

4. The treatment objectives,
5. The design criteria on which the control facilities are based, and
6. Other information deemed relevant.

Design criteria submitted pursuant to subparagraph 5. shall be based on the results of laboratory and pilot-plant scale studies whenever such studies are warranted. The design efficiencies of the proposed waste treatment facilities and the quantities and types of pollutants in the treated effluents or emissions shall be indicated. Work of this nature shall be subject to the requirements of Chapter 471, F.S. Where confidential records are involved, certain information may be kept confidential pursuant to Section 403.111, F.S.

(c) The owners' written guarantee to meet the design criteria as accepted by the Department and to abide by Chapter 403, F.S., and the rules of the Department as to the quantities and types of materials to be discharged from the installation. The owner may be required to post an appropriate bond or other equivalent evidence of financial responsibility to guarantee compliance with such conditions in instances where the owner's financial resources are inadequate or proposed control facilities are experimental in nature.

(2) The construction permit may contain conditions and an expiration date as determined by the Secretary or his designee.

(3) When the Department issues a permit to construct, the permittee shall be allowed a period of time, specified in the permit, to construct, and to operate and test to determine compliance with Chapter 403, F.S., and the rules of the Department and, where applicable, to apply for and receive an operation permit. The Department may require tests and evaluations of the treatment facilities by the permittee at his expense.

Specific Authority 403.021, 403.031, 403.061, 403.088 FS. Law Implemented 403.021, 403.031, 403.061, 403.087, 403.088 FS. History--New 5-17-72, Formerly 17-4.21, Amended 8-31-88, Formerly 17-4.210.

62-4.220 Operation Permit for New Sources.

In addition to the provisions of Parts I and II of this chapter, to properly apply for an operation permit for new sources the applicant shall submit the appropriate fee and certification that construction was completed, noting any deviations from the conditions in the construction permit and test results where appropriate.

Specific Authority 403.021, 403.031, 403.061, 403.088 FS. Law Implemented 403.021, 403.031, 403.061, 403.087, 403.088 FS. History--Formerly 17-4.05, New 3-4-70, Revised 5-17-72, Formerly 17-4.22, Amended 8-31-88, Formerly 17-4.220.

62-4.240 Operation Permits for Water Pollution Sources.

(1) Any person intending to discharge wastes into the waters of the State shall make application to the Department for an operation permit. Application shall be made in accordance with Part I of Chapter 62-4, F.A.C., and shall include:

(a) The total daily flow and the average daily concentration weight of each appropriate pollutant parameter contained in the discharge.

(b) The temperature of the discharge.

(c) Any additional information reasonably necessary to evaluate treatment efficiency and the effect of such discharges upon the receiving waters.

(2) An operation permit shall be issued only if all Department requirements are met, including the provisions of Rules 62-302.300, 62-302.700 and 62-4.242, F.A.C.

(3) A permit issued pursuant to this section shall:

(a) Specify the manner, nature, volume and frequency of the discharge permitted;

(b) Require proper operation and maintenance of any pollution abatement facility by qualified personnel in accordance with standards established by the Department; and

(c) Contain such additional conditions, requirements and restrictions as the Department deems necessary to preserve and protect the quality of the receiving waters and to ensure proper operation of the pollution control facilities.

(4) An operation permit may be renewed upon application to the Department. No renewal permit shall be issued if the Department finds that the proposed discharge will reduce the quality of the receiving waters below the classification established for them.

Specific Authority 403.061, 403.088 FS. Law Implemented 403.021, 403.031, 403.061, 403.087, 403.088, 403.101 FS. History--New 5-17-72, Formerly 17-4.23, Amended 8-31-88, 10-4-89, Formerly 17-4.240.

62-4.242 Antidegradation Permitting Requirements; Outstanding Florida Waters; Outstanding National Resource Waters; Equitable Abatement.

(1) Antidegradation Permitting Requirements.

(a) Permits shall be issued when consistent with the antidegradation policy set forth in Rule 62-302.300, F.A.C., and, if applicable, Rule 62-302.700, F.A.C.

(b) In determining whether a proposed discharge which results in water quality degradation is necessary or desirable under federal standards and under circumstances which are clearly in the public interest, the department shall consider and balance the following factors:

1. Whether the proposed project is important to and is beneficial to the public health, safety, or welfare (taking into account the policies set forth in Rule 62-302.300, F.A.C., and, if applicable, Rule 62-302.700, F.A.C.); and

2. Whether the proposed discharge will adversely affect conservation of fish and wildlife, including endangered or threatened species, or their habitats; and

3. Whether the proposed discharge will adversely affect the fishing or water-based recreational values or marine productivity in the vicinity of the proposed discharge; and

4. Whether the proposed discharge is consistent with any applicable Surface Water Improvement and Management Plan that has been adopted by a Water Management District and approved by the Department.

(c) For domestic wastewater facilities, in addition to paragraph (b) above, in order for a proposed discharge to be necessary or desirable under federal standards and under circumstances which are clearly in the public interest, the permit applicant must demonstrate that none of the following is economically and technologically reasonable:

1. Implementation of water conservation measures to reduce the flow of domestic wastewater. The engineering report shall include an assessment of the feasibility of implementation of water conservation programs within the area served by the collection system. This paragraph shall apply only to utilities, municipalities, or other entities that have responsibility for both wastewater and water supply;

2. Implementation of infiltration/inflow reduction measures for expansions of domestic wastewater facilities. The engineering report shall include an assessment of an infiltration/inflow reduction program within the area served by the collection system;

3. Reuse of reclaimed water; and

4. Use of other discharge locations, which would reduce adverse impacts on water quality.

(d) For industrial wastewater facilities proposing new or expanded surface water discharges, in addition to paragraph (b) above, in order for the new or expanded industrial wastewater discharge to be necessary or desirable under federal standards and under circumstances which are clearly in the public interest, the permit applicant:

1. Must demonstrate that use of other discharge locations, land application, or recycling at offsite locations that would avoid the degradation of water quality is not economically and technologically reasonable; and

2. Shall submit a signed statement under penalty of law that a waste minimization and source reduction analysis was completed consistent with best management practices appropriate for the type of facility or discharge proposed, as identified in paragraph 62-620.100(3)(m), F.A.C., 40 CFR 122.44(k), and Guidance Manual for Developing Best Management Practices (BMP), U.S. Environmental Protection Agency, Office of Water, Washington, DC, EPA 833-B-93-004, October, 1993.

