Standard Operating Procedure
Illicit Discharges and Improper Disposal

PART III.A.7.c.

PROACTIVE INVESTIGATION OF SUSPECTED ILICIT DISCHARGES
AND/OR IMPROPER DISPOSAL
NPDES WRITTEN PLAN FOR THE PROACTIVE INVESTIGATION OF SUSPECTED ILLICIT DISCHARGES AND/OR IMPROPER DISPOSAL

INTRODUCTION

The National Pollutant Discharge Elimination System (NPDES) regulates the discharge of stormwater under the authority of Section 402(p) of the Clean Water Act (CWA). The Department of Environmental Protection has the designated authority to administer the NPDES program in Florida. Under this authority, the County is regulated as a Phase I MS4 under Permit # FLS00000-004. The current permit term is January 1, 2014 through December 31, 2018.

Several co-permittees are also covered under the same permit: Florida Department of Transportation, Town of Longboat Key, and cities of Sarasota, North Port, and Venice.

Phase I permits require permittees to develop and implement a written proactive inspection program plan for identifying and eliminating illicit discharges, illicit connections, or dumping to the MS4.

An illicit discharge is a discharge to a Municipal Separate Storm Sewer System (MS4) that is not composed entirely of stormwater per Title 40, Code of Federal Regulations Section 122.26(b)(2) and is generally any discharge, release, or pumping of a pollutant or polluted water into the stormwater system.

Illicit discharges may enter the stormwater system through direct or indirect connections, such as: cross-connections of sewer services to the stormwater system; leaking septic systems; intentional discharge of pollutants (e.g., used motor oil) to inlets and catch basins; and floor drains connected to the stormwater system. Illicit discharges can contribute high levels of pollutants, such as heavy metals, oil, grease, solvents, nutrients, and pathogens to the stormwater system.

Sarasota County Air and Water Quality staff conducts proactive inspections and often receives referrals from other County or City of Sarasota staff that locate issues during their daily routine. Sarasota County performs this function for the City of Sarasota under an Interlocal Agreement.

I. ALLOWABLE NON-STORMWATER DISCHARGES

Current municipal NPDES permits require municipalities to effectively prohibit non-stormwater discharges unless authorized by a separate NPDES permit or allowed in accordance with the current NPDES permit conditions. The current permit allows certain non-stormwater discharges in the stormwater system as long as the discharges are not significant sources of pollutants. The following non-stormwater discharges to the MS4 are allowed:

- Water line flushing;
- Landscape irrigation;
- Diverted stream flows;
- Rising ground waters;
• Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)) to separate storm sewers;
• Uncontaminated pumped ground water;
• Discharges from potable water sources;
• Foundation drains;
• Air conditioning condensate;
• Irrigation water;
• Springs;
• Water from crawl space pumps;
• Footing drains;
• Lawn watering;
• Individual residential car washing;
• Flows from riparian habitats and wetlands;
• Dechlorinated swimming pool discharges;
• Street wash waters;
• Discharges or flows from emergency fire fighting activities;
• Reclaimed water line flushing authorized pursuant to a permit issued under the authority of Rule 62-610, F.A.C.; and
• Flows from uncontaminated roof drains.

II. LEGAL AUTHORITY

The legal authority for addressing illicit discharges is clearly identified in the following:

• The Animal Control Code, Chapter 14, Article II, of the Sarasota County Code. Section 14-48 states that in the event the Board designates such areas where Animals are allowed, any Person who owns, harbors or has apparent control over an Animal shall immediately remove fecal matter that is deposited by said Animal upon those areas and dispose of same in a lawful manner. Additionally, any Person who owns, harbors or has apparent control over an Animal shall immediately remove fecal matter that is deposited by the Animal upon any public property, including public rights-of-way, and dispose of same in a lawful manner.

• The Building Code, Chapter 22, Article II, of the Sarasota County Code.

• The Water Pollution Control Code, Chapter 54, Article VII, of the Sarasota County Code. The following sections specifically address illicit/unsupported discharges:

  Section 54-185(a) Addresses the inspector’s right of inspection.

  Section 54-185(b) Addresses the inspector’s authority to collect samples.

