

## **CHAPTER 62-624** **MUNICIPAL SEPARATE STORM SEWER SYSTEMS**

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### **62-624.100 Policy and Purpose.**

This rule provides the requirements for processing Municipal Separate Storm Sewer Systems (MS4) permits, as authorized under Section 403.0885, F.S. This rule also provides general requirements and procedures for the issuance, denial, revision, suspension, and revocation of MS4 permits. The requirements of this part are in addition to and not in lieu of the requirements specified in Chapters 62-25, 62-330 and 62-341, F.A.C., or the requirements of Part IV, Chapter 373, F.S. Regulatory program and surveillance fees for individual MS4 permits are as provided in Rule 62-4.052, F.A.C. Applicants seeking coverage under the Department's Generic Permit for Discharge of Stormwater from Phase II Municipal Separate Storm Sewer Systems (MS4s), as incorporated by paragraph 62-621.300(7)(a), F.A.C., in lieu of an individual MS4 permit, must file an application fee as set out in Rule 62-4.050, F.A.C.

*Specific Authority 403.061, 403.087 FS. Law Implemented 403.087, 403.088, 403.0885 FS. History—New 10-22-00, Amended 5-1-03.*

### **62-624.200 Definitions.**

(1) Co-permittee means a permittee to a NPDES permit that is only responsible for permit conditions relating to the municipal separate storm sewer that it operates.

(2) Illicit discharge means any discharge to a municipal separate storm sewer that is not composed entirely of stormwater except discharges pursuant to an NPDES permit and the following categories of non-stormwater discharges provided they do not cause a violation of water quality standards:

- (a) Water line flushing,
- (b) Landscape irrigation,
- (c) Diverted stream flows,
- (d) Rising ground waters,
- (e) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)),
- (f) Uncontaminated pumped ground water,
- (g) Discharges from potable water sources,
- (h) Foundation drains,
- (i) Air conditioning condensate,
- (j) Irrigation water,
- (k) Springs,
- (l) Water from crawl space pumps,
- (m) Footing drains,
- (n) Lawn watering runoff,
- (o) Water from individual residential car washing,
- (p) Flows from riparian habitats and wetlands,

- (q) Dechlorinated swimming pool discharges,
- (r) Residual street wash water, and
- (s) Discharges or flows from fire fighting activities.

(3) Incorporated place means a city, town, township, or village that is incorporated under the laws of Florida.

(4) Large municipal separate storm sewer system means all municipal separate storm sewers that are either:

- (a) Located in an incorporated place or county with a population of 250,000 or more as determined by the 1990 Decennial Census conducted by the federal Bureau of Census; or
- (b) Owned or operated by a municipality other than those described in paragraph (4)(a) of this section and that are designated by the Department as part of the large municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under paragraph (4)(a) of this section. In making this determination the Department shall consider the following factors:

1. Physical interconnections between the municipal separate storm sewers;
2. The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in paragraph (4)(a) of this section;
3. The quantity and nature of pollutants discharged to waters of the state; and
4. The nature of the receiving waters.

(5) Major municipal separate storm sewer outfall means a municipal separate storm sewer outfall that discharges from a single pipe with an inside diameter of 36 inches or more or its equivalent (discharge from a single conveyance other than circular pipe which is associated with a drainage area of more than 50 acres); or for municipal separate storm sewers that receive stormwater from lands zoned for industrial activity (based on comprehensive zoning plans or the equivalent), an outfall that discharges from a single pipe with an inside diameter of 12 inches or more or from its equivalent (discharge from other than a circular pipe associated with a drainage area of 2 acres or more).

(6) Major outfall means a major municipal separate storm sewer outfall.

(7) Medium municipal separate storm sewer system means all municipal separate storm sewers that are either:

- (a) Located in an incorporated place or county with a population of 100,000 or more but less than 250,000, as determined by the 1990 Decennial Census conducted by the federal Bureau of Census; or
- (b) Owned or operated by a municipality other than those described in paragraph (7)(a) of this section and that are designated by the Department as part of the medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under paragraph (7)(a) of this section. In making this determination the Department shall consider the following factors:

1. Physical interconnections between the municipal separate storm sewers;
2. The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in paragraph (7)(a) of this section;
3. The quantity and nature of pollutants discharged to waters of the state; and
4. The nature of the receiving waters.

