



NPDES Stormwater Regulatory Update

Division of Water Resource Management

December 2, 2020



Overview

- **2020 Phase II MS4 Rulemaking**
- **U.S. Environmental Protection Agency (EPA) Electronic Reporting Rule extended to December 2025**



Phase II MS4 Rulemaking

Background

- **2003: Ninth Circuit court “remand” ruling in Environmental Defense Center (EDC) v. EPA found that the Phase II rule requirements for small Municipal Separate Storm Sewer System (MS4) general permits violated the Clean Water Act (CWA)**
 - **This decision paved the way for rule revisions**
- **EPA Remand Rule published in the Federal Register on December 9, 2016, effective date January 9, 2017**
- **On January 26, 2018, DEP adopted pertinent provisions of the federal rule by reference**



Need to Amend 2003 Generic Permit

- **Incorporate Remand Rule revisions into generic permit document**
- **Update Notice of Intent (NOI) form to prepare for electronic reporting**
- ****Adopt** Annual Report form by reference (currently guidance)**



2020 Phase II MS4 Rulemaking

- **Notice of Rule Development published in the *Florida Administrative Review* on January 13, 2020:**
 - **Draft available on Division's website**
<https://floridadep.gov/water/water/content/water-resource-management-rules-development>
 - **Notified permittees at Phase II MS4 Quarterly Teleconferences March and July 2020**
- **Request for approval to publish Notice of Proposed Rule routed to Secretary's Office September 2020**
- **Anticipated adoption end of 2020, if no significant changes are necessary**