  Section 54-185(e) Addresses temporary disconnection of water service for commercial or industrial facilities that contribute to illicit connections.

  Section 54-187(e) Additional water quality standards for Unauthorized Discharges. All waters, at all places, at all times, within the territorial limits of Sarasota County shall be free from the following (domestic Wastewater Facilities regulated by rules adopted in subsection (b) of this section are exempt from these criteria):
(1) Floating substances. Floating debris, oil, grease, petroleum products, scum, or other floating material attributable to municipal, industrial, agricultural, commercial, private, or other discharges in sufficient quantity to be unsightly or deleterious.

(2) Settleable substances. Substances attributed to municipal, industrial, agricultural, commercial, private, or other discharges that will settle to form putrients or otherwise objectionable sludge deposits, including inorganic silt.

(3) Deleterious substances. Sewage, septage, industrial wastewater, or other materials attributable to municipal, industrial, agricultural, commercial, private, or other discharges producing color, odor, or other conditions in such a degree as to create a nuisance, or in such a degree as to be harmful to the environment.

(4) Toxic substances. Substances attributable to municipal, industrial, agricultural, commercial, private, or other discharges in concentrations or combinations that are toxic to humans, animals, plants, or aquatic life.

Section 54-187(f) Unauthorized Discharges.

(1) Any direct or indirect discharge from a Site of Industrial Activity to a Stormwater System that does not comply with, or is not pursuant to, a valid NPDES permit or the provisions of this article is prohibited.

(2) Except as specifically authorized by a valid federal, State, or local permit, the discharge of sewage, industrial waste, or other wastes, whether through runoff, piped connections, seepage, or leaks, into the Stormwater.

(3) No Person may maintain, use, or establish any direct or indirect connection to any part of the Stormwater System that results in any Illicit Discharge that does not comply with, or is not pursuant to, a valid federal, State, or local permit.

(4) No Person shall spill, dump, or discharge, or cause to be spilled or discharged, into any Stormwater conveyance, any materials other than those composed entirely of Stormwater. Exceptions to this prohibition are those identified in Section 54-187(d), and any discharges in compliance with a current individual NPDES permit.

- The Fertilizer and Landscape Management Code, Chapter 54, Article XXXII, of the Sarasota County Code.

- The Solid Waste and Recyclable Materials Collection Code, Chapter 106, Article I, Section 106-1(a): Prohibiting throwing of trash, etc. No person, firm, company or corporation or association shall discharge, throw, place or allow to remain in or upon any private premises, road, street, alley, canal, ditch, stream, lake, pond or public road, street, alley, canal, ditch, stream, lake, pond, bay or other waters, or any other public property, except sanitary landfills and septage treatment facilities duly designated and established by the Board of County Commissioners of Sarasota County, Florida, any filth, offal, garbage, foul water, dye water, refuse from industries or manufactories, untreated or improperly treated effluent, raw sewerage, human urine, human excrement, decayed animal or vegetable matter, septic tank effluent, any matter extracted from septic tanks, or any other offensive substances.

- The Water, Wastewater and Reclaimed Systems Code, Chapter 126, Article III, of the Sarasota County Code.
The legal authority for enforcement is clearly identified in Code Enforcement Code, Chapter 2, Article VIII, of the Sarasota County Code.

III. GUIDANCE MANUALS AND TRAINING RESOURCES

Staff uses the following guidance manuals and training resources to aid in the investigation of illicit discharges:


IV. RESOURCES

The following resources are available to staff:

Table. 1. List of Resources

<table>
<thead>
<tr>
<th>Truck</th>
<th>Digital camera</th>
<th>Handheld GPS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Laptop with air card</td>
<td>Clipboard, pens, waterproof pens</td>
<td>Maps, GIS aerials</td>
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<tr>
<td>Field notebook, field data</td>
<td>Latex gloves</td>
<td>Protective eyeglasses or goggles</td>
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<tr>
<td>sheets</td>
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<tr>
<td>Rubber boots</td>
<td>Cooler and ice</td>
<td>Sample bottles</td>
</tr>
<tr>
<td>Shovel</td>
<td>Manhole hook</td>
<td>Cell phone</td>
</tr>
<tr>
<td>Safety vest</td>
<td>Identification Badge</td>
<td>Hand sanitizer</td>
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<td>Field meters for temperature,</td>
<td>pH paper</td>
<td>Extra batteries for meters</td>
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<td>Sampling pole</td>
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<td>First aid kit</td>
<td>Fire extinguisher</td>
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V. SAFETY MEASURES

