing oil and grease from leaving the stormwater discharge facility in concentrations that would cause or contribute to violations of applicable water quality standards in the receiving waters.

(9) Stormwater discharge facilities which directly discharge to Outstanding Florida Waters shall include an additional level of treatment equal to fifty percent of the treatment criteria specified in Section 62-25.035(1)(b) or Section 62-25.040 or Section 62-25.042, F.A.C.

Specific Authority 373.026(7), 373.043, 373.4145, 403.805(1) FS. Law Implemented 373.4145 FS. History—New 1-26-84, Amended 3-28-84, 5-8-85, Formerly 17-25.025.

62-25.027 Legal Operation/Maintenance Entity Requirements.

(1) The Department considers the following entities to be acceptable for meeting the requirements necessary to ensure that a stormwater discharge facility will be operated and maintained in compliance with the requirements of this chapter and other Department regulations:

(a) local governmental units including counties or municipalities, or Municipal Service Taxing Units.

(b) active water control districts pursuant to Chapter 298 Florida Statutes or drainage districts created by special act, or Community Development Districts pursuant to Chapter 190 Florida Statutes, or Special Assessment Districts pursuant to Chapter 170 Florida Statutes.

(c) state or federal agencies.

(d) duly constituted communication, water, sewer, electrical or other public utilities.

(e) the property owner or developer is normally not acceptable as a responsible entity when the property is intended to be sold to third parties. However, the property owner or developer may be acceptable under one of the following circumstances:

1. Written proof in the appropriate form by either letter or resolution, that a governmental entity or such other acceptable entity as set forth in paragraphs (a)-(c) above, will accept the operation and maintenance of the stormwater management and discharge facility at a time certain in the future.

2. Bonding or other assurances sufficient to operate and perform anticipated maintenance on stormwater facilities.

(f) profit or non-profit corporations including homeowners associations, property owners associations, condominium owners associations or master associations shall be acceptable only under certain conditions that ensure that the corporation has the financial, legal and administrative capability to provide for the long term operation and maintenance of the stormwater discharge facility.

(2) Entity Requirements.

(a) if a Homeowner, Property Owner, Condominium or Master Association is proposed, the owner or developer must submit the Articles of Incorporation, Declaration, Restrictive Covenants, Deed Restrictions or such other organizational or operational documents affirmatively taking responsibility for the operation or maintenance of the stormwater discharge facility.

(b) the Association shall have sufficient powers reflected in its organizational or operational documents to:

1. operate and maintain the stormwater management system and the stormwater discharge facility as exempted or permitted by the Department.

2. establish rules and regulations.

3. assess members.

4. contract for services (if the Association contemplates employing a maintenance company) to provide the services for operation and maintenance.

5. the Association shall exist in perpetuity; however, if the Association is dissolved, the Articles of Incorporation must provide that the stormwater management system and discharge facility shall be maintained by an entity as set forth in paragraph (1) of this rule.

(3) Phased Projects.

(a) if an Operation/Maintenance entity is proposed for a project which will be constructed in phases, and subsequent phases will utilize the same stormwater management facilities as the initial phase or phases, the entity shall have the ability to accept responsibility for the operation/maintenance of stormwater discharge facility for future phases of the project.

(b) if the development scheme contemplates independent operation/maintenance entities for different phases, and the stormwater management system is integrated throughout the project, the entities, either separately or collectively shall have the responsibility and authority to operate and maintain the stormwater management system and discharge facility for the entire project. That authority shall include cross easements for stormwater management and the ability to enter and maintain the various facilities, should any sub-entity fail to maintain a portion of the stormwater management system or discharge facility within the project.

(4) The applicant shall be an acceptable entity from the time construction begins until the stormwater discharge facility is dedicated to and accepted by an established legal entity pursuant to (1) above. The applicant shall provide proof of the existence of an entity pursuant to (1) above or of the future acceptance of the facility by an entity described in (1) above prior to initiating construction.

Specific Authority 373.026(7), 373.043, 373.4145, 403.805(1) FS. Law Implemented 373.4145 FS. History--New 10-1-85, Formerly 17-25.027.