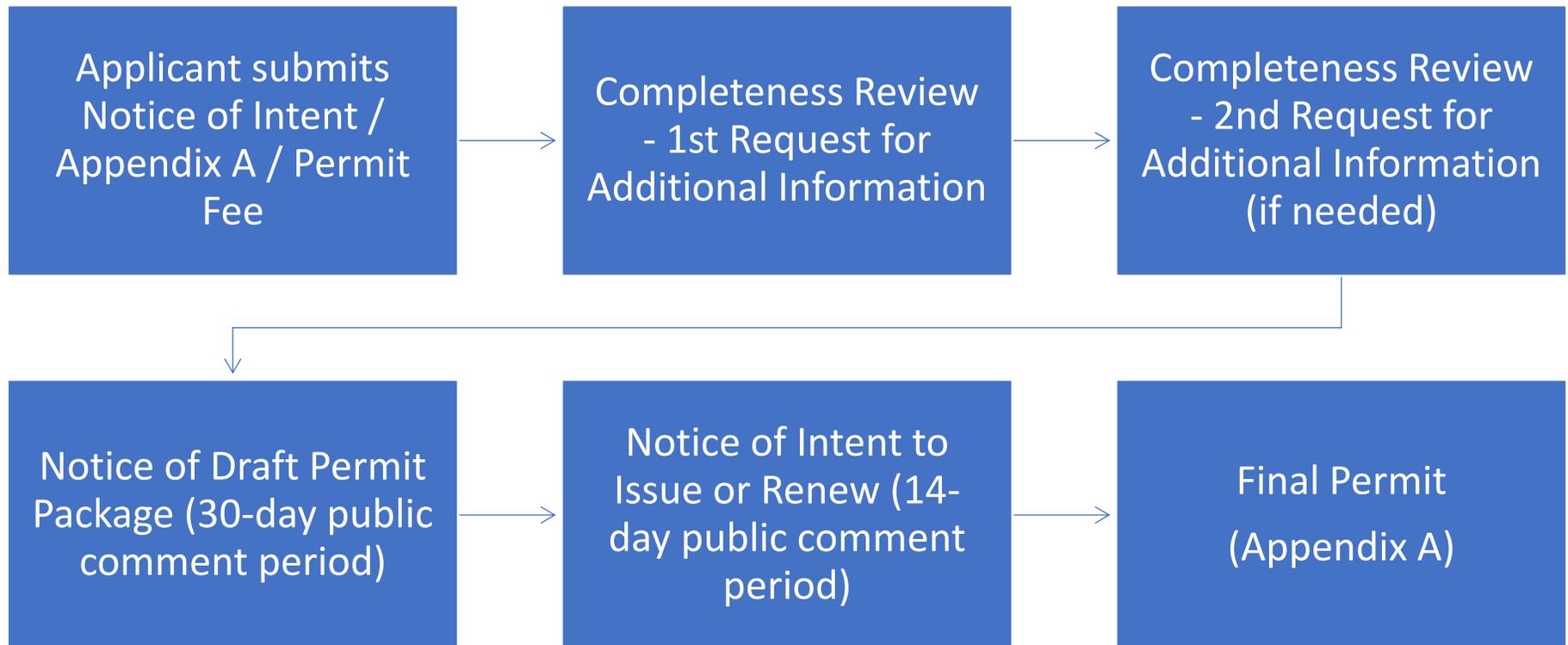
2020 Proposed Revision Summary

- **DEP Form 62-621.300(7)(a) “Generic Permit for Discharge of Stormwater from Phase II MS4s”:**
 - **“Two-Step” added to title**
 - **Permit clean-up/clarification of requirements**
 - **Public Noticing Requirements section 62-620.550, Florida Administrative Code (F.A.C.) effective since 2018**
 - **Total Maximum Daily Loads (TMDL)**
 - **General conditions (for all generic permits, Chapter 62-620, F.A.C., added for the reader)**
- **DEP Form 62-621.300(7)(b) “Notice of Intent” updated**
- **DEP Form 62-621.300(7)(d) “Annual Report” form adopted**



DEP Permit Review Process

Two-Step Permitting Approach





2020 Proposed Rule Revisions

Permit Clean-up

- **Formatted similarly to other recent National Pollutant Discharge Elimination System (NPDES) generic permits**
- **Removes and replaces references to rules that were repealed (e.g. Chapter 62-25, F.A.C., and older rules for Environmental Resource Permitting, etc.)**
- **Adds general provisions section to organize information previously located in various sections throughout 2003 generic permit into a single section**



2020 Proposed Rule Revisions

Permit Clean-up - 2

- **Removes “guidance” language from permit and placed in NOI; no substantial changes to six minimum control measures**
- **Recordkeeping – Requires Permittee to furnish information requested by DEP within five business days (no deadline in 2003 permit)**



2020 Proposed Rule Revisions

Clarification of Requirements

- **Requires reporting of subject/target audience/delivery methods for public education and outreach**
 - **Minimum Control Measures 1 and 2**
- **Includes Standard Operating Procedures to document implementation of:**
 - **Illicit Discharge Detection and Elimination Program (Element 3c)**
 - **Construction Site Stormwater Inspection Program (Element 4f)**
 - **Good Housekeeping/Pollution Prevention Staff Training (Element 6b)**



2020 Proposed Rule Revisions

Clarification of Requirements – 2

- **Notifies construction site operators of the potential need to seek Environmental Resource Permit (ERP) and/or NPDES Construction Generic Permit**
 - **Notification to operators of sites that disturb an acre or more of land or disturb less than an acre which is part of a larger common plan of development or sale that will disturb an acre or more to occur in plans review (Element 4d)**
 - **Verification of coverage occurs during construction site inspections (Element 4f)**



2020 Proposed Rule Revisions

Clarification of Requirements – 3

- **NOI Improvement for Element 6a:**
 - **“Maintenance activities, maintenance schedules, and procedures for long-term inspection structural controls to reduce floatables and other pollutants discharged from the Phase II MS4”**
- **Drop-down menu available to provide specificity about the operator’s MS4 components and their inspections and maintenance schedules**



MS4 Remand Rule Summary

TMDL Related Requirements

- **Permits shall require more stringent permit terms to address approved Total Maximum Daily Loads (TMDLs)**
 - **Must be clear, specific, and measurable and be adequate to meet the MS4 permit standard**
- **Permits must also consider ways to specify:**
 - **Applicable TMDLs, Waste Load Allocations (WLAs), and pollutant(s) of concern**
 - **Specific actions to make reasonable further progress towards WLAs, including deadlines for such actions**
 - **Long-term compliance deadlines**



2020 Proposed Rule Revisions

TMDL Implementation

- **Permittees shall address the implementation of TMDLs as follows:**
 - **Discharge stormwater to a waterbody within the boundary of a Department-adopted Best Management Action Plan (BMAP)*, and**
 - **Permittees must also address discharges of stormwater to a waterbody for which a Department-adopted TMDL exists (prioritize a TMDL waterbody in Year 4).**