The following safety measures shall be adhered to by all staff:

- Maintain first aid kit;
- Maintain fire extinguisher;
- Observe traffic patterns and pedestrian traffic;
- Observe weather patterns and lightning warnings;
- Observe County policy of no smoking in County vehicles;
- Observe County policy of no cell phone use while driving a County vehicle;
- Wear latex gloves while sampling;
- Have awareness of wet, slippery, steep, or unstable conditions;
- Have awareness of Material Safety Data Sheets for all reagents and chemicals;
- Report any injuries and property damage; and
- Do not enter confined spaces.

VI. INDICATORS OF ILLICIT/UNAUTHORIZED DISCHARGES

The following are potential indicators of an illicit/unauthorized discharge:

- Foam—possible upstream vehicle washing activities, chemical discharge or sea foam;
- Oil sheen—possible leak or spill (some oil sheens are common and occur naturally);
- Cloudiness—possible indicator of suspended solids such as dust, ash, powdered chemicals and ground up materials;
- Excessive sediment—possible turbid water from lack of erosion control measures, or concrete and stone cutting operations;
- Sanitary waste—spills, overflows, cross-connection, septic tank discharges;
- Color—fluorescent dyes added to laundry and dishwasher detergent, paint, or algae blooms;
- Odor—sewage, rancid/sour, petroleum/gas, sulfide, chlorine, or decomposition;
- Orange staining—indicator of mineral concentrations such as iron deposits;
- Floatables—sewage, suds, algae, dead fish, and oil and grease sheens (does not include trash or litter);
- Physical indicators—outfall damage, deposits or stains, abnormal or discolored vegetation;
- Dry weather flow—observed flows are considered non-stormwater related, the flow may or may not be an illicit discharge and may be groundwater; and
- Debris—trash, litter, leaves, grass clippings.

VII. PRIORITY ASSESSMENT FOR PROACTIVE INVESTIGATIONS

In addition to maintaining a hotline for citizen concerns, the County is required to proactively conduct field assessments to check for illicit discharges and illegal connections to the MS4 system, creeks, and waterbodies. The following areas of the county are considered priority areas based on the likelihood to contain illicit discharges or illegal connections:

- Areas with repeated problems in the past;
• Older areas with aging infrastructure and areas that were developed without stormwater treatment;
• Commercial and industrial areas close to waterbodies; and
• Food service establishments.

VIII. PRE-INSPECTION

All staff shall be observant in their daily routines to look for illicit discharges or unusual flow and may target areas that have the potential for discharges. Before leaving the office, the inspector shall conduct the following:

• Gather supporting documentation such as field checklists, chain-of-custody forms, maps, property information, etc.;
• Clean and calibrate any field meters; and
• Obtain a variety of sample bottles and cooler.

IX. PROACTIVE INVESTIGATION GUIDELINES

Staff shall obtain the permission of the property owner, business owner or manager, tenant or employee to enter the property for inspection, unless the property is owned by the County (right-of-way, easement, vacant lot, park, stormwater facility, property with public access, etc).

If the incident is regarding a private residence, an attempt should be made to contact the resident by knocking on the front door. If there is no one home, a door hanger can be left for the resident to contact the inspector. The inspector cannot enter the side or backyard or look over fences to investigate unless access is granted.

If the property owner will not give permission to enter the property, the inspector shall promptly leave without an argument.

If the incident is regarding a County facility, the inspector shall contact a facility supervisor or employee to explain the purpose of the inspection and to gather additional information.

If the incident is regarding a residence or issue in a gated community, the inspector shall proceed to the guard house for admittance.

The inspector shall not enter property with a “No Trespassing” sign.

The inspector shall not enter property when the surroundings make them feel uncomfortable or compromise their safety.