(2) Standards Applying to Outstanding Florida Waters.

(a) No Department permit or water quality certification shall be issued for any proposed activity or discharge within an Outstanding Florida Waters, or which significantly degrades, either alone or in combination with other stationary installations, any Outstanding Florida Waters, unless the applicant affirmatively demonstrates that:

1. With respect to blowdown from a recirculated cooling water system of a steam electrical generating plant, that the discharge:

a. Meets the applicable limitations of subsection 62-302.520(4), F.A.C., at the point of discharge; or

b. Has a mixing zone established pursuant to paragraph 62-302.520(6)(b), F.A.C., which assures the protection and propagation of a balanced indigenous population of shellfish, fish and wildlife in and on the Outstanding Florida Water, and which is established taking into account the recreational or ecological significance of such water; and

c. Meets the temperature limits of subsection 62-302.520(4), F.A.C., at the boundary of the mixing zone established pursuant to paragraph 62-302.520(6)(b), F.A.C.; or

2. The proposed activity of discharge is clearly in the public interest, and either

a. A Department permit for the activity has been issued or an application for such permit was complete on the effective date of the Outstanding Florida Water designation; or

b. The existing ambient water quality within Outstanding Florida Waters will not be lowered as a result of the proposed activity or discharge, except on a temporary basis during construction for a period not to exceed thirty days; lowered water quality would occur only within a restricted mixing zone approved by the Department; and, water quality criteria would not be violated outside the restricted mixing zone. The Department may allow an extension of the thirty-day time limit on a construction-caused degradation for a period demonstrated by the applicant to be unavoidable and where suitable management practices and technology approved by the Department are employed to minimize any degradation of water quality.

(b) The Department recognizes that it may be necessary to permit limited activities or discharges in Outstanding Florida Waters to allow for or enhance public use or to maintain facilities that existed prior to the effective date of the Outstanding Florida Water designation, or facilities permitted after adoption of the Outstanding Florida Water designation. However, such activities or discharges will only be permitted if:

1. The discharge or activity is in compliance with the provisions specified in subparagraph (2)(a)2. of this section; or

2. Management practices and suitable technology approved by the Department are implemented for all stationary installations including those created for drainage, flood control, or by dredging or filling; and

3. There is no alternative to the proposed activity, including the alternative of not undertaking any change, except at an unreasonably higher cost.

(c) For the purpose of this section the term “existing ambient water quality” shall mean (based on the best scientific information available) the better water quality of either (1) that which could reasonably be expected to have existed for the baseline year of an Outstanding Florida Water designation or (2) that which existed during the year prior to the date of a permit application. It shall include daily, seasonal, and other cyclic fluctuations, taking into consideration the effects of allowable discharges for which Department permits were issued or applications for such permits were filed and complete on the effective date of designation.

(d) Subsection 62-4.242(2), F.A.C., shall not apply to any dredge or fill activity or any discharge to an Outstanding Florida Water permitted by the Department on, or for which a complete permit application was filed on, the effective date of an Outstanding Florida Water designation; nor shall it apply to any renewal of a Department permit where there is no modification in the dredge or fill activity or discharge which would necessitate a permit review.

(e) Any activity that is exempted from permit programs administered by the Department is not subject to the requirements of Rule 62-4.242, F.A.C.

(f) For the Apalachicola River north of Gulf County, this section shall not apply in the federally-authorized nine-foot navigation project, as follows:

1. Maintenance dredging and disposal and snag removal by the Army Corps of Engineers as presently performed pursuant to existing permits and its continuation under renewals thereof; or

2. Class A and B emergencies as defined in subsection 62-312.150(5), F.A.C.; or

3. Exemptions to permitting specified in Section 403.813, F.S., and Department rules; or

4. Any other permissible project of the Army Corps of Engineers deemed necessary by the Department pursuant to the considerations referenced in paragraph 62-302.100(10)(c), F.A.C.

(3) Standards Applying to Outstanding National Resource Waters:

(a) All discharges or activities that may cause degradation of water quality in Outstanding National Resource Waters are prohibited, other than:

1. Discharges or activities that are exempted by statute from Department permitting or regulation;

2. Those discharges or activities described in sub-subparagraphs 62-4.242(2)(a)1.b., 62-4.242(2)(a)1.c., and 62-4.242(2)(a)2.b., F.A.C.

(b) Discharges or activities that would have the result of clearly enhancing the water quality of Outstanding National Resource Waters are not prohibited.

(c) In addition, the following restrictions apply on Outstanding National Resource Waters. Each is listed below, followed by a reference to DEP rules or Florida Statutes:

1. Water quality reclassification to a class with less stringent criteria is not allowed (Rule 62-302.400, F.A.C.).

2. New or expanded mixing zones cannot be issued other than those for thermal discharges as allowed in subparagraph 62-4.242(1)(a)1., F.A.C.

3. Temporary Operation Permits cannot be renewed (Rule 62-4.250, F.A.C.).

4. General Permits cannot be used.

5. Exemptions from water quality criteria cannot be issued (Rule 62-4.243; subsections 62-6.020(5), (6), and (7); 62-25.030(3); and Rule 62-528.300, F.A.C.).

6. Variances shall not be issued (Sections 403.201 and 403.938, F.S.).

7. Any special restrictions for water quality protection in Outstanding Florida Waters, whether in Department rules or Florida Statutes, also apply in Outstanding National Resource Waters.

(d) This subsection shall not apply to any existing activity permitted, exempted, or for which a completed application for permit was filed, on or before the effective date of the Outstanding National Resource Water designation; nor shall it apply to any renewal of a Department permit where there is no modification of the activity which would necessitate a permit review.

