

State of Florida
Department of Environmental Protection

Generic Permit
For
Discharges From
Medium Dairies
To Land Application Areas

This permit is issued under the provisions of Section 403.087, Florida Statutes, and applicable rules of the Florida Administrative Code. This permit does not constitute authorization to discharge to waters of the state under the National Pollutant Discharge Elimination System (NPDES). Until this permit is terminated, revoked, or expires, permittees using this generic permit are authorized to operate facilities which discharge to ground waters of the state in accordance with the terms and conditions of this permit.

JANUARY 7 AND 8, 2009 WORKSHOP DRAFT

Part I Authorization to Discharge

A. Authorization to Discharge

Coverage under this permit constitutes authorization to operate medium dairies which utilize land application to discharge process wastewater to ground water.

B. Prohibitions

1. Discharge of process wastewater from the production area to surface water is prohibited. The production area shall be operated and maintained in accordance with this permit and the requirements of subsection 62-621.500(3), F.A.C.
2. Runoff of process wastewater from land application areas to surface water is prohibited. Stormwater runoff from land application areas is not considered to be a discharge of process wastewater provided that:
 - (a) Runoff does not occur during land application of manure, litter or process wastewater; and
 - (b) Land application activities are performed in accordance with the Department approved Nutrient Management Plan (NMP).

Part II Definitions

The following words and phrases when used in this permit shall, unless the context clearly indicates otherwise, have the following meanings:

1. "Animal feeding operation (AFO)" means a facility (other than an aquatic animal production facility) where the following conditions are met:
 - (a) Animals have been, are or will be stabled or confined and fed or maintained for 45 days or more in any 12 month period; and,
 - (b) Crops, vegetation, forage growth or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.
2. "Bypass" means the intentional diversion of waste streams from any portion of a treatment system.
3. "Dairy" means any place or premises where one or more dairy cows are kept and from which a part or all of the milk is provided, sold, or offered for sale to a milk plant, receiving station, transfer station, or the general public.
4. "Design storage period" means the anticipated maximum period of time all wastewater must be stored based on timing of wastewater application events for environmentally safe waste utilization considering the local climate, crops, and soils.
5. "Expanded AFO" means an AFO that increases the number of animals maintained at the facility from the number of animals in the Department approved nutrient management plan or small dairy registration.
6. "Lake Okeechobee Watershed" means the area defined by Section 373.4595(2)(i), F.S.
7. "Land application area" means land under the control of an AFO owner or operator, whether it is owned, rented, or leased, to which manure, litter or process wastewater from the production area is or may be applied.
8. "Manure" means substances composed of excreta of animals and excreta mixed with residual materials that have been used for bedding, sanitary or feeding purposes for animals.
9. "Medium dairy" means any AFO which stables or confines 200 to 699 mature dairy cows, whether milked or dry.
10. "Nutrient Management Plan" means a plan developed by an AFO regulated by this rule to manage the amount, source, placement, form and timing of the application of animal manure, fertilizer or other plant nutrients in order to minimize nutrient loss or runoff, and protect water resources and maintain the productivity of crops.

JANUARY 7 AND 8, 2009 WORKSHOP DRAFT

11. "Process wastewater" means for the purposes of this permit only, water directly or indirectly used in the operations of an AFO for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other AFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater also includes any water which comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs or bedding.
12. "Production area" means that part of an AFO that includes animal confinement areas, manure storage areas, raw material storage areas, and waste containment areas as defined in 40 CFR 122.23(b)(8), adopted herein by reference.
13. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based effluent limitations because of factors beyond the reasonable control of the permittee.
 - (a) An upset does not include noncompliance caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, careless or improper operation.
 - (b) An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of upset provisions of Rule 62-620.610, F.A.C., are met.
15. "Waters" means those waters defined in Section 403.031(13), F.S.
16. "25-year, 24-hour rainfall event" means the amount of rainfall within 24 hours that is likely to be exceeded on the average only once in 25 years, as published by the U.S. Weather Bureau in Technical Paper 40 "Rainfall Maps for 24-hour Rainfall Amounts for the Conterminous United States."