In accordance with Section 54-185(a)(6), of the Sarasota County Code, at times other than specified in the code, and at facilities and other properties that do not require permits and are not otherwise closely regulated, inspection can be made by consent or by means otherwise available by law. If consent to inspect is denied or the Inspector can justify the failure to seek consent, Inspectors may obtain an inspection warrant pursuant to Florida Statutes.

In accordance with Section 54-185(a)(7), of the Sarasota County Code, if statutory grounds exist, or if there is probable cause to suspect a criminal violation, Inspectors may contact the appropriate law enforcement personnel to obtain a search warrant and may aid the officer, if required, pursuant to Florida Statutes.
X. SOURCE TRACKING

Staff should trace, document, and eliminate any illicit discharges. Several methods are available for use in locating the source of a discharge, including visual observations, stormwater manhole investigations, chlorine testing, dye testing, video televising, smoke testing, and optical brightener testing.

- **Visual Observations**
  The physical conditions of the stormwater system are observed for outfall damage, outfall staining, vegetation growth, evidence of flow or past flow, water color, benthic growth on pipe, presence of floatables, abnormal vegetation, oil sheen, or any unusual conditions. The field inspector looks for flow especially during dry weather. All observations are recorded on the Proactive Illicit Discharge Tracking Form. Pipes from buildings such as air conditioning condensate, ice machine water, or water softener backwash are recorded and verified.

- **Stormwater Manhole Investigations**
  One of the most common methods of tracking flow is to follow the discharge upstream within the stormwater system by manhole inspections. This is accomplished by following the discharge to the next upstream manhole and working progressively up the stormwater system until the source is isolated or by splitting the contributing stormwater system into equal segments and inspecting the manholes. At each point the area is surveyed for potential sources.

- **Chlorine Testing**
  Chlorine residual testing is often conducted to rule out discharges of drinking water or reuse water. This water may be coming from car washing activities, excessive lawn watering, broken irrigation spray heads, pressure washing, broken public water supply lines or swimming pool discharges. Field meters are used to determine the level of chlorine in the discharge.

- **Dye Testing**
  Fluorescent liquid or powder dye is used to confirm a suspected illicit connection to the stormwater or sewer system. Prior to testing, the inspector obtains permission to access the site and perform the dye testing. Dye is poured or placed into the suspected fixture or pipe then nearby storm drains and sanitary sewer manholes are observed for presence of the dye. Each pipe or fixture is tested separately.

- **Video Televising**
  Cameras are used to record the interior of stormwater pipes to detect any breaks, infiltration, or cross connections. The sections are recorded for viewing at a later date. This technique is expensive, labor intensive, and requires the manpower and resources of Sarasota County Utilities. A third-party contractor may be required.

- **Smoke Testing**
  The introduction of non-toxic smoke into the stormwater system is used to detect illicit connections and broken or damaged pipes. Before any testing can begin, the Fire Department and local residents are notified. This technique is labor intensive as a result of the need for several staff to be stationed at several locations to observe where the smoke exits the system.
• Optical Brightener Testing
Optical brightener testing is conducted as an initial screening to detect the presence of common additives to laundry detergents, soaps, and cleaning agents. These additives increase the “whiteness” of fabric. Water samples are collected or absorbent cotton pads are secured in suspected areas where flow has been detected and later collected after being in place for up to 7 days. The samples are transported to a laboratory for analyses. The pads are observed under a long-wavelength ultraviolet light. The presence of optical brighteners can indicate discharges from homes, failing septic tanks, or laundromats.

XI. DOCUMENTATION

To document the inspection findings, staff completes the Proactive Inspection Form. Refer to Attachment 1. Photographs are taken to support the observations. A hand-drawn sketch of the site can also be useful.

All documentation and field notes are subject to Public Records Requests and should only reflect professional observations and comments.

Taking photographs shall be conducted as follows:

• Take at least one photograph of the site to document the reason for the inspection. For example: If a citizen suspects that there is sewage in a ditch and it turns out to be algae, take a photo to document.
• Photographs can be taken from the street or right-of-way, if the violation is in full view of the inspector.
• Photographs can be taken through a chain link fence.
• Photographs cannot be taken over a privacy fence.
• Photographs shall be properly labeled following the guidelines below. Label should list the incident number, the address, grid number, location of the issue, inspection type, time and date. The label should also list the type of camera and recording media, and if the photos were altered. There also should be a concise description of what the photo is of and the direction it was taken.
• Photographs shall be signed by the photographer.