(e) Paragraph 62-4.242(3)(d), F.A.C., shall not apply to any activity which contributes to the degradation of water quality in an Outstanding National Resource Water beyond those levels established for the baseline year.

(4) Equitable Abatement.

(a) It shall be Department policy to further protect and enhance the quality of those surface waters whose quality has been artificially lowered below the quality necessary to support their designated uses. For such waters, no new activity or discharge shall be issued a Department license to construct unless the applicant affirmatively demonstrates that:

1. Water quality standards once achieved would not be violated as a result of the proposed activity or discharge;

2. The proposed activity or discharge is necessary or desirable under federal standards; and

3. The proposed activity or discharge is clearly in the public interest.

(b) To allocate equitably the relative levels of responsibility for abatement among persons directly discharging significant amounts of pollutants into waters which fail to meet one or more of the water quality criteria applicable to those waters, it is necessary to determine the amounts of those pollutants contributed by each of those persons and to consider all factors relevant to the equitable allocation of that responsibility. The following provisions of this section prescribe the means by which the Department, upon the petition of a license applicant, will equitably allocate among such persons the relative levels of abatement responsibility of each for abatement of those pollutants and by which it will establish for each of those persons, if necessary, an abatement program and schedule to accomplish any abatement determined necessary under the provisions of this section.

(c)1. For a surface water body, or portion thereof, which is determined by the Department to fail to meet one or more of the water quality criteria applicable to that water body, an applicant for a license to construct or operate a stationary installation to discharge wastes which contributes, or will contribute, to that failure may petition the Department in writing for an equitable allocation of the relative levels of responsibility for abatement among the stationary installations which discharge significant amounts of one or more of the pollutants which contribute to the failure of those waters to meet the water quality criterion (a) specified in the petition.

2. The applicant shall identify in the petition the location of each of the existing stationary installations which it wishes the Department to consider and the legal name and mailing address of the owners of each of those stationary installations.

3. The county government within which each stationary installation identified under subparagraphs 1. and 2. of this paragraph is located shall be given notice of the proceeding, as shall the municipality, if the stationary installation is located within a municipality.

4. The Department may identify any other owners of existing stationary installations which it deems necessary to allocate equitably the relative levels of responsibility for abatement of pollutants which contribute to the failure of those waters to meet any criterion specified in the petition.

5. Those owners identified by the petitioner and the Department shall be joined as parties in the licensing proceeding. Nothing shall preclude any party from requiring the joinder, as a party to the proceeding, of the owner of any other existing stationary installation upon written motion and an affirmative demonstration that such stationary installation is discharging significant amounts of one or more pollutants which contribute to the failure of the subject water body to meet any criterion specified in the petition. A motion for joinder shall be filed within 20 days of receipt by the movant of notice that it has been joined in the proceeding.

(d) License applications filed by the petitioner, or any other party, for waste discharges which are identified pursuant to paragraph (2)(c) above in the equitable allocation process under this section shall be deemed incomplete or the subject of a dispute of material fact for purposes of Chapter 120, F.S. However, if an application for renewal of an existing license has been timely filed with the Department, the existing license shall remain in full force and effect until such time as a new or modified license has been issued pursuant to paragraph (2)(k).

(e) Prior to determining the most equitable allocation of responsibility for abatement under paragraph (f), the Department shall determine the percentage and quantification of the total contribution and the contribution by each of the stationary installations identified under paragraph (c) of the pollutants identified under paragraph (c) which contributes to the failure of the subject waters to meet the water quality criterion specified in the petition. Provided, however, that the Department, upon petition by an affected party pursuant to Rule 62-3.031, F.A.C., may establish more appropriate less stringent criteria upon which to base quantification calculations. For the purpose of performing quantification calculations, the Department shall assume waste discharges entering the water body from an adjacent state as a separate point source of pollution.

(f) The following factors shall be considered by the Department in determining the most equitable allocation among the parties identified pursuant to paragraph (c) of the relative levels of responsibility of each for abatement of the pollutants with which the petition is concerned:

1. The percentage and quantification of the abatement achieved by abatement techniques previously undertaken, if any, by each of those stationary installations and the costs previously incurred, if any, with respect to each, along with any economic or production benefits gained from said abatement techniques.

2. The identification and estimated cost of alternative abatement techniques available for each stationary installation. Identified techniques shall include:

a. Those techniques which would abate the level of pollutants to the degree required by the quantities of contributed pollutants determined under paragraph (e), or the maximum degree possible, if the degree required is not presently attainable.

b. Those techniques which would abate additional quantities of pollutants beyond the quantities determined under paragraph (e) and the approximate percentage of additional abatement which could be provided.

3. The economic and production impacts of additional abatement on each party, if any.

4. Other environmental impacts of available abatement techniques.

(g) In determining the percentages and quantities under paragraph (e), the Department shall use the best scientific and technical information, methods, and data in the possession of the Department.

(h) Each party to the licensing proceeding shall provide the Department, and each other party except as provided by Section 403.111, F.S., with any information which is requested by the Department and necessary for the determination under paragraphs (e) and (f). With regard to the determination under sub-subparagraph (f)2.ii., however, parties shall only be required to provide that information within their possession at the time of the Department's request. The Department shall make available to a party any information in its possession, and shall provide reasonable assistance to any party in identifying that information which would assist the party in complying with the Department's request.

(i) Each party shall undertake a program approved by the Department to abate the quantity of contributed pollutants for which it is determined responsible under paragraph (e). Such abatement program shall include but not be limited to, a quantified effluent limitation, best management practices or specific techniques for abatement, and a schedule for commencement and completion of

the required abatement. In establishing an abatement schedule, the Department shall consider the previous abatement efforts and their costs, the reasonable remaining usable life of the discharge facility, and any commitments for phasing out the discharge from the facility.

(j) An abatement program required under paragraph (i) may include the agreement of one owner to undertake additional abatement on behalf of another owner. When such an agreement has been executed fully and filed in writing with the Department within a reasonable period of time set by the Department, the agreement shall be recognized in the licenses of the signatory parties to the extent that it satisfies the levels of abatement, determined for those parties under paragraph (e).