(8) Municipal separate storm sewer or MS4 means a conveyance or system of conveyances like roads with stormwater systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels, or storm drains:

- (a) Owned or operated by a State, city, town, county, special district, association, or other public body (created by or pursuant to State Law) having jurisdiction over management and discharge of stormwater and which discharges to surface waters of the state;
- (b) Designed or used for collecting or conveying stormwater;
- (c) Which is not a combined sewer; and
- (d) Which is not part of a Publicly Owned Treatment Works (POTW). POTW means any device or system used in the treatment of municipal sewage or industrial wastes of a liquid nature which is owned by a "State" or "municipality." This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

(9) Outfall means a point source at the location where a municipal separate storm sewer discharges to water of the state and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other waters of the state and are used to convey waters of the state. Point source is defined as any discernible, confined, and discrete conveyance, such as any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, or landfill leachate collection system from which pollutants are or may be discharged.

(10) Phase I MS4 means a municipal separate storm sewer system identified under Section 402(p)(2) of the Clean Water Act and subject to regulation under Section 402(p)(3)(B) of the Clean Water Act as implemented as part of the Department's federally approved National Pollutant Discharge Elimination System (NPDES) stormwater program pursuant to Section 403.0885, F.S., and this chapter.

(11) Phase II MS4 means a municipal separate storm sewer system subject to regulation under Section 402(p)(6) of the Clean Water Act, as implemented as part of the Department's federally approved National Pollutant Discharge Elimination System (NPDES) stormwater program pursuant to Section 403.0885, F.S., this chapter, and paragraph 62-621.300(7)(a), F.A.C., which incorporates by reference the Department's Generic Permit for Discharge of Stormwater from Phase II Municipal Separate Storm Sewer Systems, and includes MS4 facilities owned or operated by the United States and MS4 facilities operated by the Florida Department of Transportation (FDOT) that are not covered by an existing Phase I MS4 permit.

(12) Stormwater means stormwater runoff, surface runoff and drainage.

(13) Regulated Phase II MS4 means all separate storm sewers that serve a minimum resident population of at least 1,000 individuals and are:

(a) Not defined as "large" or "medium" municipal separate storm sewer systems pursuant to subsections 62-624.200(4) and 62-624.200(7), F.A.C., of this chapter, or otherwise designated as a large or medium MS4; and

(b) Meet applicable criteria, or are otherwise designated by the Department, pursuant to Rule 62-624.800, F.A.C., and those Phase II MS4s in Florida identified by the U.S. Environmental Protection Agency (EPA) as located wholly or partially within an urbanized area and as published December 8, 1999 in the Federal Register, Volume 64, Number 235, at pages 68813 and 68814.

(c) The term does not include separate storm sewers in very discrete areas, such as individual buildings and does not include systems within tribal lands over which jurisdiction has been retained by the U. S. Environmental Protection Agency (EPA).

*Specific Authority 403.061, 403.087 FS. Law Implemented 403.087, 403.088, 403.0885 FS. History—New 10-22-00, Amended 5-1-03.*

### **62-624.300 General Provisions.**

(1) Any operator of a Phase I or regulated Phase II MS4 must be covered by a permit under this chapter. Operators of MS4s such as municipalities, Chapter 298, F.S., special districts, drainage districts, or Districts of the Florida Department of Transportation, that were named as permittees or co-permittees as a result of previous designation by the Regional Administrator of the United States Environmental Protection Agency must be covered by a permit under this chapter. Any operator of a Phase I MS4, or designated permittee or co-permittee, having been issued an MS4 permit by EPA, must file for re-application with the Department in accordance with the procedures under this chapter.

(2) Individual MS4 permits issued under this chapter are subject to the procedural requirements of Rules 62-620.302 (Confidentiality), 62-620.305 (Signatory Requirements), and 62-620.350 (Recordkeeping), F.A.C.

(3) For purposes of enforcement, compliance with an MS4 permit constitutes compliance with the applicable provisions of Chapter 403, F.S. For purposes of enforcement, compliance with a permit issued under this chapter pursuant to the authority of Section 403.0885, F.S., constitutes compliance with Sections 301, 302, 306, 307, 318, 402 and 403 of the Clean Water Act.