Example Photograph Log Documentation:

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<tbody>
<tr>
<td>Grid #: G</td>
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<tr>
<td>Facility/Location Name:</td>
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<tr>
<td>Address:</td>
</tr>
<tr>
<td>Inspection Date:</td>
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<tr>
<td>Inspection Time:</td>
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<tr>
<td>Inspection Type:</td>
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<td>Type of Camera Used: ex. (Nikon Coolpix S6500)</td>
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<td>Digital Recording Media:</td>
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<tr>
<td>Were the photos altered? Yes or No</td>
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<tr>
<td>Description:</td>
</tr>
<tr>
<td>Photographer:</td>
</tr>
<tr>
<td>Signature of Photographer:______________</td>
</tr>
</tbody>
</table>
XII. FIELD TESTING AND SAMPLING

To perform field calibrations and testing, staff follows DEP Standard Operating Procedures for Field Quality Control Requirements DEP-SOP-001/01, FQ 1000 and follows the DEP Standard Operating Procedures for General Field Testing and Measurement DEP-SOP-001/01, FT 1000. Primary calibration is conducted by the County Quality Assurance Officer or sent to a certified laboratory.

To collect water quality samples, staff follows the DEP Standard Operating Procedures for General Sampling DEP-SOP-OOI/OI FS 1000.

Staff collects samples, completes Chain-of-Custody form and contacts the County Quality Assurance Officer to arrange for instructions on dropping off samples for transport. The inspectors shall be aware of the sample holding times. A copy of the Chain-of-Custody form should be kept with the Proactive Inspection Form until the hard copy is returned with the test results. Samples are transported by a courier to a NELAC certified laboratory.

XIII. POST-INSPECTION

Upon completion of the inspection, staff will discuss any deficiencies and/or areas of concern with the property owner, facility representative(s), or site staff. Prior to leaving the site, any final notes and sketches are made. Contact is made with additional parties regarding inspection findings, if necessary.

XIV. FOLLOW-UP INSPECTIONS

If there are significant deficiencies, a follow-up inspection shall be conducted within a maximum of 30 days of the original site inspection. This is especially needed if a Notice of Violation has been issued. Staff shall document any deficiencies that have been corrected, remaining deficiencies, and any new problems that may be observed.

XV. VOLUNTARY COMPLIANCE

All attempts should be made to achieve compliance by education and voluntary compliance. In many cases the party responsible for the illicit discharge or illegal connection may not be aware of the existence or the environmental consequence. It is important to educate the responsible party on the impacts of their actions, the stormwater requirements, and the Best Management Practices (BMPs). If an illicit discharge is traced to a commercial, residential or industrial source, the field inspector shall conduct the following activities:

- Contact the responsible party to discuss methods of eliminating the non-stormwater discharge, including disposal options, recycling, and possible discharge to the sanitary sewer;
- Provide information regarding BMPs to the responsible party, where appropriate;
- Continue inspection and follow-up activities until the illicit discharge activity has ceased;
- If a violation is documented, the field inspector opens an AMANDA Back Office Suite folder; and
- Creates a record in the Incident Response Database.
XVI. ENFORCEMENT

Depending on the level of infraction and environmental damage, staff has a variety of measures to use such as a verbal warning, Written Warning, Field Violation Notice, Noncompliance Letter, Notice of Violation, or Stop Work Order notifying the property owner or responsible party of the compliance issue and corrective actions.

- If the issue is voluntarily resolved, the case is closed.
- If the issue is not voluntarily resolved, staff, which are also designated Code Enforcement Officers, attempt to resolve noncompliance issues through education, direction, and cooperation.
- If enforcement is warranted, the Water Quality Enforcement and Guidelines Standard Operating Procedure is followed. Refer to Attachment 2.
- If the issue is not resolved, the formal code enforcement procedure may be initiated through the Special Magistrate process as outlined in Chapter 2, Article VIII of the Sarasota County of Ordinances.