(k) Each party shall be issued an appropriate license or modified license, which shall include any abatement program required of the party and approved under paragraph (i), as well as any other conditions authorized by Chapter 403, F.S.

Specific Authority 373.016, 373.171, 403.061, 403.062, 403.087, 403.088, 403.504, 403.704, 403.804, 403.805 FS. Law Implemented 373.016, 373.171, 403.021, 403.061, 403.087, 403.088, 403.101, 403.111, 403.121, 403.141, 403.161, 403.182, 403.502, 403.702 FS. History—New 3-1-79, Amended 5-14-81, 9-30-82, 3-31-83, 4-9-84, 11-29-84, 12-11-84, 5-8-85, 7-22-85, 8-31-88, 9-13-89, 10-4-89, Formerly 17-4.242, Amended 1-23-95, 5-15-02.

62-4.243 Exemptions from Water Quality Criteria.

(1) Exemptions for Artificial Water Bodies Classified for Agricultural Water Supplies.

(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, F.S., issue an Order for the duration of the permit specifically exempting a source of pollution from the Class IV water quality criteria contained in Rule 62-3.131, F.A.C., for wholly artificial bodies of water upon affirmative demonstration by the Petitioner of the following:

1. Granting the exemption is in the public interest; and
2. The public has limited access to the waters under consideration; and
3. The waters are not used for recreation; and
4. Compliance with presently specified criteria is unnecessary for the protection of potable water supplies and animals, plants, or aquatic life using the waters; and
5. Granting the exemption will not interfere with existing uses or the designated use of the waters or contiguous waters; and
6. The economic, environmental and social costs of compliance with the existing criteria outweigh the social, environmental, economic and social benefits of compliance; and additionally,
7. The presently specified water quality criteria cannot be met with currently available technology; or
8. The costs of compliance with the presently specified criteria involved are so high that they must be spread over a considerable period of time; or
9. Some other type of hardship will occur.

(b) The Petitioner shall affirmatively demonstrate those criteria 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.

(2) Exemptions for Water Bodies Classified for Navigation, Utility and Industrial Use.

(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, F.S., issue an Order for the duration of the permit specifically exempting sources of pollution from the Class V water quality criteria contained in Rule 62-3.141, F.A.C., upon affirmative demonstration by the petitioner of the following:

1. Granting the exemption is in the public interest; and
2. Compliance with presently specified criteria is unnecessary for the protection of potable water supplies and animals, plants, or aquatic life utilizing the waters; and
3. Granting the exemption will not interfere with existing uses or the designated use of the waters, or of contiguous waters; and
4. The economic, environmental and social costs of compliance with the existing criteria outweigh the social, environmental and economic benefits of compliance; and additionally,
5. The present specific water quality criteria cannot be met with currently available technology; or
6. The costs of compliance with the presently specified criteria involved are so high that they must be spread over a considerable period of time; or
7. Some other type of hardship will occur.

(b) The Petitioner shall affirmatively demonstrate those criteria 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 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805 FS. Law Implemented 403.021, 403.061, 403.087, 403.088, 403.101, 403.121, 403.141, 403.161, 403.182, 403.201, 403.502, 403.702, 403.708 FS. History—New 3-1-79, Amended 1-1-83, 2-1-83, 8-31-88, Formerly 17-4.243.

62-4.244 Mixing Zones: Surface Waters.

(1) Zones of mixing for non-thermal components of discharges.

(a) The Department may allow the water quality adjacent to a point of discharge to be degraded to the extent that only the minimum conditions described in subsection 62-3.051(1), F.A.C., apply within a limited, defined region known as the mixing zone. Under the circumstances defined elsewhere in this section, a mixing zone may be allowed to provide an opportunity for mixing and thus to reduce the costs of treatment. However, no mixing zone or combination of mixing zones shall be allowed to significantly impair any of the designated uses of the receiving body of water.

(b) A zone of mixing shall be determined based on the following:

1. The condition of the receiving body of water including present and future flow conditions and present and future sources of pollutants.

2. The nature, volume and frequency of the proposed discharge including any possible synergistic effects with other pollutants or substances which may be present in the receiving body of water.

3. The cumulative effect of the proposed mixing zone and other mixing zones in the vicinity.

(c) Except for the thermal components of discharges and nitrogen and phosphorus acting as nutrients, mixing zones which do not adhere to all of provisions paragraphs (1)(d) through (j) shall be presumed to constitute a significant impairment of the designated uses of surface waters of Classes I, II and III. An applicant for a mixing zone may obtain an exemption from these limitations as follows:

1. The applicant shall provide public notice, which shall be prepared or approved by the Department, in a newspaper of general circulation in the area in which the mixing zone is proposed. The notice shall identify the specific exemption it is seeking and notice the time, date and place of a public meeting at which, if the meeting is requested, the Department will consider comments to the requested exemption. The notice shall allow a person to request such a public meeting by contacting the Department within 14 days of the publication of the notice. If there is no such request, a public meeting is not required.

2. The applicant shall arrange for a public meeting which will be held if requested at which the Department will consider public comments on the exemption that is being sought. The Department shall also provide for public notice of the meeting in the Florida Administrative Weekly.

3. The applicant shall affirmatively demonstrate to the Department that the mixing zone exemption will not produce a significant adverse effect on the established community of organisms in the receiving body of water or otherwise significantly impair any of the designated uses of the receiving body of water.

4. The applicant shall affirmatively demonstrate to the Department that the requirements of paragraph (5)(c) of this section will be met.

(d) A mixing zone shall not include an existing drinking water supply intake or any other existing water supply intake if the constituents of such mixing zone would significantly impair the purposes for which the supply is used.

(e) A mixing zone shall not include a nursery area of indigenous aquatic life or any area approved by the Department of Environmental Protection for shellfish harvesting.