(4) A permit may be revoked, suspended, or terminated in accordance with Rule 62-620.345, F.A.C. A permit may be revised in accordance with Rule 62-620.325, F.A.C. A permit may be renewed in accordance with Rule 62-624.420, F.A.C., of this chapter.

(5) No Department issued MS4 permit shall be issued for a term of more than 5 years.

(6) An annual fee is required for individual MS4 permits as provided in Rule 62-4.052, F.A.C. An application fee must be filed by applicants utilizing the Department's generic permit (see paragraph 62-621.300(7)(a), F.A.C.) as provided in Rule 62-4.050, F.A.C.

(7) To the extent that this chapter imposes duties for the construction, operation, maintenance, or monitoring of a stormwater management system, for reporting system operations, or for securing permits from the Department, responsibility lies with the permittee and the owner of the stormwater management system. Nevertheless, Section 403.141, F.S., creates joint and several liability for those responsible for violations.

*Specific Authority 403.061, 403.087 FS. Law Implemented 403.087, 403.088, 403.0885 FS. History—New 10-22-00, Amended 5-1-03.*

#### **62-624.310 General Conditions, Individual Permits.**

All individual MS4 permits shall be subject to the general conditions set forth in Rule 62-620.610, F.A.C., except for conditions in subsections (7), (12), (16), (17), (22), and (23).

*Specific Authority 403.061, 403.087 FS. Law Implemented 403.087, 403.088, 403.0885 FS. History—New 10-22-00, Amended 5-1-03.*

#### **62-624.400 Application Procedures for New Individual MS4 Permits.**

Applicants for new individual MS4 permits shall follow the procedures as described in 40 CFR 122.26.

*Specific Authority 403.061, 403.087, 403.0877 FS. Law Implemented 403.061, 403.087, 403.0877, 403.088, 403.0885 FS. History—New 10-22-00, Amended 5-1-03.*

#### **62-624.420 Re-application Procedures for Individual MS4 Permits.**

(1) MS4 permits shall be effective for a fixed term not to exceed five years. If the permittee wishes to continue an activity regulated by an MS4 permit after the expiration date of the permit, the permittee must apply for and obtain a new permit. Permittees are encouraged to consult with the Department before the re-application process begins so that a mutually acceptable municipal stormwater program is developed prior to re-application.

(2) An MS4 permittee may re-apply for permit coverage concurrently with a timely filing of the fourth year annual report. A fourth year annual report used as the principle component for re-application must clearly state that the report is being used for re-application purposes, and must clearly describe proposed revisions to the permittee's activities required under the existing permit.

(3) As an alternative, permittees may re-apply for a MS4 permit by submitting an application 180 days prior to the expiration of the permit. The application shall include a proposed stormwater management program and monitoring program in accordance with this section and Rule 62-624.440, F.A.C.

(4) A re-application filed in accordance with subsections (2) and (3) of this section shall be considered timely and sufficient. When an application for renewal of a permit is timely and sufficient, the existing permit shall not expire until the Department has taken final action on the application for renewal or until the last day for seeking judicial review of the agency order or a later date fixed by order of the reviewing court.

(5) Late re-application shall be considered timely and sufficient for the purpose of extending the effectiveness of the expiring permit only if it is submitted and made complete before the expiration date.

*Specific Authority 403.061, 403.087 FS. Law Implemented 403.087, 403.088, 403.0885 FS. History—New 10-22-00, Amended 5-1-03.*

#### **62-624.440 Contents of Re-application for Individual MS4 Permits.**

(1) The Department is committed to allowing flexible re-application requirements that are specific to the needs of the individual MS4 program. However, certain fundamental information is required for all re-applications as follows:

(a) Name and mailing address of the permittee that operates the MS4, and if applicable, the names and addresses of the co-permittees that operate an MS4;

(b) Names and titles of the primary administrative and technical contacts for the municipal permittee and all co-permittee(s);

(c) Identification number of the existing MS4 permit;

(d) A listing of changes in co-applicants since issuance of initial MS4 permit;

(e) Identification of any previously unidentified water bodies that receive discharges from the MS4;

(f) A summary of any known water quality impacts on the newly identified receiving waters from the MS4 discharge; and

(g) A summary of known or estimated reductions in stormwater pollutant loads discharged from the MS4 resulting from implementation of the stormwater management plan during the term of the most recent permit.