XVII. FINAL DOCUMENTATION

Staff completes the Proactive Inspection Form and provides a thorough, written, step by step chronology of the investigation to include dates, times, persons contacted, phone numbers, conversations, photographs, any other supporting documents, investigation results and conclusions. The inspector is responsible for:

- Organizing inspection findings including field notes, photographs, and any supporting documentation;
- Completing inspection form;
- Creating photo log;
- Entering the data into the AMANDA Back Office Suite; and
- Scanning in all supporting documents.

When the incident has been resolved and closed out, the Proactive Inspection Form and all supporting documentation are filed by the inspector by Grid Number in the Grid Files stored in the main file room.

XVIII. TRAINING

Staff conducting proactive inspections should have a good working knowledge of the following regulations: DEP Chapters 62-4, 62-25, 62-301, 62-302, 62-620, 62-621, 62-62; 40 CFR 122.26; and the Sarasota County Water Pollution Control, Fertilizer and Landscape Management Code and Code Enforcement Codes.

Staff should also complete a combination of the following:
- 40 hour OSHA Hazwoper,
- 8 hour Hazwoper refresher,
- Florida Stormwater Association Stormwater Operator Certification Levels I and II;
- Internal Illicit Discharge Detection and Elimination staff training; and
- Annual refresher training.
XIX. PROGRAM EFFECTIVENESS

The effectiveness of the proactive IDDE program is evaluated as follows:

- Number of staff initiated investigations;
- Number of illicit discharges found and stopped/removed;
- Number of trained inspectors; and
- Number of staff completing refresher training.

Attachments:
1. Proactive Inspection Form
2. Water Quality Enforcement and Guidelines Standard Operating Procedure
Attachment 1
Sarasota County Air and Water Quality
Proactive Inspection Form

Incident Number: Report Date/Time: Grid No:

Facility Name: Address:

Unincorporated Sarasota Co.: City of Longboat Key: City of North Port: City of Venice: Florida DOT

Facility Type

Shopping Center: Restaurant: Industrial Area / Facility: Automotive: Residential Area:

Other Area: Reasons for Inspection:

Weather Conditions

Air Temp. (F): Cloud Cover (%):
Wind Direction Wind Speed (mph):
Rainfall (72 Hrs): Odor:

Site Inspection

<table>
<thead>
<tr>
<th>NPDES Regulated Y/N</th>
<th>Permit Coverage Y/N</th>
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<th>Storage Tanks</th>
<th>IC</th>
<th>NC</th>
<th>Trash &amp; Recycling</th>
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<tr>
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<td>Wastes Contained</td>
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<td>Underground Tank</td>
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<td>Dumpster Closed</td>
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<td>Dumpster Leakage</td>
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<td>Wash Areas</td>
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<td>NC</td>
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Stormwater System

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<th>Closed System</th>
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<th>Sheet Flow</th>
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<tr>
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<td>Swales, Ditches</td>
<td>Wet Retention</td>
<td>Dry Retention</td>
<td>Control Struc.</td>
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<td>Baffle Boxes</td>
<td>Bioswales</td>
<td>No Retention</td>
<td>Stormwater Pond</td>
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<td>Sewage System</td>
<td>Septic System</td>
<td>City System</td>
<td>County System</td>
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Open ditches, swales, ponds, or exposed stormwater system components present on or adjacent to facility.

Evidence of contaminated runoff (from equipment or vehicle maintenance areas, loading docks, storage areas, trash containers or bare ground etc.)

Water present in stormwater system without an obvious source.

Oil sheen, foam, scum, or floatables other than from aquatic plants; unusual odor; exceptionally turbid, or unusually colored water present.

Pipes draining into the stormwater system without an obvious source.

Open stormwater system is poorly maintained and has accumulations of trash, vegetation, damaged structures, or significant erosion.

Drop inlets, culverts, manholes, or enclosed stormwater system components present in or adjacent to the facility.