(f) In canals, rivers, streams, and other similar water bodies, the maximum length of a mixing zone shall be no more than 800 meters. In no case shall a mixing zone be larger than is necessary for the discharge to completely mix with the receiving water to meet water quality standards, and in no case shall a mixing zone significantly impair the designated use of the water body other than within the boundaries of the mixing zone.

(g) In lakes, estuaries, bays, lagoons, bayous, sounds, and coastal waters, the area of mixing zone shall be 125,600 square meters unless a lesser area is necessary to prevent significant impairment of a designated use. In no case shall a mixing zone be larger than is necessary to meet water quality standards.

(h) In open ocean waters, the area of a mixing zone shall be 502,655 square meters unless a lesser area is necessary to prevent significant impairment of a designated use. In no case shall a mixing zone be larger than is necessary to meet water quality standards.

(i) The mixing zones in a given water body shall not cumulatively exceed the limits described below:

1. In rivers, canals, and streams, and tributaries thereto and other similar water bodies: 10% of the total length;

2. In lakes, estuaries, bays, lagoons, bayous and sounds: 10% of the total area.

(j) Additional standards which apply within mixing zones in Class I, II and Class III water are as follows:

1. The dissolved oxygen shall not average less than 4.0 milligrams per liter; and

2. The turbidity shall not average greater than 41 Nephelometric Turbidity Units above natural background.

(k) Mixing zones in Class IV and V waters are subject only to the provisions of paragraph (d) above and of Rule 62-3.051, F.A.C., and shall not significantly impair the designated uses of the receiving body of water.

(2) There shall be no mixing zone for any component of any discharge unless a Department permit containing a description of its boundaries has been issued for that component of the discharge.

(3)(a) Waters within mixing zones shall not be degraded below the minimum standards prescribed for all waters at all times in Rule 62-302.500, F.A.C. In determining compliance with the provisions of subsection 62-302.500(1), F.A.C., the average concentration of the wastes in the mixing zone shall be measured or computed using generally accepted scientific techniques provided that, the maximum concentration of wastes in the mixing zone shall not exceed the amount lethal to 50% of the test organisms in 96 hours (96 hr. LC₅₀) for a species significant to the indigenous aquatic community, except as provided in paragraph (b) or (c) below. The dissolved oxygen value within any mixing zone shall not be less than 1.5 milligrams per liter at any time or place, except for an open ocean discharge which must be above 1.5 milligrams per liter within 20 feet of the outfall structure.

(b) The maximum concentration of wastes in the mixing zone (except for open ocean discharges) may exceed the 96 hr. LC₅₀ only when all of the following conditions are satisfied.

1. Dilution ratio of the effluent exceeds 100:1 under critical conditions. That is, flow in the receiving waters exceeds 100 units for every unit of effluent flow under critical conditions. Critical conditions are defined as those under which least dilution of the effluent is expected, e.g., maximum effluent flow and minimum receiving stream flow.

2. High rate diffusers or other similar means are used to induce rapid initial mixing of the effluent with the receiving waters such that exposure of organisms to lethal concentrations is minimized.

3. Toxicity must be less than acute [as defined in subsection 62-3.021(1), F.A.C.] no more than a distance of 50 times the discharge length scale in any spatial direction. The discharge length scale is defined as the square root of the cross-sectional area of any discharge outlet. In the case of a multiport diffuser, this requirement must be met for each port, using the appropriate discharge length scale for that port. This restriction will ensure a dilution factor of at least 10 within this distance under all possible circumstances, including situations of severe bottom interaction, surface interaction, or lateral merging.

4. The effluent when diluted to 30% of full strength, shall not cause more than 50% mortality in 96 hours (96 hr. LC₅₀) in a species significant to the indigenous aquatic community.

5. If the following pollutants are present in the effluent, their concentrations (in the effluent) shall not exceed the values listed:

Acrylonitrile 65 ug/l

Aldrin 7.5 ng/l

Dieldrin 7.5 ng/l

Benzene 4 mg/l

Benzidine 53 ng/l

Beryllium 6.4 ug/l

Cadmium 100 ug/l

Carbon Tetrachloride 694 ug/l

Chlordane 48 ng/l

Chlorinated ethanes:

1,2-dichloroethane 24.3 mg/l

1,1,2-trichloroethane 4.2 mg/l

1,1,2,2-tetrachloroethane 1 mg/l

Hexachloroethane 874 ug/l

Chloroalkyl Ethers:

bis(chloromethyl) ether 184 ng/l

bis(2-chloroethyl) ether 136 ug/l

Chloroform 1.57 mg/l

Chromium (hexavalent) 0.5 mg/l

DDT 2.4 ug/l

Dichlorobenzidine 2 ug/l

1,1-Dichloroethylene 185 ug/l

Dinitrotoluene 11 ug/l

Diphenyldrazine 56 ug/l

Ethylbenzene 33 mg/l

Fluoranthene 540 ug/l

Halomethanes 1.6 mg/l

Heptachlor 29 ng/l

Hexachlorobenzene 74 ng/l

Hexachlorocyclohexane

αHexachlorocyclohexane 310 ng/l

βHexachlorocyclohexane 547 ng/l

γHexachlorocyclohexane 625 ng/l

Lead 0.5 mg/l

Mercury 1.5 ug/l
Nickel 1 mg/l
Nitrosamines 124 ug/l
Polynuclear aromatic hydrocarbons 3 ug/l
Polychlorinated biphenyls (PCBs) 8 ng/l
Selenium 100 ug/l
Tetrachloroethylene 885 ug/l
Thallium 480 ug/l
Toxaphene 73 ng/l
Trichloroethylene 8 mg/l
Vinyl Chloride 52 mg/l

(c) For open ocean discharges:

1. The effluent, when diluted to 30% full strength with water having a salinity representative of the average receiving-water's salinity, shall not cause more than 50% mortality in 96 hours (96-hr. LC₅₀) in a species significant to the indigenous aquatic community.