62-25.030 Exemptions.

(1) The following types of new stormwater discharge facilities are exempt from the notice and permit requirements of this chapter:

(a) facilities designed to accommodate only one single family dwelling unit, duplex, triplex or quadruplex, provided the single unit, duplex, triplex or quadruplex is not part of a larger common plan of development or sale;

(b) facilities which are designed to serve single family residential projects, including duplexes, triplexes and quadruplexes, of less than 10 acres total land area and which have less than 2 acres impervious surface provided that the facilities:

1. comply with all regulations or ordinances applicable to stormwater management and adopted by a city or county; and

2. are not part of a larger common plan of development or sale; and

3. discharge into a stormwater discharge facility exempted or permitted by the Department under this chapter which has sufficient capacity and treatment capability as specified in this chapter and is owned, maintained, or operated by a city, county, special district with drainage responsibility, or water management district; however, this exemption does not authorize discharge to a facility without the facility owner's prior written consent.

4. discharge into a stormwater discharge facility which has sufficient capacity and is part of a master drainage plan adopted by a city or county; however, this exemption does not authorize discharge to a facility without the facility owner's prior written consent.

(c) stormwater discharge facilities whose functioning treatment components consist entirely of swales. However, this exemption is valid only if the swale, as constructed, meets or exceeds the requirements specified in Section 62-25.020(16) and Section 62-25.025(5).

(d) facilities which discharge into a regional stormwater discharge facility which is permitted pursuant to Section 62-25.040 where the appropriate treatment criteria specified in this chapter and applied to the permitted regional facility are met by the discharge; however, this exemption does not authorize discharge to the permitted regional facility without the facility owner's prior written consent.

(e) facilities for agricultural lands, provided those facilities are part of an approved Conservation Plan; however, if the Conservation Plan is not implemented according to its terms, this exemption shall be void; and

(f) facilities for silvicultural lands, provided that the facilities are constructed and operated in accordance with the Silviculture Best Management Practices Manual (1979), published by the State of Florida, Department of Agriculture and Consumer Services, Division of Forestry, which is adopted and made a part of this rule by reference. A copy of this manual may be obtained by writing the Department of Agriculture, Division of Forestry, 3125 Conner Boulevard, Tallahassee, Florida, and may be inspected at all Department of Environmental Protection offices.

(2) Within the geographical area for which the Department has delegated stormwater permitting to the Southwest Florida Water Management District, the following types of new stormwater discharge facilities are exempt from the permitting requirements of this chapter provided that the owner files notice and an engineer certifies to the District, on forms provided by the District, at least 30 days prior to construction that the discharge facility will meet the criteria specified below, and provided that an entity responsible for operation and maintenance of the proposed facility has been determined. Furthermore, an engineer shall certify on forms provided by the District, within 30 days after completion of construction that the new stormwater discharge facility, as constructed, qualifies for exemption under this section. The District may require that the owner and engineer furnish appropriate design analyses, calculations, drawings, specifications and other information to describe, verify and document that the proposed stormwater discharge facility qualifies for exemption according to this rule.

(a) facilities which discharge into a stormwater discharge facility which is permitted pursuant to Section 62-25.040 or exempt pursuant to Section 62-25.030 where the appropriate treatment criteria specified in this chapter and applied to the permitted or exempt facility are not exceeded by the discharge; however, this exemption does not authorize discharge to permitted or exempt facilities without the facility owner's prior written consent; or,

(b) facilities which provide retention, or detention with filtration, of the runoff from the first one inch of rainfall; or, as an option, for projects or project subunits with drainage areas less than 100 acres, facilities which provide retention, or detention with filtration, of the first one-half inch of runoff. However, facilities which directly discharge to Outstanding Florida Waters shall provide additional treatment pursuant to Section 62-25.025(9), F.A.C.; or,

(c) modification or reconstruction by a city, county, state agency, special district with drainage responsibility, or water management district of an existing stormwater management system which is not intended to serve new development, and which will not increase pollution loading, or change points of discharge in a manner that would adversely affect the designated uses of waters of the state.