Part III Operation, Maintenance and Pasture Management Requirements

A. Operation and Maintenance Requirements

1. All waste management and storage facilities shall be operated and maintained to contain all manure, litter, process wastewater, and normal rainfall and runoff within the production area, for the design storage period and the direct precipitation and runoff collected within the production area for a 25-year, 24-hour rainfall event. Clean stormwater that is diverted and does not come into contact with wastes is not required to be included in the design volume calculations.
2. Land application of process wastewater is not allowed unless the water table is eighteen inches or deeper below the normal ground surface when wastewater is applied to the land, except where removal of wastewater from a wastewater storage pond or lagoon is necessary to prevent wastewater from overflowing and damaging the storage pond or lagoon embankment due to chronic or catastrophic rainfall events.
3. Nutrient loading on land application areas shall not exceed the amount specified in the Department approved NMP.
4. The permittee shall inspect the production area and land application areas as specified in the Department approved NMP to ensure that the facility is operating in accordance with the NMP and all other permit requirements. The permittee shall correct deficiencies as soon as possible. Inspections shall include:
 - a. Stormwater diversion devices, runoff diversion structures, and devices channeling contaminated stormwater to the wastewater and manure storage and containment structure.
 - b. Water and wastewater distribution lines, including drinking water and cooling water lines.
 - c. Manure, litter and process wastewater impoundments. The permittee shall record the level in liquid impoundments monthly as indicated by the depth marker required in subparagraph 62-621.500(3)(e)7., F.A.C.
5. Lined wastewater lagoons and ponds shall be inspected for leakage every 10 years to ensure they meet the requirements of subparagraph 62-621.300(3)(f)5., F.A.C. Anytime an unusual decrease in pond level is observed that does not result from pumping, the pond shall be tested for leakage.
6. All equipment used for collection, storage, treatment, distribution, and land application of manure, litter, or process wastewater shall be adequately maintained for compliance with permit requirements.
7. Dead animals shall be properly disposed in accordance with Florida Department of Agriculture and Consumer Services (FDOACS) rules. Dead animals shall not be disposed in any manure, stormwater, or process wastewater storage or treatment system that is not specifically designed to treat dead animals. Dead animals shall be handled in a manner to prevent contamination of waters of the State, or create a public health hazard in accordance with Section 823.041, F.S.

JANUARY 7 AND 8, 2009 WORKSHOP DRAFT

8. All manure and waste solids shall be stored in a manner that does not cause ground water or surface water pollution.

Part IV. Nutrient Management Plan

1. The permittee shall implement the Department approved NMP.
2. The permittee shall review and revise the NMP as needed to ensure that it reflects actual conditions of the facility's operation.
3. The permittee shall revise and submit the NMP to the Department for approval prior to the following:
 - (a) The permittee proposes to become an expanded AFO, as defined in Part II.5. of this permit.
 - (b) The permittee proposes new nutrient management or land application practices, or changes to the manure and wastewater handling and storage operations that will result in different nutrient loading or application rates than in the Department approved NMP, or will require modifications to the manure and wastewater handling and storage infrastructure.

Part V. Monitoring Requirements

1. The ground water well shall be installed in accordance with paragraph 62-621.500(3)(h), F.A.C.
2. The ground water monitoring well shall be monitored by the permittee as specified below.

| Parameter | Units | Single Sample | Sample Type | Frequency |
|---------------------------------|-------|---------------|-------------|---------------|
| pH | SU | report | in-situ | See Part V.3. |
| total phosphorous | µg/L | report | grab | See Part V.3. |
| nitrate and nitrite as nitrogen | µg/L | report | grab | See Part V.3. |
| nitrite as total nitrogen | µg/L | report | grab | See Part V.3. |
| fecal coliform | µg/L | report | grab | See Part V.3. |

3. The permittee shall monitor ground water for the parameters listed in Part V.2. twice per year; once in summer and once in winter.
4. The permittee shall collect representative samples of manure, litter and process wastewater effluent at a point prior to land application. Sampling shall be conducted once per year. The samples shall be analyzed for total Kjeldhal nitrogen (TKN), total ammonia, and total phosphorus. Sampling locations shall be specified in the wastewater permit.

Part VI. Recordkeeping and Reporting Requirements.