(2) Stormwater Management Program. The stormwater management program (SWMP) is a fundamental element of the MS4 program. Required components of the SWMP are listed in 40 CFR 122.26(d)(2)(iv). Components of the previously permitted SWMP that are found to be effective shall be continued and made an ongoing part of the proposed SWMP. Components to be evaluated for effectiveness for continued emphasis shall include:

- (a) Public education programs, particularly programs that provide training on the proper design, construction, operation, maintenance, and inspection of stormwater management systems. Another educational focus shall be pollution prevention such as proper disposal of waste oil, household hazardous waste, and pesticide application;
- (b) Increasing the effectiveness or maintaining effective programs to reduce erosion and sedimentation from construction activities;
- (c) Increasing the effectiveness or maintaining effective programs to reduce pollution and other adverse ecological effects from stormwater discharges associated with new development or re-development activities;
- (d) Retrofitting the existing MS4 to reduce pollutants as set forth in a local SWMP;
- (e) Increasing the effectiveness or maintaining effective inspections of stormwater management and treatment systems to assure they are properly operated and maintained;
- (f) Coordination and participation with adjacent MS4s, the Department, Water Management Districts, or other groups in monitoring the effects of stormwater discharges or the effectiveness of stormwater management programs;
- (g) Coordinating and participating with the Department, Water Management Districts, or other groups that are developing a watershed approach to reduce the adverse effects of stormwater discharges;
- (h) Detecting and eliminating non-stormwater discharges to the MS4; and
- (i) Inspecting priority high-risk industrial stormwater dischargers to the MS4 to assure that they have implemented pollution prevention plans that minimize the discharge of pollutants to the MS4.

(3) The accumulated annual report information as outlined in Rule 62-624.600, F.A.C., shall be evaluated by the applicant, and to the extent practical, be summarized and incorporated into the re-application package.

(4) Re-application is an appropriate time for MS4s to evaluate their monitoring program and propose changes to make the program more appropriate and useful.

*Specific Authority 403.061, 403.087 FS. Law Implemented 403.087, 403.088, 403.0885 FS. History—New 10-22-00, Amended 5-1-03.*

#### **62-624.460 Application Processing, Individual Permits.**

Permit applications or re-applications, for individual permits, shall be processed in accordance with the following:

- (1) Within 90 days after receipt of an application for permit, the Department shall notify the applicant if the application is not complete and shall request submittal of the additional information needed to review the application.
- (2) Within 90 days after receipt of such additional information, the Department shall review it and may request only that information needed to clarify such additional information or to answer new questions raised by, or directly related to, such additional information.
- (3) If the Department decides that a site visit is necessary in conjunction with processing the application, the applicant shall be notified and a visit scheduled.
- (4) If the applicant fails to provide information requested or to correct deficiencies noted in the application, which were either requested or notified in accordance with subsection (1) of this section, and the information or correction is necessary to meet the requirements of this chapter, the permit shall be denied. Discharge from a MS4 without a valid permit is cause for appropriate enforcement action.
- (5) When an application is complete, the Department shall determine whether to prepare a draft permit for issuance or denial of a permit. The initial preparation of a draft permit for issuance does not preclude the Department from denying a permit or modifying the draft permit after an opportunity for public comment or public meeting, if requested.
- (6) The Department shall render a decision as to whether the draft permit will be for issuance or denial within 90 days after the Department has received all of the information necessary to make the application complete. If this time schedule is not met, the permit applicant may apply for an order from the circuit court requiring the Department to render a decision within a specified time.
- (7) If the Department intends to deny the permit application, it shall issue a notice of intent to deny. Public notice under subsection 62-620.550(2), F.A.C., shall not be required. However, the Department shall prepare a statement of basis or fact sheet with the reasons for the proposed action. If the decision to deny is changed, except through an administrative hearing under Section 120.57, F.S., the Department shall withdraw the notice of intent to deny and shall proceed to prepare a draft permit. If the applicant requests an administrative hearing under Section 120.57, F.S., on the Department's intent to deny, the applicant shall publish notice of proposed agency action under subsections 62-620.550(1) and 62-110.106(7), F.A.C. Upon completion of the administrative

hearing, the Department shall issue or deny the permit in accordance with the conclusions of the proceedings, provided the applicant has published notice as required in subsections 62-620.550(1) and 62-110.106(7), F.A.C. If the hearing results in a recommendation for approval of the permit, and if the applicant has not published notice as required in these rules, the Department shall proceed to prepare a draft permit.