2. Rapid dilution shall be ensured by the use of multiport diffusers, or a single port outfall designed (by a professional engineer registered in Florida) to achieve a minimum of 20:1 dilution of the effluent prior to reaching the surface. This dilution shall be determined using the appropriate plume model described in the EPA document, "Initial Mixing Characteristics of Municipal Ocean Discharges: Volume 1. Procedures and Applications," using the "Single plume, stagnant ambient" procedures or current speeds as established by field measurements. Miami-Dade Central District, Miami-Dade North District, City of Hollywood, and Broward County may use 12.3 cm/sec as a default value for ambient current speed at the present location of their respective outfalls. Alternatively, dilution studies for facilities not using the "Single plume, stagnant ambient" procedures or the 12.3 cm/sec default ambient current speed (as appropriate) shall be conducted in accordance with a site-specific Department approved Plan of Study. The Plan of Study shall be approved upon a demonstration by the applicant that the plan will produce data to characterize the daily, seasonal, and annual fluctuations in current speed and direction. The discharge shall otherwise comply with federal law.

3. For open ocean dischargers that comply with the requirements of subparagraphs 62-4.244(3)(c)1. and 2., F.A.C., compliance with applicable water quality criteria specified in Rule 62-302.530, F.A.C. (criteria), must be achieved by the point the discharge attains 20:1 dilution rather than at the point of discharge. Mixing zones shall not be necessary for any parameter that requires 20:1 dilution or less to attain criteria. However, effluent limitations will be set by permit, and dilutions will be granted up to 20:1 in these limitations, for parameters that exceed criteria at the end-of-pipe.

a. The demonstration of required dilution shall be determined by the ratio of the worst case effluent concentration (WCEC) minus the worst case background concentration to the criterion minus the worst case background concentration, i.e.:

$$\frac{(\text{Worst case effluent concentration} - \text{Worst case background concentration})}{\text{Criterion} - \text{Worst case background concentration}}$$

(Criterion – Worst case background concentration)

b. The WCEC for parameters that exceed criteria in the effluent shall be the 95th percentile effluent concentration (of DMR or other data collected in accordance with the sampling requirements of the permit measured for the most recent 3-year monitoring period, at the time of permit renewal) for each such parameter and not based on the maximum amount of dilution available. The WCEC used to demonstrate the required dilution for a parameter shall also be used as a facility performance check for each such parameter. Any exceedance of the WCEC shall provide sufficient cause for the Department to re-evaluate the applicability of this section and revise the permit. Additionally, any measured value(s) of sufficient concentration to require greater than 20:1 dilution to attain criteria shall be considered as a violation of the permit.

4. Subparagraph 62-4.244(3)(c)3., F.A.C., does not apply to bacterial criteria or silver in marine waters.

(4) Except for the minimum conditions of waters as specified in Rule 62-3.051, F.A.C., and the provisions of Rule 62-4.244, F.A.C., no other water quality criteria apply within a mixing zone.

(5) Mixing zones for dredge and fill permits shall not be subject to provisions paragraphs (1)(c) through (j), subsection (2), (3), or (4) of this section, provided that applicable water quality standards are met at the boundary and outside the mixing zone.

(a) The dimensions of dredge and fill mixing zones shall be proposed by the applicant and approved, modified or denied by the Department.

(b) Criteria for departmental evaluation of a proposed mixing zone shall include site-specific biological and hydrographic or hydrological considerations.

(c) In no case shall the boundary of a dredge and fill mixing zone be more than 150 meters downstream in flowing streams or 150 meters in radius in other bodies of water, where these distances are measured from the cutterhead, return flow, discharge, or other points of generation of turbidity or other pollutants.

(6) Where a receiving body of water fails to meet a water quality standard for pollutants set forth in department rules, a steam electric generating plant discharge of pollutants that existed or was licensed on July 1, 1984, may be granted a mixing zone, provided that:

(a) The standard would not be met in the water body in the absence of the discharge; and

(b) The discharge is in compliance with all applicable technology-based effluent limitations; and

(c) The discharge does not cause a measurable increase in the degree of noncompliance with the standard at the boundary of the mixing zone; and

(d) The discharge otherwise complies with the mixing zone provisions specified in this section.

(7) Additional relief from mixing zone restrictions necessary to prevent significant impairment of a designated use is through:

(a) Reclassification of the water body pursuant to Rule 62-3.081, F.A.C.;

(b) Variance granted pursuant to Section 403.201, F.S., and Rule 62-103.100, F.A.C.

(c) Modification of the requirements of this section for specific criteria by the Secretary upon compliance with the notice and hearing requirements for mixing zones set forth in paragraph (1)(c) above and upon affirmative demonstration by an applicant that the applicant's discharge from a source existing on the effective date of this rule complies with best technology economically achievable, best management practices, or other requirements set forth in Chapter 62-6, F.A.C., and the economic, environmental and social costs of compliance with the existing criteria outweigh the social, environmental, and economic benefits of compliance with more stringent discharge limitations necessary to comply with mixing zone requirements of subsection 62-4.244(1), F.A.C., and the provisions relating to dissolved oxygen in Rule 62-4.244, F.A.C.

1. No discharger may be issued more than one permit or permit modification or renewal which allows a modification pursuant to this subsection unless the applicant affirmatively demonstrates that it has undertaken a continuing program, approved by the Department, designed to consider water quality conditions and review or develop any reasonable means of achieving compliance with the water quality criteria from which relief has been granted pursuant to this subsection.

2. With respect to paragraphs 62-4.244(1)(c) and 62-4.244(7)(c), F.A.C., the applicant must affirmatively demonstrate the minimum area of the water body necessary to achieve compliance with either subsection. Within a minimum area determined by the Secretary to be necessary to achieve compliance, the discharger shall be exempt from the criterion for which a demonstration has been made.

(d) Whenever site specific alternative criteria are established pursuant to Rule 62-3.031 or paragraph 62-3.061(2)(g), F.A.C., a mixing zone may be issued for dissolved oxygen if all provisions of Rule 62-4.244, F.A.C., are met with the exception of subparagraph 62-4.244(1)(j)1., F.A.C.