(d) facilities of stormwater management systems that include a combination of management practices including but not limited to retention basins, swales, pervious pavement, landscape or natural retention storage that will provide for the percolation of the runoff from a three-year one-hour design storm.

(3) Exemptions for Artificial Systems Used for Urban Stormwater Conveyance or Renovation.

(a) The Secretary shall, upon the petition of an affected person or permit applicant, and after public notice in the Florida Administrative Weekly and in a newspaper of general circulation in the area of the waters affected, and after opportunity for public hearing pursuant to Chapter 120, Florida Statutes, issue an Order for the duration of the permit specifically exempting from Class III criteria artificially created waters of the state which are upstream of man-made, discharge control systems controlled by the affected person or permit applicant and which are primarily for the conveyance or the retention, detention, and treatment of urban stormwaters. Such Order shall only be issued after affirmative demonstration by the Petitioner of the following:

1. reasonable assurance has been provided that the discharge will not cause a violation of any applicable water quality standards downstream from the discharge control system; and

2. waters shall not be degraded below the minimum standards prescribed for all waters at all times in Section 62-302.500, F.A.C.; and

3. granting the exemption is clearly in the public interest; and

4. compliance with presently specified criteria is unnecessary for the protection of public water supplies or human health.

(b) The Petitioner shall affirmatively demonstrate those standards which the Petitioner believes more appropriately apply to the waters for which the exemption is sought.

(c) The Secretary shall specify, by Order, only those criteria which the Secretary determines to have been demonstrated by the preponderance of competent substantial evidence to be more appropriate.

(d) The Department shall modify the Petitioner's permit consistent with the Secretary's Order.

Specific Authority 373.026(7), 373.043, 373.4145, 403.805(1) FS. Law Implemented 373.4145 FS. History—Formerly 17-4.248, Amended and Renumbered 2-1-82, Amended 3-30-82, 1-26-84, 3-28-84, 5-8-85, Formerly 17-25.03, Amended 8-30-88, Formerly 17-25.030.

62-25.035 Stormwater General Permits.

(1) Except in the geographical area for which the Department has delegated stormwater permitting to the Southwest Florida Water Management District, the following types of new stormwater discharge facilities may be constructed pursuant to general permit as specified in Section 62-25.801, F.A.C. This general permit shall not expire and shall not be subject to Section 62-4.540(13) unless suspended or revoked in accordance with Section 62-4.530(4).

(a) facilities which discharge into a stormwater discharge facility which is permitted pursuant to Section 62-25.040 or Section 62-25.035(1)(b) or (d), F.A.C. or which was previously approved pursuant to a noticed exemption under Section 62-25.030 where the appropriate treatment criteria specified in this chapter and applied to the permitted or exempt facility are not exceeded by the discharge; however, this does not authorize discharge to the permitted or exempt facility without the facility owner's prior written consent; or,

(b) facilities which provide retention, or detention with filtration, of the runoff from the first one inch of rainfall; or, as an option, for projects or project subunits with drainage areas less than 100 acres, facilities which provide retention, or detention with filtration, of the first one-half inch of runoff. However, facilities which directly discharge to Outstanding Florida Waters shall provide additional treatment pursuant to Section 62-25.025(9), F.A.C.; or,

(c) modification or reconstruction by a city, county, state agency, special district with drainage responsibility, or water management district of an existing stormwater management system which is not intended to serve new development, and which will not increase pollution loading, or change points of discharge in a manner that would adversely affect the designated uses of waters of the state; or,

(d) facilities of stormwater management systems that include a combination of management practices including but not limited to retention basins, swales, pervious pavement, landscape or natural retention storage that will provide for the percolation of the runoff from a three-year one-hour design storm.

Specific Authority 373.026(7), 373.043, 373.4145, 403.805(1) FS. Law Implemented 373.4145 FS. History—New 5-8-85, Formerly 17-25.035.

62-25.040 Construction Permit Requirements for New Stormwater Discharge Facilities.