(8) The Department shall notify the applicant that the application is complete after receipt of all required information. The date on which the Department notifies the applicant that the application is complete is the effective date of the application.

(9) If the Department intends to prepare a draft permit for issuance, it shall prepare and mail to the applicant, not later than the effective date of the application, a project decision schedule. The schedule shall specify, at a minimum, target dates for the following:

- (a) Preparation of a draft permit;
- (b) Public notice, if required, under subsections 62-620.550(2) through (4), F.A.C.;
- (c) Completion of the public comment period, including any public meeting, if held;
- (d) Issuance of a final permit or submittal of a proposed permit to EPA;
- (e) Public notice, if required, under subsection 62-110.106(7), F.A.C.; and
- (f) Completion of any formal proceedings which may be associated with the application.

(10) A draft permit for issuance shall contain the following information:

- (a) All conditions the applicant must meet;
- (b) All applicable compliance schedules; and
- (c) All monitoring requirements.

(11) For all draft permits, the Department shall prepare a statement of basis or a fact sheet on which the Department relied in making its decision. The statement of basis or fact sheet shall be prepared in accordance with the Department of Environmental Protection Guide to Permitting Wastewater Facilities or Activities under Chapter 62-620, F.A.C.

(12) Comments from the public under subsections 62-620.550(2) through (4), F.A.C., shall be considered in evaluation of the draft permit. If a permit is issued, the Department shall prepare a response to the significant comments in accordance with Rule 62-620.555, F.A.C.

(13) The administrative record of the draft permit shall be available for public inspection at the Department office issuing the permit and shall consist of:

- (a) The application and any supporting data provided by the applicant;
- (b) The draft permit;
- (c) The statement of basis or fact sheet;
- (d) All documents cited in the statement of basis or fact sheet; and
- (e) Other documents contained in the supporting file.

(14) Material readily available at the Department office issuing the permit or published material that is generally available and included in the administrative record need not be physically included with the rest of the record as long as it is specifically referenced in the statement of basis or the fact sheet.

(15) The Department shall prepare a proposed permit after the close of the public comment period under subsections 62-620.550(2) through (4), F.A.C., or, if requested, after any public meeting under Rule 62-620.555, F.A.C.;

(16) Except as waived by EPA in a Memorandum of Agreement with the Department, for discharges regulated under this chapter pursuant to Section 403.0885, F.S., the Department shall submit the proposed permit to the EPA for its concurrence in the Department decision. Upon receipt of the EPA concurrence, the Department shall prepare and send to the applicant for publication the public notice required under subsection 62-620.550(1), F.A.C., advising the applicant and all affected persons of their right to an administrative hearing.

(17) Permits shall be issued or denied as follows:

(a) For an MS4 regulated under this chapter, the Department shall grant a permit or deny the permit application within 90 days after the Department has received notice from the EPA as to whether the EPA concurs with the proposed permit;

(b) The time for issuing a permit or denying a permit application shall be tolled by the timely filing of a request for an administrative hearing under Section 120.57, F.S. The time shall be tolled until 45 days after the submission of a recommended order or until the administrative petition is dismissed or withdrawn; or

(c) If these time schedules are not met, the permit applicant may apply for an order from the circuit court requiring the

Department to render a decision within a specified time.

(d) If EPA objects to issuance of the permit in accordance with 40 CFR 123.44 and in writing within 90 days of submittal to EPA, and the Department fails to submit to EPA a revised permit satisfying the objections in accordance with the following timeframe, exclusive authority to issue the permit passes to EPA. The Department shall have 90 days from receipt of the EPA objections, or 30 days from the date of a public hearing on the objections, to submit a revised permit to EPA. The Department shall advise the applicant of the EPA objections.