Specific Authority 403.051, 403.061, 403.062, 403.087, 403.804, 403.805 FS. Law Implemented 403.021, 403.051, 403.061, 403.087, 403.088, 403.101, 403.121, 403.141, 403.161, 403.182, 403.201, 403.502, 403.702, 403.708 FS. History—Formerly part of 17-3.05, Revised and Renumbered 3-1-79, Amended 10-2-80, 1-1-83, 2-1-83, 2-19-84, 4-26-87, 8-31-88, 10-17-90, Formerly 17-4.244, Amended 3-26-00.

62-4.246 Sampling, Testing Methods, and Method Detection Limits for Water Pollution Sources.

(1) The Department shall require monitoring and sampling for pollutants reasonably expected to be contained in the discharge and to violate the water quality criteria in Chapter 62-302, F.A.C.

(2) Field testing, sample collection and preservation, laboratory testing, including quality control procedures, and all record keeping shall comply with Chapter 62-160, F.A.C.

(3) Subsections (4)-(11) of this rule apply only to permit applications, permits, monitoring reports, and other sources of data relating to discharges to surface waters.

(4) Using generally accepted scientific procedures, the Department shall establish and publish a method detection limit (MDL) and practical quantification limit (PQL) for each approved analytical method for a parameter (including any pollutant). On request, the Department shall make available a list of all current established MDLs and PQLs. The permittee may request and the Department shall consider approval for alternative methods or for alternative MDLs and PQLs for any approved analytical method, in accordance with the criteria of Rules 62-160.520 (New Methods, Validation Requirements) and 62-160.530 (Approval of Alternate Test Procedures), F.A.C. Permit applications, permits, and monitoring reports shall specify the applicable MDL and PQL established by the Department for each pertinent parameter.

(5) When establishing effluent limits in accordance with Rule 62-650, F.A.C., for pollutants for which MDLs are higher than the established water quality criteria, the Department shall base the limits on concentrations in the receiving waters computed in accordance with generally accepted scientific procedures and with subsections (8), (10) and (11) of this section. Permit applications and monitoring reports shall identify results below the MDL. Except as specified in subsections (8) and (10) below, such results shall demonstrate compliance for that pollutant.

(6) All results submitted to the Department for permit applications and monitoring shall be reported as follows.

(a) The approved analytical method and corresponding Department-established MDL and PQL levels shall be reported for each pollutant. The MDLs and PQLs incorporated in the permit shall constitute the minimum reporting levels for each parameter for the life of the permit. The Department shall not accept results for which the laboratory's MDLs or PQLs are greater than those incorporated in the permit. All results with laboratory MDLs and PQLs lower than those established in the permit shall be reported to the Department. Unless otherwise specified, all

subsequent references to MDL and PQL pertain to the MDLs and PQLs incorporated in the permit.

(b) Results greater than or equal to the PQL shall be reported as the measured quantity.

(c) Results less than the PQL and greater than or equal to the MDL shall be reported as less than the PQL and deemed to be equal to the MDL.

(d) Results less than the MDL shall be reported as less than the MDL.

(e) The following table is intended as a guide in the use of paragraphs (6)(b)-(d) for determining compliance with permit limits. Common abbreviations used in this table are as follows:

- PQL means practical quantification limit
- MDL means method detection limit
- > means greater than
- ≥ means less than
- = means equal to.

PERMIT LIMIT (6)(b)	Table 1 COMPLIANCE DETERMINATION		
	DATA	COMPLIANCE	NONCOMPLIANCE
Greater than or Equal to PQL	> Permit Limit		*
	≥ or = Permit Limit	*	
(6)(c) Less Than PQL But Greater Than or Equal to MDL	> or = ≥ PQL	*	
	≥ PQL	*	
(6)(d) Less Than MDL	> or = MDL		*
	≥ MDL	*	

(7) When all the results or projected concentrations for the effluent and the receiving water are below the MDL for a particular parameter, the Department shall deem the permittee to be in compliance with the applicable criterion or permit limit, subject to the provisions of subsections (8) and (10) below, when applicable.

(8) The presence of toxicity (as established through biomonitoring), data from analysis of plant or animal tissue, contamination of sediment in the vicinity of the installation, intermittent violations of effluent limits or water quality standards, or other similar kinds of evidence reasonably related to the installation may indicate that a pollutant in the effluent may cause or contribute to violations of water quality criteria. If there is such evidence of possible water quality violations, then (unless the permittee has complied with subsection (9) below) in reviewing reports and applications to establish permit conditions and determine compliance with permits and water quality criteria, the Department shall treat any result less than the MDL of the method required in the permit or the method as required under subsection (10) below or any lower MDL reported by the permittee's laboratory as being one half the MDL (if the criterion equals or exceeds the MDL) or one half the criterion (if the criterion is less than the MDL), for any pollutant. Without the permission of the applicant, the Department shall not use any values determined under this subsection or subsection (9) below for results obtained under a MDL superseded later by a lower MDL.

(9) As an alternative to the procedure described in subsection (8) above for determining the value of any result, the permittee may select and follow any procedure if set forth in any of the sources listed in this subsection below or shown by the permittee to provide equivalent reasonable assurance of accuracy and reliability, and if applicable to the particular discharge. Such equivalency of reasonable assurance and the applicability of each such procedure shall be determined in accordance with generally accepted methods of statistical analysis for that procedure. The following sources are incorporated here by reference.

(a) Gilbert, O.R., 1987. Statistical Methods For Environmental Pollution Monitoring, Van Nostrand Reinhold Company.

(b) Hollander, M., and D.A. Wolfe, 1973. Nonparametric Statistical Methods. Wiley, New York.

(c) USEPA. 1989. Draft Technical Guidance Manual for Performing Wasteload Allocations. Book III: Estuaries. Part 1: Estuaries and WLA Models. Center for Exposure Assessment Modeling. Athens, Ga.

(d) USEPA. 1991. Technical Support Document for Water Quality-Based Toxics Control. Office of Water Regulations and Standards. Washington, DC. EPA/505/2-90-001.