(1) Any person intending to construct a new stormwater discharge facility, except as exempted pursuant to Section 62-25.030, Florida Administrative Code, or as noted in Section 62-25.035, or as permitted in Section 62-25.042, or as noted in Section 62-25.060, Florida Administrative Code, shall apply to the Department for a construction permit, using forms provided by the Department, prior to commencement of construction of the stormwater discharge facility. In a geographical area where delegation has occurred, pursuant to Section 62-25.050, Florida Administrative Code, application shall be made pursuant to the provisions of the rules of the entity receiving the delegation.

(2) Construction of a new stormwater discharge facility shall not be undertaken without a valid construction permit as required pursuant to this rule.

(3) Modifications to an existing stormwater management system that will increase the discharge of the stormwater discharge facility beyond its previously designed and constructed capacity, or increase pollution loading, or change points of discharge, except for emergency repairs, are considered new stormwater discharge facilities for purposes of this chapter.

(4) A construction permit may be issued to the applicant, upon such conditions as the Department may direct, only if the applicant affirmatively provides the Department with reasonable assurance based on plans, test results and other information, that the construction, expansion, modification, operation, or activity of the stormwater discharge facility will not discharge, emit, or cause pollution in contravention of Department standards, rules or regulations.

(5) A showing by the applicant that the facility design will provide treatment equivalent to either retention, or detention with filtration, as described in this Chapter, of the runoff from the first one inch of rainfall; or, as an option for projects or project subunits with drainage areas less than 100 acres, the first one-half inch of runoff, shall be presumed to provide reasonable assurance pursuant to subsection (4) above, provided that adequate provisions have been made for operation and maintenance of the proposed facility. However, facilities which directly discharge to Outstanding Florida Waters shall provide additional treatment as specified in Section 62-25.025(9).

(6) Regional stormwater discharge facilities shall be permitted upon application and a showing by the applicant that:

(a) the facility will provide treatment equivalent to either retention, or detention with filtration, of the runoff from the first one inch of rainfall; or, as an option, for facilities with a drainage area less than 100 acres, the first one-half inch of runoff; and,

(b) facilities which directly discharge to Outstanding Florida Waters shall provide additional treatment as specified in Section 62-25.025(9); and,

(c) the facility is designed to meet the treatment criteria specified in (a) or (b) above for projected future land use conditions and associated stormwater volumes; and,

(d) the owner of the facility notifies the Department on a semi-annual basis, on forms provided by the Department, of all new projects and their associated stormwater volumes that have been allowed to discharge stormwater into the regional facility and certifies that the maximum allowable treatment volume of stormwater has not been exceeded.

(e) adequate provisions have been made for the operation and maintenance of the proposed facility.

(7) In otherwise determining whether reasonable assurance has been provided, the Department shall, where appropriate, consider:

(a) whether best management practices are proposed, such as those described in "A Manual of Reference Management Practices for Urban Activities (July, 1978)," "A Manual of Reference Management Practices for Construction Activities (December, 1977)," "A Manual of Reference Management Practices for Agricultural Activities (November 1978)," "Silviculture Best Management Practices Manual (1979)," "Stormwater Management Manual (October, 1981)," or best management practices described in manuals adopted by the Environmental Regulation Commission pursuant to Section 62-25.050, F.A.C., or other appropriate best management practices. The manuals listed above by name are adopted and made a part of this rule by reference. Copies of these documents may be obtained by writing the Department, and may be inspected at all Department offices;

(b) the public interest served by the discharge;

(c) the probable efficacy and costs of alternative controls;

(d) whether the proposed water quality benefits are reasonably related to the costs of the controls; and

(e) whether reasonable provisions have been made for the operation and maintenance of the proposed facility.

Specific Authority 373.026(7), 373.043, 373.4145, 403.805(1) FS. Law Implemented 373.4145 FS. History—Formerly 17-4.248, Amended and Renumbered 2-1-82, Amended 3-30-82, 1-26-84, 3-28-84, 5-8-85, Formerly 17-25.04, 17-25.040.

62-25.042 Permit Requirements for Wetland Stormwater Discharge Facilities.