A. Recordkeeping Requirements

1. The permittee shall maintain the following records at the permitted facility at all times:
 - (a) A copy of the Notice of Coverage under this generic permit issued by the Department;
 - (b) A copy of this generic permit;
 - (c) A copy of the Department approved NMP.
2. Maintain copies for five years of the following:
 - (a) Records of the depth markers reading in liquid impoundments;
 - (b) Records that document the implementation and management of the required NMP elements described in subparagraph 62-621.500(3)(i), F.A.C.;

JANUARY 7 AND 8, 2009 WORKSHOP DRAFT

- (c) Records of the date, time, and estimated volume of any overflow from a wastewater lagoon or storage pond;
- (d) Results, including test methods, from manure, litter, process wastewater, and fertility sampling;
- 3. The permittee shall maintain records at the permitted facility for at least five years of any manure, litter or process wastewater transferred off-site and no longer under the control of the dairy including the following items:
 - (a) Date of transfer;
 - (b) Recipient name;
 - (c) Recipient address; and
 - (d) Amount of manure, litter or process wastewater transferred off-site.

B. Reporting Requirements

1. During the period of coverage under this permit, the permittee shall complete and submit DMRs twice per year as specified below:

| Sample Period | Report Due Date |
|----------------|-----------------|
| December-March | April 28 |
| June-September | October 28 |

2. The permittee shall make copies of the DMR form(s) received with the Department's letter authorizing the use of the generic permit.
3. The permittee shall complete and submit an annual report using DEP Form 62-621.500(3)(c), by February 28th of every year.
4. In the event of closure or inactivation, the permittee shall provide reasonable assurance of water resource protection and shall submit written notice to the Department at least 60 days before inactivation or closure of the facility using DEP Form 62-670.910(3).

Part VII. Other Conditions

1. Unless otherwise specified in this permit, all reports and other information required by this permit shall be submitted to or reported to the Department office as specified in the Department's letter authorizing use of the generic permit. All FAX copies shall be followed by original copies. All reports and other information shall be signed in accordance with the requirements of Rule 62-620.305, F.A.C.
2. Drawings, plans, documents, and specifications submitted by the permittee during the request for coverage processes, including the approved NMP, and retained on file with the Department, are made a part of this permit.
3. Where specified in this permit, documents shall be signed and sealed by a professional engineer registered in the State of Florida pursuant to Chapter 471, F.S.
4. When requested by the Department, the permittee shall provide any information required by law which is needed to determine whether there is cause for revising, revoking and reissuing, or terminating coverage under this permit, or to determine compliance with the permit. The permittee shall also provide to the Department upon request copies of records required by this permit to be kept. If the permittee becomes aware of relevant facts that were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be submitted or corrections reported to the Department within 10 days of discovery.
5. Unless specifically stated otherwise in Department rules, the permittee, in accepting this permit coverage, agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance; provided, however, the permittee does not waive any other rights granted by Florida Statutes or Department rules.
6. The use of generic permits issued under this Chapter is limited to a term not to exceed five years. The renewal of permit coverage shall be in accordance with Rule 62-620.335, F.A.C., unless otherwise specified in the generic permit. The application requirements for submittal of request for coverage are located in Rule 62-621.500(3)(g), F.A.C.
7. Coverage under this generic permit may be suspended, revoked and reissued, or terminated in accordance with

JANUARY 7 AND 8, 2009 WORKSHOP DRAFT

Rule 62-620.345, F.A.C., if the Secretary determines that there has been a violation of any of the terms or conditions of the permit, there has been a violation of state water quality standards or the permittee has submitted false, incomplete or inaccurate data or information.

8. In the event of an overflow from a waste lagoon or storage pond, the permittee shall notify the Department in accordance with Part VIII.14. of this generic permit.