(e) USEPA. 1983. Technical Guidance Manual for Performing Wasteload Allocations. Book II: Streams and Rivers. Chapter 1: Biochemical Oxygen Demand/Dissolved Oxygen. Office of Water Regulations and Standards. Washington, DC. EPA/440/4-84/020.

(f) USEPA. 1983. Technical Guidance Manual for Performing Wasteload Allocations. Book II: Streams and Rivers. Chapter 2: Nutrient/Eutrophication Impact. Office of Water Regulations and Standards. Washington, DC. EPA/440/4-84/021.

(g) USEPA. 1984. Technical Guidance Manual for Performing Wasteload Allocations. Book II: Streams and Rivers. Chapter 3: Toxic Substances. Office of Water Regulations and Standards. Washington, DC. EPA/440/4-84/022.

(h) USEPA. 1983. Technical Guidance Manual for Performing Wasteload Allocations. Book IV: Lakes and Impoundments. Chapter 2: Nutrient/Eutrophication Impacts. Office of Water Regulations and Standards. Washington, DC. EPA/440/4-84/019.

(i) USEPA. 1986. Technical Guidance Manual for Performing Wasteload Allocations. Book IV: Lakes and Impoundments. Chapter 3: Toxic Substances. Office of Water Regulations and Standards. Washington, DC. EPA/440/4-87/002.

(j) USEPA. 1986. Technical Guidance Manual for Performing Wasteload Allocations. Book VI: Stream Design Flow for Steady-State Modeling. Office of Water Regulations and Standards. Washington, DC. EPA/440/4-87/004.

(k) USEPA. 1985. Water Quality Assessment: A Screening Procedure for Toxic and Conventional Pollutants. Office of Research and Development. Athens, Ga. EPA/600/6-85/002 a and b.

(10) If there is evidence of possible water quality violations as set forth in subsection (8) above, and if the water quality criterion for the pollutant is lower than the MDL, the Department shall require the permittee to use the approved analytical method with the lowest MDL from those published by the Department or established by the permittee's laboratory for each such pollutant, for all reports and applications, to establish permit conditions and determine compliance. The Department shall not require the permittee to use an MDL lower than necessary to demonstrate compliance.

(11) If there is evidence that a pollutant in the effluent is reasonably expected to cause or contribute to water quality violations but there is no evidence of the presence of that pollutant in the ambient background receiving water, the Department shall treat the ambient background value of that pollutant in the receiving water as zero in establishing the pertinent effluent limit.

Specific Authority 403.051, 403.061, 403.087, 403.504, 403.704, 403.804, 403.805 FS. Law Implemented 403.021, 403.051, 403.061, 403.087, 403.088, 403.091, 403.121, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708 FS. History—Formerly 17-3.03, Amended and Renumbered 3-1-79, Amended 4-26-87, 8-31-88, 6-4-92, 6-13-93, Formerly 17-4.246.

62-4.249 Preservation of Rights.

In the event any of the moderating provisions described in paragraph 62-3.011(18)(b), F.A.C., are declared invalid by a court of competent jurisdiction or a hearing officer pursuant to Section 120.56, F.S., then the Environmental Regulation Commission shall, at the earliest opportunity, reconsider the affected provisions and all other relevant portions of this rule to determine if alternative provisions should be adopted in order to resolve issues resulting from such decision or action and to assure that the intent expressed in subsection 62-3.011(18), F.A.C., is fully implemented.

Specific Authority 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805 FS. Law Implemented 403.021, 403.061, 403.087, 403.088, 403.091, 403.101, 403.121, 403.141, 403.161, 403.182, 403.502, 403.702, 402.708 FS. History—New 3-1-79, Amended 8-31-88, Formerly 17-4.249.

62-4.250 Water Pollution Temporary Operation Permits; Conditions.

(1) A person who does not qualify for a water pollution operation permit or has been denied such permit may apply to the Department for a water pollution temporary operation permit. Application shall be made in accordance with Part I of Chapter 62-4, F.A.C.

(2) The Department shall give notice to residents in the drainage area affected by the proposed discharge informing them when they may present objections to the proposed discharge.

(3) No water pollution temporary permit shall be granted until all requirements of subsection (3) of Section 403.088, F.S., are fulfilled.

(4) If the Department deems such action is necessary or desirable to protect the quality of the receiving waters and promotes the public interest, it may issue a Temporary Operation Permit which places restrictions or limitations on increasing the flows of sewage through or additional connections to the sewage treatment facility involved.

(5) No Temporary Operation Permit may be issued or renewed for a direct discharge to an Outstanding Florida Water or Outstanding National Resource Water.

Specific Authority 403.021, 403.031, 403.061, 403.088 FS. Law Implemented 403.021, 403.031, 403.061, 403.087, 403.088(5)(c) FS. History—New 5-17-72, Amended 3-26-74, Formerly 17-4.25, Amended 8-31-88, 9-13-89, Formerly 17-4.250.

PART III PROCEDURES FOR GENERAL PERMITS

62-4.510 Scope of Part III.

This Part defines general permits and establishes the procedures for persons who may wish to use a general permit, except that the procedures for any person who may wish to use a general permit for a source of air pollutant emissions, and all conditions of such a general permit, are established at Chapters 62-210 and 62-213, F.A.C. The provisions of this Part shall not apply to activities regulated under Part IV of Chapter 373, F.S., except those activities in the geographical territory of the Northwest Florida Water Management District and to those activities grandfathered under Sections 373.414(11), (12)(a), (13), (14), (15) and (16), F.S.

Specific Authority 373.026, 373.043, 373.044, 373.109, 373.113, 373.418, 403.021, 403.031, 403.061, 403.087, 403.814(1) FS. Law Implemented 373.026, 373.044, 373.109, 373.409, 373.413, 373.4135, 373.414(9), (11), (12)(a), (13), (14), (15), (16), 373.415, 373.418, 403.021, 403.031, 403.061, 403.087, 403.088, 403.814, 403.702-.73, 403.851-.864 FS. History—New 7-8-82, Formerly 17-4.51, Amended 8-31-88, Formerly 17-4.510, Amended 4-18-95, 7-4-95, 10-16-95, 4-16-01.