(1) The wetlands stormwater discharge facility performance standards and other provisions relating to such facilities are an initial but necessary step by the Department in a field in which there exists limited knowledge. In an effort to further refine the state's wetlands stormwater discharge facility policies, monitoring data and other pertinent information relating to the performance standards will be collected and analyzed and periodic reports of the results of this monitoring shall be made available to the public. The Department must attempt to ensure that the wetlands stormwater discharge facility is compatible with the ecological characteristics of the wetlands utilized for stormwater treatment and to ensure that water quality standards will not be violated by discharges from wetlands stormwater discharge facilities. To achieve these goals, specific performance standards are set forth in this chapter. However, recognizing the complexities and concerns of implementing wetlands stormwater treatment performance

standards, the Department shall review the monitoring data and other pertinent information on a regular basis. The Department shall present the information to the Commission at a public hearing no later than April 1, 1989. Unless the Commission affirmatively determines that the performance standards remain appropriate, or amends them as it deems necessary, Section 62-25.042(6) shall be repealed effective April 1, 1989.

(2) The wetlands to be used for stormwater management are those:

(a) which are connected to other waters by artificial watercourses; or

(b) which are connected to other waters solely by an intermittent watercourse.

(3) Any person who owns or has written authorization to use a wetland for stormwater treatment shall apply to the Department for a wetlands stormwater discharge facility permit, using forms provided by the Department, and shall receive such permit prior to commencement of construction of the stormwater discharge facility. The application shall be processed by the Department according to the procedures of Chapter 62-4, F.A.C.

(4) A wetlands stormwater discharge facility permit may be issued to the applicant, upon such conditions as the Department may direct, only if the applicant affirmatively provides the Department with reasonable assurance based on plans, test results or other information, that the construction, operation, or activity of the stormwater discharge facility shall not emit, or cause pollution in downstream waters in contravention of Department standards, rules or regulations.

(5) In the review of wetlands stormwater discharge facility permit applications, the Department shall consider the following:

(a) compliance of the wetlands stormwater discharge facility permit with the performance standards specified in Section 62-25.042(6), F.A.C.

(b) if the applicant is unable to show compliance with the performance standards in Section 62-25.042(6), the applicant may qualify for a wetlands stormwater discharge facility permit using alternative design and performance standards approved by the Department provided that the use of the wetlands is compatible with the ecological characteristics of the wetland and the applicant complies with Section 62-25.042(4), F.A.C.

(c) if the applicant proposes to dredge or fill in the wetlands used for stormwater treatment, the Department in its review of the permit application shall evaluate the adverse effects of the dredging or filling on the treatment capability of the wetland.

(6) A showing by the applicant that the wetlands stormwater discharge facility design complies with the performance standards listed below shall create a presumption in favor of the issuance of the permit:

(a) the facility complies with the requirements of Section 62-25.060(2), F.A.C.

(b) the facility is part of a comprehensive stormwater management system that utilizes wetlands in combination with other best management practices to provide treatment of the runoff from the first one inch of rainfall; or, as an option for projects or project subunits with drainage areas less than 100 acres, the first one-half inch of runoff. Those facilities which directly discharge to Outstanding Florida Waters shall provide additional treatment as specified in Section 62-25.025(9), F.A.C.

(c) the utilization of wetlands for stormwater treatment shall not adversely affect the wetland by disrupting the normal range of water level fluctuation of the wetland as it existed prior to construction of the wetlands stormwater discharge facility. Normal range of water level fluctuation will be defined as the maintenance of the fluctuating water surface changes between the normal low water and the normal high water of the wetland system so as to prevent the desiccation or over impoundment of the wetland. The Department shall use water level data, lines on the trees, adventitious roots or other hydrological and biological indicators to determine the normal low and normal high water levels. Upland detention may be necessary to attenuate peak flows and meet the water level fluctuations specified above. When the normal range of water level fluctuations has been artificially altered, the Department shall establish an acceptable range of water level fluctuation based on historical information as to the previous size and nature of the wetlands, if available. If such information is not available, the range of water level fluctuation shall be derived from sound scientific principles or from analysis of other natural wetland systems in the vicinity.