****Participation in a Reasonable Assurance Plan (RAP), in accordance with section 403.067, Florida Statute (F.S.), is acceptable.***



2020 Proposed Rule Revisions – Forms

Updated NOI

NEW Annual Report



Notice of Intent to Use National Pollutant Discharge Elimination System (NPDES) Two-Step Generic Permit for Discharge of Stormwater from Phase II Municipal Separate Storm Sewer Systems
DEP Form 62-621.300(7)(b)
Effective Date

Part I. Instructions

This Notice of Intent (NOI) form shall be completed and submitted to the NPDES stormwater program as part of the request for coverage under the NPDES Two-Step Generic Permit for Discharge of Stormwater from Phase II Municipal Separate Storm Sewer (MS4) Systems subsection 62-621.300(7)(a), F.A.C. Applicants must be familiar with the Rule, Generic Permit, Appendix A, and instructions before completing this NOI form. **Attach information on separate sheets as necessary.**

- Submit this completed form, supporting documentation, and the permit fee to the NPDES Stormwater Notices Center, 2600 Blair Stone Rd., M.S. #3585, Tallahassee, FL 32399. Electronic submittal is preferred.
- Payment of the permit fee shall be in accordance with Rule 62-4.050(4)(d)(6), F.A.C., and may be mailed by check to the address listed above. Instructions for electronic payment of the permit fee can be obtained by contacting the NPDES Stormwater Notices Center at 850-245-7522 or 866-336-6312 (toll-free). **DEP will not process this form without submittal of the appropriate fee.**
- Provide public notice pursuant to subparagraph 62-620.550(3)(b), F.A.C.
- File the completed NOI by the appropriate deadline under subparagraph 62-624.800(1)(b), F.A.C.

Part II. MS4 Operator Information

MS4 Operator Name: City, Town, County, Special District, association, FDOT District, Facility owned or operated by the United States or entity that owns or operates the Phase II MS4.
Name of the Responsible Authority: Principal executive officer, ranking elected official, or senior officer having the responsibility for overall operations of a principal geographic unit of the agency.
Title: Enter Responsibly Authority (RA) title.
Mailing Address (Street or P.O. Box): Enter RA street/P.O. Box.
City: Enter RA city. Zip Code: Enter RA zip code. County: Enter RA county.
Phone Number: Enter RA phone number. E-mail Address: Enter RA email.
Name of the Designated Phase II MS4 Stormwater Management Program Contact:
Enter name of person who has direct responsibility to manage, gather and evaluate information for this permit.
Title: Enter MS4 Contact title.
Mailing Address (Street or P.O. Box): Enter MS4 Contact street/P.O. Box.
City: Enter MS4 Contact city. Zip Code: Enter MS4 Contact zip code.
County: Enter MS4 Contact county.
Phone Number: Enter MS4 Contact phone number. E-mail Address: Enter MS4 Contact email.

DEP Form 62-621.300(7)(b) incorporated in Rule 62-621.300(7)(b), F.A.C.
Effective Date



Florida Department of Environmental Protection
Phase II MS4 Annual Report
NPDES Two-Step Generic Permit for Stormwater Discharges from Phase II MS4s

Phase II MS4 Annual Report for Permit ID # [Click to enter permit ID#](#), Cycle # [Click to enter permit cycle #](#).
Permit Year: 1 2 3 4 5 Specify Other: [Click to enter text](#).
Reporting period covers: [Click to enter date](#) to [Click to enter date](#)

Part I. Instructions

This annual report form shall be completed and submitted to the NPDES Stormwater Program to satisfy reporting requirements under Part VI of the NPDES Two-Step Generic Permit for Discharge of Stormwater from Phase II Municipal Separate Storm Sewer (MS4) Systems subsection 62-621.300(7)(a), Florida Administrative Code (F.A.C.), herein referred to as the Phase II MS4 generic permit. Permittees must use approved Stormwater Management Program, as described in Appendix A of DEP Form 62-621.300(7)(b) to complete this annual report form.

Submit this completed form and supporting documentation to the NPDES Stormwater Notice Center, 2600 Blair Stone Rd., M.S. #3585, Tallahassee, FL 32399. Electronic submittal is preferred. Assistance with electronic submittal may be obtained by calling 1.866.336.6312 (toll-free) or 850-245-7522.