*Specific Authority 403.061, 403.087, 403.815 FS. Law Implemented 403.061, 403.087, 403.0876, 403.088, 403.0885, 403.815 FS. History—New 10-22-00, Amended 5-1-03.*

#### **62-624.500 Standards for Issuing or Denying Individual Permits.**

(1) The Department shall use the provisions of 40 CFR 122.26, revised as of July 1, 2000, hereby incorporated by reference, for implementation of the program. Where there are conflicts with general or specific requirements of 40 CFR 122.26, the requirements and procedures set forth in this chapter shall supersede all other procedures and requirements for MS4 facilities.

(2) The Department shall issue an MS4 permit only if the applicant affirmatively provides the Department with reasonable assurance that the stormwater management program will achieve a reduction of the discharge of pollutants from the MS4 to the Maximum Extent Practicable in accordance with 40 CFR 122.26.

(3) 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 the permit.

*Specific Authority 403.061, 403.087, 403.815 FS. Law Implemented 403.061, 403.087, 403.0876, 403.088, 403.0885, 403.815 FS. History—New 10-22-00, Amended 5-1-03.*

#### **62-624.600 Monitoring and Annual Reports for Individual Permits.**

(1) Each permittee shall submit an Annual Report to the Department for each year of coverage under the permit term. The first year Annual Report must cover the twelve month period beginning on the effective date of the permit and is due six months after the first anniversary of the date of permit issuance. The Annual Report is due each subsequent year to the Department six months after the anniversary of the effective date of the permit.

(2) Annual Reports must be submitted by each permittee on DEP form 62-624.600(2), issued by the Department and effective 1-28-04, adopted herein by reference.

(a) The first year Annual Report shall contain an inventory of all known major outfalls covered by the permit and a map depicting the location of major outfalls. Additionally, newly identified major outfalls shall be reported in each subsequent Annual Report; and

(b) The third year Annual Report shall include estimates of seasonal pollutant loadings and event mean concentrations (EMC) for each major outfall or each major watershed covered by the permit.

(c) Each Annual Report shall include a summary providing an assessment of water quality trends based on data gathered as a result of the monitoring program as required in each permit.

*Specific Authority 403.061, 403.087, 403.815 FS. Law Implemented 403.061, 403.087, 403.0876, 403.088, 403.0885, 403.815 FS. History—New 10-22-00, Amended 5-1-03, 1-28-04.*

#### **62-624.800 Regulated Phase II MS4s.**

(1) A Phase II MS4 is regulated under this chapter if it is a Phase II MS4 as defined in Rule 62-624.200, F.A.C., and

(a) Located in an urbanized area as determined by the latest Decennial Census by the U. S. Bureau of the Census. (If the Phase II MS4 is not located entirely within an urbanized area, only the portion that is within the urbanized area is regulated); or

(b) It is designated by the Department, subsequent to the Department applying its designation criteria, as required by 40 CFR 123.35(b), whether initiated by the Department or as a result of a petition filed by a party seeking designation of the MS4 as a regulated Phase II MS4.

(2) The Department shall designate a Phase II MS4 as a regulated Phase II MS4 under the following circumstances:

(a) Discharges from the MS4 are determined to be a significant contributor of pollutants to surface waters of the State. Discharges shall be deemed a significant contributor of pollutants to surface waters of the State when a total maximum daily load has been adopted by the Department for a water body or segment into which the Phase II MS4 discharges the pollutant(s) of concern.

(b) The Phase II MS4 lies outside of the urbanized area and serves a jurisdiction with a population density of at least 1,000 people per square mile and a population of at least 10,000; and

1. The MS4 discharges into Class I or Class II waters, as defined in Rule 62-302, F.A.C., or waters designated as Outstanding Florida Waters; or

2. The Phase II MS4 contributes to the pollutant loadings of a physically interconnected MS4 regulated under the Department's NPDES stormwater program as set forth in 40 CFR 123.35(b)(4).

(3) A Phase II MS4 may be the subject of a petition to the Department to require an NPDES permit for the discharge of stormwater, even if the designation population thresholds described in paragraph 62-624.800(2)(b), F.A.C., are not exceeded. In evaluating such a petition, the Department will use the criteria outlined in subparagraphs 62-624.800(2)(b)1.-2., F.A.C. If the Department determines that a permit is needed, the entity responsible for the MS4 must comply with the application procedures of this chapter.