(d) the wetlands stormwater discharge facility must be able to contain the runoff as specified in Section 62-25.042(6)(b), F.A.C. within the wetlands. Where the wetlands stormwater discharge facility alone cannot contain the runoff volume specified in (b) above within the water level ranges specified in (c) above, the other best management practices of the stormwater management system shall not adversely affect the ability of the wetlands stormwater discharge facility from meeting the requirements of this section. The design features of the facility shall maximize residence time of the stormwater within the wetland. The outfall structure shall be designed to bleeddown the volume specified in Section 62-25.042(6)(b) in no less than 120 hours with no more than one-half of the volume to be discharged within the first 60 hours.

(e) stormwater shall be discharged into the wetlands utilized so as to minimize the channelized flow of stormwater by employing methods including, but not limited to, sprinklers, overland flow or spreader swales.

(f) facilities which receive stormwater from areas which are a potential source of oil and grease contamination in concentrations exceeding applicable water quality standards shall include a baffle, skimmer, grease trap or other mechanism to minimize the amounts of oils and greases entering the wetlands utilized for stormwater treatment.

(g) erosion and sediment controls shall be used during construction and operation of the facility to minimize sedimentation of the wetlands utilized for stormwater treatment. The sediment control mechanism shall be built in the uplands and be of sufficient size and design to minimize resuspension and discharge of collected sediments into the wetland and to allow for recurring maintenance removal of sediments without adverse impact to the wetland.

(7) The operation phase of this permit shall not become effective until:

(a) an engineer certifies that the wetlands stormwater discharge facility has been constructed in accordance with the design approved by the Department. Within 30 days after completion of construction of the wetlands stormwater discharge facility, the permittee shall submit the certification and two copies of as-built drawings and notify the Department that the facility is ready for inspection. The certification prepared by an engineer (not necessarily the project design engineer but one who has been retained or employed by the permittee to provide professional engineering services during the construction phase of project completion) shall be made on forms provided by the Department. The engineer shall certify therein that the facility has been constructed substantially in accordance with approved plans and specifications, and that any deviations will not prevent the facility from functioning in compliance with the requirements of this chapter. The engineer shall note and explain substantial deviations from the approved plans and specifications. The certification shall be based upon on-site observation of construction (scheduled and conducted by the engineer or by a project representative under his direct supervision) for the purpose of determining if the work was completed in compliance with approved plans and specifications;

(b) the permittee submits to the Department documentation that adequate provisions have been made for the operation and maintenance of the facility and for meeting any special permit conditions, such conditions may include water quality monitoring.

(8) In order to establish a reliable, scientifically valid data base upon which to evaluate the performance standards and the performance of the wetlands stormwater discharge facility, a monitoring program may be required. Monitoring programs shall provide the Department with comparable data for different types of wetlands and drainage designs. Data to be collected may include, but not be limited to, sedimentation rate, sediment trace metal concentrations, sediment nitrogen and phosphorus concentrations, changes in the frequency, abundance and distribution of vegetation and inflow and outflow water quality for nutrients, turbidity, oils and greases, bacteria and other parameters related to the specific site conditions. Inflow and outflow water quality parameters will be monitored on such storm event occurrences as established by the Department based on a site specific basis. Analytical data must be provided using standard procedures prescribed by a Department approved Quality Assurance Plan and reported in a format provided by the Department. The Department shall eliminate the requirement to continue the monitoring program upon its determination that no further data is necessary to evaluate the performance standards or ensure compliance with the performance standards and applicable water quality standards.

(9) A permit issued pursuant to this section shall be valid for a period of up to five years from the date of issue unless an earlier renewal date is specified by the Department. Both construction and operation of the facility will be covered by the initial permit.

(10) If the facility will continue to operate after the expiration date of the initial permit, the permit must be renewed. A permit may be renewed upon submittal to the Department of a certification that the facility is operating in compliance with the performance criteria of this section and is not causing water quality violations of downstream waters. The certification shall be treated as an application for permit renewal for purposes of the time provisions specified in Section 120.60, F.S.