Part II. MS4 Operator Information

MS4 Operator Name: City, Town, County, Special District, association, FDOT District, Facility owned or operated by the United States or entity that owns or operates the Phase II MS4.
Name of the Responsible Authority: Principal executive officer, ranking elected official, or senior officer having the responsibility for overall operations of a principal geographic unit of the agency.
Title: Enter Responsible Authority (RA) title.
Mailing Address (Street or P.O. Box): Enter RA street/P.O. Box.
City: Enter RA city. Zip Code: Enter RA zip code. County: Enter RA county.
Phone Number: Enter RA phone number. E-mail Address: Enter RA email.
Name of the Designated Phase II MS4 Stormwater Management Program Contact:
Enter name of person who has direct responsibility to manage, gather and evaluate information for this permit.
Title: Enter MS4 Contact title.
Mailing Address (Street or P.O. Box): Enter MS4 Contact street/P.O. Box.
City: Enter MS4 Contact city. Zip Code: Enter MS4 Contact zip code.
County: Enter MS4 Contact county.
Phone Number: Enter MS4 Contact phone number. E-mail Address: Enter MS4 Contact email.

DEP Form 62-621.300(7)(d) incorporated in Rule 62-621.300(7)(d), F.A.C.
Effective Date



2020 Proposed Rule Revisions – Forms 2

Embedded Instructions

NPDES Phase II MS4 Notice of Intent
Appendix A-Stormwater Management Program

Appendix A-Stormwater Management Program

1. Public Education and Outreach Minimum Control Measure [Part V.B.1 of the Phase II MS4 generic permit]

a. Implement a program to distribute educational materials to the community, and/or conduct equivalent outreach activities, about the impacts of stormwater discharges on water bodies, and the steps that the public can take to reduce pollutants in stormwater runoff.

BMP Description and/or Subject or Topics: May include, but are not limited to the following: General Stormwater Information, Pesticide and Fertilizer Application, Pet Waste Management, Recycling, Residential Yard Waste Management (e.g. onsite leaves and grass clippings), Riparian Corridor Protection/Restoration, Storm drain Marking, Trash Management.

Delivery Methods: May include, but are not limited to the following: Brochures, Contests, Displays/Posters/Kiosks, Government Event, Local Public Service Announcement, Meetings, Newspaper Articles, Publication of MS4 Annual Report(s), Publication of Stormwater Management Program, School Programs, Social Media, Special Events/Fairs, Targeted Group Training, Videos, Website.

Target Audiences: May include, but are not limited to: Agricultural, Businesses, Contractors, Industries, Public, Public Employees, Residential, Restaurants, etc.

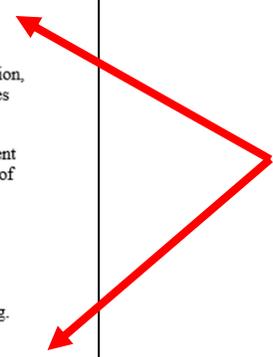
Measurable Goal: Indicate the information you will collect and use to describe implementation of the corresponding BMP, (e.g. number of web hits, attendees, etc.)

Schedule for Implementation: Provide the permit year(s) and/or frequency at which you will develop and/or implement the BMP (e.g. quarterly, monthly, etc.)

Table 1. Public Education and Outreach BMPs

BMP #	BMP Description and/or Subject or Topic	Target Audience	Delivery Method	Measurable Goal	Schedule for Implementation	Responsible Entity
Choose an item.	Choose an item.	Choose an item.	Choose an item.	Click or tap here to enter text.	Select Schedule	Click or tap here to enter text.
Choose an item.	Choose an item.	Choose an item.	Choose an item.	Click or tap here to enter text.	Select Schedule	Click or tap here to enter text.
Choose an item.	Choose an item.	Choose an item.	Choose an item.	Click or tap here to enter text.	Select Schedule	Click or tap here to enter text.

DEP Form 62-621.300(7)(b) incorporated in Rule 62-621.300(7)(b), F.A.C.
Effective Date





2020 Proposed Rule Revisions – Forms 3

Data for E-reporting

NPDES Phase II MS4 Notice of Intent
Appendix A-Stormwater Management Program

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1. Public Education and Outreach Minimum Control Measure [Part V.B.1 of the Phase II MS4 generic permit]

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BMP Description and/or Subject or Topics: May include, but are not limited to the following: General Stormwater Information, Pesticide and Fertilizer Application, Pet Waste Management, Recycling, Residential Yard Waste Management (e.g. onsite leaves and grass clippings), Riparian Corridor Protection/Restoration, Storm drain Marking, Trash Management.