Part VIII. General Conditions

1. The terms, conditions, requirements, limitations and restrictions set forth in this permit are binding and enforceable pursuant to Chapter 403, F. S. Any permit noncompliance constitutes a violation of Chapter 403, F. S., and is grounds for enforcement action, permit termination, permit revocation and reissuance, or permit revision. *[62-620.610(1), F.A.C.]*
2. This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this permit constitutes grounds for revocation and enforcement action by the Department. *[62-620.610(2), F.A.C.]*
3. As provided in subsection 403.087(7), F.S., the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor authorize any infringement of federal, state, or local laws or regulations. This permit is not a waiver of or approval of any other Department permit or authorization that may be required for other aspects of the total project which are not addressed in this permit. *[62-620.610(3), F.A.C.]*
4. This permit conveys no title to land or water, does not constitute State recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title. *[62-620.610(4), F.A.C.]*
5. This permit does not relieve the permittee from liability and penalties for harm or injury to human health or welfare, animal or plant life, or property caused by the construction or operation of this permitted source; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department. The permittee shall take all reasonable steps to minimize or prevent any discharge, reuse of reclaimed water, or residuals use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. *[62-620.610(5), F.A.C.]*
6. The permittee shall at all times properly operate and maintain the facility and systems of treatment and control, and related appurtenances, that are installed and used by the permittee to achieve compliance with the conditions of this permit. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to maintain or achieve compliance with the conditions of the permit. *[62-620.610(7), F.A.C.]*
7. The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, including an authorized representative of the Department and authorized EPA personnel, when applicable, upon presentation of credentials or other documents as may be required by law, and at reasonable times, depending upon the nature of the concern being investigated, to
 - (a) Enter upon the permittee's premises where a regulated facility, system, or activity is located or conducted, or where records shall be kept under the conditions of this permit;
 - (b) Have access to and copy any records that shall be kept under the conditions of this permit;
 - (c) Inspect the facilities, equipment, practices, or operations regulated or required under this permit; and,
 - (d) Sample or monitor any substances or parameters at any location necessary to assure compliance with this permit or Department rules. *[62-620.610(9), F.A.C.]*
8. In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data, and other information relating to the construction or operation of this permitted source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except as such use is proscribed by Section 403.111, Florida Statutes, or Rule 62-620.302, F.A.C. Such evidence shall only be used to the extent that it is consistent with the Florida Rules of Civil Procedure and applicable evidentiary rules. *[62-620.610(10), F.A.C.]*

JANUARY 7 AND 8, 2009 WORKSHOP DRAFT

9. The permittee, in accepting this permit, agrees to pay the applicable regulatory program and surveillance fee in accordance with Rule 62-4.052, F.A.C. [62-620.610(13), F.A.C.]
10. This permit is transferable only upon Department approval in accordance with Rule 62-620.340, F.A.C. The permittee shall be liable for any noncompliance of the permitted activity until the transfer is approved by the Department. [62-620.610(14), F.A.C.]
11. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. The permittee shall be responsible for any and all damages which may result from the changes and may be subject to enforcement action by the Department for penalties or revocation of this permit. The notice shall include the following information:
 - (a) A description of the anticipated noncompliance;
 - (b) The period of the anticipated noncompliance, including dates and times; and
 - (c) Steps being taken to prevent future occurrence of the noncompliance. [62-620.610(17), F.A.C.]
12. Sampling and monitoring data shall be collected and analyzed in accordance with Rule 62-4.246, Chapters 62-160 and 62-601, F.A.C., and 40 CFR 136, as appropriate.
 - (a) Monitoring results shall be reported at the intervals specified elsewhere in this permit and shall be reported on a Discharge Monitoring Report (DMR), DEP Form 62-620.910(10), or as specified elsewhere in the permit.
 - (b) If the permittee monitors any contaminant more frequently than required by the permit, using Department approved test procedures, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.
 - (c) Calculations for all limitations which require averaging of measurements shall use an arithmetic mean unless otherwise specified in this permit.
 - (d) Except as specifically provided in Rule 62-160.300, F.A.C., any laboratory test required by this permit shall be performed by a laboratory that has been certified by the Department of Health Environmental Laboratory Certification Program (DOH ELCP). Such certification shall be for the matrix, test method and analyte(s) being measured to comply with this permit. For domestic wastewater facilities testing for parameters listed in Rule 62-160.300(4), F.A.C., shall be conducted under the direction of a certified operator.
 - (e) Field activities including on-site test and sample collection shall follow the applicable standard operating procedures described in DEP-SOP-001/01 adopted by reference in Chapter 62-160, F.A.C.
 - (f) Alternate field procedures and laboratory methods may be used where they have been approved in accordance with Rules 62-160.220 and 62-160.330, F.A.C. [62-620.610(18), F.A.C.]
13. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule detailed elsewhere in this permit shall be submitted no later than 14 days following each schedule date. [62-620.610(19), F.A.C.]
14. The permittee shall report to the Department any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance including exact dates and time, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
 - (a) The following shall be included as information which must be reported within 24 hours under this condition:
 1. Any unanticipated bypass which causes any reclaimed water or the effluent to exceed any permit limitation or results in an unpermitted discharge,
 2. Any upset which causes any reclaimed water or the effluent to exceed any limitation in the permit,
 3. Violation of a maximum daily discharge limitation for any of the pollutants specifically listed in the permit for such notice, and
 4. Any unauthorized discharge to surface or ground waters.
 - (b) Oral reports as required by this subsection shall be provided as follows:
 1. For unauthorized releases or spills of treated or untreated wastewater reported pursuant to General Condition 14.(a)4. of this permit that are in excess of 1,000 gallons per incident, or where information indicates that public health or the environment will be endangered, oral reports shall be provided to the Department by calling the STATE WARNING POINT TOLL FREE NUMBER (800) 320-0519, as