(11) The permit may be transferred only pursuant to Florida Administrative Code Section 62-4.120. Upon transfer, all original permit conditions, schedules and criteria continue to be applicable.

Specific Authority 373.026(7), 373.043, 373.4145, 403.805(1) FS. Law Implemented 373.4145 FS. History—New 5-8-85, Formerly 17-25.042.

62-25.050 Delegation.

(1) The Department may, after notice in the Florida Administrative Weekly pursuant to the provisions of Chapter 120, Florida Statutes, delegate to either local governments or water management districts seeking such delegation, as provided in Sections 403.182, 403.812, Florida Statutes, and this rule, the authority to process notices, issue or deny permits, initiate enforcement actions, and monitor for compliance as provided in Sections 403.182, 403.812, Florida Statutes, and this section. Delegation shall not include the authority for a local government or a water management district to issue or deny permits for its own activities except replacement items or maintenance of existing facilities.

(2) A water management district which has been delegated stormwater regulation pursuant to this section may establish alternative requirements which protect the designated uses of waters of the state provided that the alternative requirements are approved by the Environmental Regulation Commission pursuant to Section 403.804, Florida Statutes and have been incorporated by reference as department stormwater rules in Section 62-25.090, F.A.C. These alternative requirements incorporated as department rules shall apply in lieu of the provisions of this chapter in the area of delegation, and applicable surface water management and stormwater permit discharge standards shall be applied in one permit proceeding. Following delegation to a water management district, those activities within the district that meet the exemption criteria of Section 62-25.030(1), F.A.C., shall be exempt from the requirements of Section 62-4.242, F.A.C., regarding Outstanding Florida Waters.

(3) A local government which has been delegated stormwater regulation pursuant to this rule may also establish by rule, ordinance or local law, alternative requirements provided the Department determines such alternative requirements are compatible with, or more stringent than, those imposed by this chapter.

Specific Authority 373.026(7), 373.043, 373.4145, 403.805(1) FS. Law Implemented 373.4145 FS. History—Formerly 17-4.248, Amended and Renumbered 2-1-82, Amended 1-26-84, 5-8-85, Formerly 17-25.05, 17-25.050.

62-25.060 Relationship to Other Permitting Requirements.

(1) Whenever the construction of a new stormwater discharge facility requires that a dredge or fill permit be secured pursuant to Sections 62-312.150 or 62-312.160 or Chapter 62-312, Florida Administrative Code, or whenever other rules of the Department require that a permit, Section 401 Federal Clean Water Act certification or other certification be secured, all applicable stormwater requirements under this chapter shall be reviewed as part of those permit applications. A separate permit application under this chapter shall not be required. If the applicant requests a separate stormwater permit, the applicant must notify the Department of any other Department permits, exemptions, or certifications which have or will be requested for the project.

(2) The permit requirements of Chapter 62-4 or other applicable rules, rather than those of this chapter, shall apply to discharges which are a combination of stormwater and industrial or domestic wastewater or which are otherwise contaminated by non-stormwater sources unless:

(a) the stormwater discharge facility is capable of providing treatment of the non-stormwater component sufficient to meet state water quality standards; and

(b) the applicant requests that the permit requirements of this chapter apply.

Specific Authority 373.026(7), 373.043, 373.4145, 403.805(1) FS. Law Implemented 373.4145 FS. History—Formerly 17-4.248, Amended and Renumbered 2-1-82, Amended 1-26-84, 5-8-85, Formerly 17-25.06, 17-25.060.

62-25.080 General Provisions.

Nothing under this chapter shall preclude:

(1) stormwater effects from being considered in the evaluation of other types of permits where such consideration is relevant to a determination of compliance with applicable Department requirements;

(2) the legal joinder in a permitting proceeding under this chapter of persons who own or control unpermitted stormwater discharge systems which comprise a significant portion of the stormwater discharge facility;

(3) the Department from taking appropriate legal action including but not limited to the requiring of a permit to prevent the impairment of a use for which a water of the state has been designated under Chapter 62-302, Florida Administrative Code;

(4) the Department from entering interagency or interlocal agreements to accomplish the provisions of this chapter.