Delivery Methods: May include, but are not limited to the following: Brochures, Contests, Displays/Posters/Kiosks, Government Event, Local Public Service Announcement, Meetings, Newspaper Articles, Publication of MS4 Annual Report(s), Publication of Stormwater Management Program, School Programs, Social Media, Special Events/Fairs, Targeted Group Training, Videos, Website.

Target Audiences: May include, but are not limited to: Agricultural, Businesses, Contractors, Industries, Public, Public Employees, Residential, Restaurants, etc.

Measurable Goal: Indicate the information you will collect and use to describe implementation of the corresponding BMP, (e.g. number of web hits, attendees, etc.)

Schedule for Implementation: Provide the permit year(s) and/or frequency at which you will develop and/or implement the BMP (e.g. quarterly, monthly, etc.)

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Choose an item.	Choose an item.	Choose an item.	Choose an item.	Click or tap here to enter text.	Select Schedule	Click or tap here to enter text.
Choose an item.	Choose an item.	Choose an item.	Choose an item.	Click or tap here to enter text.	Select Schedule	Click or tap here to enter text.
Choose an item.	Choose an item.	Choose an item.	Choose an item.	Click or tap here to enter text.	Select Schedule	Click or tap here to enter text.

DEP Form 62-621.300(7)(b) incorporated in Rule 62-621.300(7)(b), F.A.C.
Effective Date





2020 Proposed Rule Revisions – Forms 4

Improved Reporting

Table 6. Pollution Prevention/Good Housekeeping in Municipal Operations BMPs

BMP #	BMP Description	Number of Structures (for structural controls/BMPs)	Units of measure (for structural controls/BMPs) or Training Topic	Measurable Goal	Schedule for Implementation	Responsible E
Choose an item.	Good Housekeeping and Pollution Prevention BMP Description Choose an item.	Click or tap here to enter text.	Choose an item.	Choose an item.	Select Schedule	Click or tap here to enter text.
Choose an item.	Structures-Dry Retention Structures-Underdrain Filter Systems Structures-Exfiltration Trench/French Drain Structures-Grass Treatment Swale Structures-Dry Detention Systems Structures-Wet Detection Systems		Choose an item.	Choose an item.	Select Schedule	Click or tap here to enter text.
Choose an item.	Structures-Alum Injection Systems Structures-Pollution Control Boxes Structures-Pump Stations Structures-Outfalls Structures-Weirs or other Control Structures		Choose an item.	Choose an item.	Select Schedule	Click or tap here to enter text.
Choose an item.	Structures-Pipes/Culverts Structures-Canals Structures-Inlets/Grates/Catch Basins Structures-Ditches/Conveyance Swales		Choose an item.	Choose an item.	Select Schedule	Click or tap here to enter text.
Choose an item.	Ensure Flood Management Projects Minimize Pollutant Load Program-Street Sweeping Facility-Fleet Maintenance Facility Other (Specify) Training		Choose an item.	Choose an item.	Select Schedule	Click or tap here to enter text.
Choose an item.	Training SOP Other (specify)		Choose an item.	Choose an item.	Select Schedule	Click or tap here to enter text.
Choose an item.	Choose an item.	Click or tap here to enter text.	Choose an item.	Choose an item.	Select Schedule	Click or tap here to enter text.



E-Reporting Updates

MS4 Permittees

- **Phase 1 implemented December 21, 2016**
 - Basic permittee information
 - Includes Discharge Monitoring Reports submittals
- **Phase 2 to be implemented by December 21, 2025**
 - NOIs/Notices of Termination (NOT) for general/generic permits
 - MS4 program reports must begin electronically collecting, managing, and sharing



E-Reporting Updates

MS4 Permittees - 2

- **On September 23, 2020, EPA Administrator Andrew Wheeler signed the final “Phase 2 Extension Rule” postponing compliance deadlines for Phase 2 implementation by five years to December 2025**
- **DEP is updating its databases to conform with EPA requirements**



Contact Information

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Division of Water Resource Management

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