JANUARY 7 AND 8, 2009 WORKSHOP DRAFT

soon as practical, but no later than 24 hours from the time the permittee becomes aware of the discharge. The permittee, to the extent known, shall provide the following information to the State Warning Point:

- a. Name, address, and telephone number of person reporting;
 - b. Name, address, and telephone number of permittee or responsible person for the discharge;
 - c. Date and time of the discharge and status of discharge (ongoing or ceased);
 - d. Characteristics of the wastewater spilled or released (untreated or treated, industrial or domestic wastewater);
 - e. Estimated amount of the discharge;
 - f. Location or address of the discharge;
 - g. Source and cause of the discharge;
 - h. Whether the discharge was contained on-site, and cleanup actions taken to date;
 - i. Description of area affected by the discharge, including name of water body affected, if any; and
 - j. Other persons or agencies contacted.
2. Oral reports, not otherwise required to be provided pursuant to General Condition 14.(b)1. above, shall be provided to the Department within 24 hours from the time the permittee becomes aware of the circumstances.
- (c) If the oral report has been received within 24 hours, the noncompliance has been corrected, and the noncompliance did not endanger health or the environment, the Department shall waive the written report. *[62-620.610(20), F.A.C.]*
15. The permittee shall report all instances of noncompliance not reported under General Condition 11, 12 or 13 of this permit at the time monitoring reports are submitted. This report shall contain the same information required by general Condition 14 of this permit. *[62-620.610(21), F.A.C.]*
16. Bypass Provisions.
- (a) Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless the permittee affirmatively demonstrates that:
 1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and,
 2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and,
 3. The permittee submitted notices as required under General Condition 16(b) of this permit. *[62-620.610(22), F.A.C.]*
 - (b) If the permittee knows in advance of the need for a bypass, it shall submit prior notice to the Department, if possible at least 10 days before the date of the bypass. The permittee shall submit notice of an unanticipated bypass within 24 hours of learning about the bypass as required in General Condition 14 of this permit. A notice shall include a description of the bypass and its cause; the period of the bypass, including exact dates and times; if the bypass has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass.
 - (c) The Department shall approve an anticipated bypass, after considering its adverse effect, if the permittee demonstrates that it will meet the three conditions listed in General Condition 16(a)1. through 3. of this permit.
 - (d) A permittee may allow any bypass to occur which does not cause reclaimed water or effluent limitations to be exceeded if it is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of General Condition 16(a) through (c) of this permit
17. Upset Provisions.
- (a) A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 1. An upset occurred and that the permittee can identify the cause(s) of the upset;
 2. The permitted facility was at the time being properly operated;
 3. The permittee submitted notice of the upset as required in General Condition 14 of this permit; and
 4. The permittee complied with any remedial measures required under General Condition 5 of this permit.
 - (b) In any enforcement proceeding, the burden of proof for establishing the occurrence of an upset rests with the permittee.

JANUARY 7 AND 8, 2009 WORKSHOP DRAFT

- (c) Before an enforcement proceeding is instituted, no representation made during the Department review of a claim that noncompliance was caused by an upset is final agency action subject to judicial review. [62-620.610(23), F.A.C.]