Specific Authority 373.026(7), 373.043, 373.4145, 403.805(1) FS. Law Implemented 373.4145 FS. History—Formerly 17-4.248, Amended and Renumbered 1-20-82, Formerly 17-25.08, 17-25.080.

62-25.801 General Permit for New Stormwater Discharge Facilities.

(1) A general permit is hereby granted to any person for the construction and operation of the following types of new stormwater discharge facilities as set forth in Section 62-25.035, F.A.C., provided that notice to the Department pursuant to Section 62-4.530 is submitted on Form 62-25.900(2) Revised April 1985. This general permit shall not expire and shall not be subject to Section 62-4.540(13) unless suspended or revoked in accordance with Section 62-4.530(4):

(a) facilities which discharge into a stormwater discharge facility which is permitted pursuant to Section 62-25.040, F.A.C. or Section 62-25.035(1)(b) or (d), F.A.C. or which was previously approved pursuant to a noticed exemption under Section 62-25.030 where the appropriate treatment criteria specified in Chapter 62-25 and applied to the permitted or exempt facility are not exceeded by the discharge; however, this exemption does not authorize discharge to the permitted or exempt facility without the facility owner's prior written consent; or,

(b) facilities which provide retention, or detention with filtration, of the runoff from the first one inch of rainfall; or, as an option, for projects or project subunits with drainage areas less than 100 acres, facilities which provide retention, or detention with filtration, of the first one-half inch of runoff. However, facilities which directly discharge to Outstanding Florida Waters shall provide additional treatment pursuant to Section 62-25.025(9), F.A.C.; or,

(c) modification or reconstruction by a city, county, state agency, special district with drainage responsibility, or water management district of an existing stormwater management system which is not intended to serve new development, and which will not increase pollution loading, or change points of discharge in a manner that would adversely affect the designated uses of waters of the state; or

(d) facilities of stormwater management systems that include a combination of management practices including but not limited to retention basins, swales, pervious pavement, landscape or natural retention storage that will provide for the percolation of the runoff from a three-year one-hour design storm.

(2) Except as provided in subsection (1), this general permit is subject to the general conditions of Section 62-4.540 and the following special conditions:

(a) the stormwater discharge facilities shall be designed and constructed in accordance with the design and performance standards set forth in Section 62-25.025, F.A.C.; and,

(b) adequate provisions have been made for the operation and maintenance of the proposed facility; and,

(c) the design, construction and operation of the stormwater discharge facility shall comply with all other applicable requirements of Chapter 62-25, F.A.C.; and,

(d) the permittee shall submit appropriate design analyses, calculations, drawings, specifications and other information necessary to describe, document and verify that the proposed stormwater discharge facility qualifies for the general permit; and

(e) the permittee or engineer of record shall file with the Department within 30 days after the facility's completion of construction an as-built certification that the new stormwater discharge facility, as constructed, qualifies for the general permit.

(f) this general permit does not relieve the permittee of the responsibility for obtaining a dredge and fill permit where it is required.

Specific Authority 373.026(7), 373.043, 373.4145, 403.805(1) FS. Law Implemented 373.4145 FS. History—New 5-8-85, Formerly 17-4.71, 17-4.710, 17-25.801.

62-25.900 Stormwater.

(1) Application for New Stormwater Discharge Facility Construction Permit, May 8, 1985.

(2) Notice of Intent to Use General Permit (Section 62-4.710, F.A.C.) for New Stormwater Discharge Facility Construction, May 8, 1985.

(3) Regional Stormwater Discharge Facility Biannual Report, May 8, 1985.

(4) Application for Wetlands Stormwater Discharge Facility Permit, May 8, 1985.

Specific Authority 373.026(7), 373.043, 373.4145, 403.805(1) FS. Law Implemented 373.4145 Amended 3-31-84, 5-8-85, Formerly 17-1.215, Formerly 62-1.215.