(4) A petition seeking the designation of a Phase II MS4 shall be filed as set forth in Rules 28-106.201 and 62-110.106, F.A.C., and applicable provisions of Chapter 120, F.S.

*Specific Authority 403.061, 403.087 FS. Law Implemented 403.087, 403.088, 403.0885 FS. History—New 5-1-03, Amended 1-28-04.*

#### **62-624.810 Permit Application Procedures for Phase II MS4s.**

(1) The entity responsible for the operation of a regulated Phase II MS4, under Rule 62-624.800, F.A.C., must seek coverage:

(a) Under paragraph 62-621.300(7)(a), F.A.C., which incorporates the Department's Generic Permit for Discharge of Stormwater from Phase II Municipal Separate Storm Sewer Systems, by filing a Notice of Intent to Utilize the Generic Permit for Discharge of Stormwater from Phase II Municipal Separate Storm Sewer Systems as incorporated by reference by paragraph 62-621.300(7)(b), F.A.C. The NOI must include a summary description of the best management practices and measurable goals as set forth in the Phase II MS4 GP; or

(b) Under an individual Phase II permit following the Phase I application procedures of Rule 62-624.400, F.A.C., and fee schedule as set forth in Rule 62-4.052, F.A.C.; or

(c) As a co-permittee under an existing MS4 permit as set out in subsection 62-624.810(2), F.A.C.

(2) If the Phase II MS4 is in the same urbanized area as a Phase I MS4 with an NPDES stormwater permit and the permitted Phase I MS4 consents, in writing, to allow the regulated Phase II MS4 to participate in its stormwater program, the Phase II MS4 and the existing Phase I MS4 may jointly seek a modification of the original Phase I MS4 permit to include the newly regulated Phase II MS4 as a co-permittee. As a co-permittee, the Phase II MS4 will be responsible for compliance with the permit's conditions applicable to its jurisdiction. If a Phase II MS4 pursues this option the proposed permittee must comply with the permit application requirements of Rule 62-624.400, F.A.C., which incorporates 40 CFR 122.26, rather than the requirements of this section, Rule 62-624.810, F.A.C.

(3) If an MS4 operator is responsible for MS4 facilities located wholly or partially within more than one urbanized area, the operator may file a single Notice of Intent, if using the Generic Permit for Discharge of Stormwater from Phase II Municipal Separate Storm Sewer Systems (MS4s). If the operator elects to submit a single NOI, the Stormwater Management Program must address all such MS4 facilities and be applied uniformly throughout the operators system or systems however, the operator shall be considered a single entity for the payment of application fees and for filing annual reports.

(4) Application deadlines for regulated Phase II MS4s are as follows:

(a) If designated under paragraph 62-624.800(1)(a), F.A.C., based upon the 1990 Decennial Census, the proposed permittee must apply for coverage under an individual or generic Phase II MS4 permit, or apply for a modification of an existing Phase I MS4 permit, under subsection (2) of this rule, by June 1, 2003.

(b) If designated under paragraph 62-624.800(1)(a), F.A.C., based upon the 2000 Decennial Census, the proposed permittee must apply for coverage under an individual or generic Phase II MS4 permit, or apply for a modification of an existing Phase I MS4

permit, under subsection (2) of this rule, by June 1, 2004.

(c) If designated under paragraph 62-624.810(1)(b), F.A.C., the proposed permittee must apply for coverage under an individual or generic Phase II MS4 permit, or apply for a modification of an existing Phase I MS4 permit, under subsection (2) of this rule, within one year of notice.

(d) If an MS4 becomes a regulated MS4 due to incorporation as a new municipality or redefinition of an urbanized area or areas, the proposed permittee must apply for coverage under an individual or generic Phase II MS4 permit, or apply for a modification of an existing Phase I MS4 permit, under subsection (2) of this section, within one year of the event causing the MS4 to become a regulated MS4.

*Specific Authority 403.061, 403.087 FS. Law Implemented 403.087, 403.088, 403.0885 FS. History—New 5-1-03.*