Comments:

Findings

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<td>Photos:</td>
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Property Owner: Drainage Basin:

PID No. Lat: Long:

Inspection Findings:

Incident Closed Y/N: Date Closed: Caller Contact Y/N: Date:
Attachment 2
Subject: Water Quality Enforcement Guidelines
Effective Date: February 28, 2012 (Revised July 2014)
Owner: Laura Lyn Ammeson, Air and Water Quality

I. LEGAL AUTHORITY

The legal authority for enforcement is clearly identified in the Code Enforcement Code, Chapter 2, Article VIII, of the Sarasota County Code.

Section 2-343 states that it is the intent of the Code Enforcement Code to promote, protect, and improve the health, safety, and welfare of the citizens of Sarasota County by providing for the enforcement of any codes and ordinances in effect in Sarasota County where a pending or repeated violation continues to exist through the imposition of administrative fines and other noncriminal penalties in an equitable, expeditious, effective, and inexpensive method of achieving full compliance.

The code utilizes a Special Magistrate process where the magistrates are attorneys at law, licensed to practice in Florida, and are residents of Sarasota County. They have the authority to hold hearings, assess fines, and order mitigation for violations.

Air and Water Quality administers the following codes:

- The Water Pollution Control Code, Chapter 54, Article VII, of the Sarasota County Code.
- The Fertilizer and Landscape Management Code, Chapter 54, Article XXXII, of the Sarasota County Code.
- Resolution No. 2007-187, Fertilizer Civil Penalties.

Achieving compliance with the County’s codes through amicable means is always preferred, and several options should be considered before proceeding with enforcement. Environmental Specialists, who are also designated Code Enforcement Officers, attempt to resolve noncompliance issues through education, direction, and cooperation. Unfortunately, compliance cannot always be achieved using only compliance tools. When enforcement is the best tool for achieving compliance, it should be used.

Many violations have caused environmental impacts at a level that require restoration and/or extended monitoring. Others are so extensive, or involve knowing or repeat violations that make the deterrence of civil penalties very important in achieving future compliance. As with compliance
options, several options are available at each level of the enforcement process. The nature of the violation and the history of the case will determine which one is best suited for use.

II. DETERMINING NONCOMPLIANCE

It is the responsibility of the Environmental Specialists to interact with homeowners, responsible parties, and governmental agencies as appropriate to provide information, education, to discuss problems and findings, and to effect resolutions and remedial actions to contamination problems. The inspection and investigation is the linchpin in the compliance and enforcement process and the decision-making process is based upon the information gathered during the investigation.

A determination of noncompliance can be made through evaluation of information gathered from diverse sources. The County’s files, databases, and personnel as well as site inspections and eyewitnesses are all valuable sources of information and should be thoroughly consulted at the onset of the investigation. A thorough review of the files and databases will often reveal a history of interaction with the County that can be a valuable tool during the compliance and enforcement process. Site-specific information is equally valuable and provides the foundation upon which the case will be built. Detailed notes, photographs, and conversation records documenting the inspection play a critical role in the development of the case.

The discovery of a violation can come to the County’s attention in a number of ways. A violation may be discovered after a private citizen contacts the County. Inspections (routine, aerial, or otherwise) by County personnel may uncover a violation, or other local, state, or federal agency personnel may report or refer a violation to the County.

Notice of a possible violation is never enough to establish that a violation has occurred. In deciding whether a violation has occurred, the County must be sure that it has sufficient evidence to prove every element of the violation.

III. TYPES OF ENFORCEMENT

INFORMAL
- Personal contact (communication with violator/permittee) or by doorhanger
- Verbal Warning
- Written Warnings
- Field Violation Notice
- Noncompliance Letter

FORMAL
- Notice of Violation
- Affidavit of Violation
- Affidavit of Recurrence
- Court Complaint (judicial process)
- Fertilizer Citation
IV. INITIATING ENFORCEMENT

Enforcement actions are initiated by the Environmental Specialists. Personal contact, verbal warnings, Written Warnings, and Field Violation Notices are conveyed/issued onsite at the time of the discovery of noncompliance. Violations are identified and documented through on-site inspection or file/records review. Environmental Specialists initiate enforcement actions requiring a noncompliance letter or formal enforcement with the submittal of a Pre-enforcement Decision Report to the Water Quality Section Supervisor for water quality noncompliance issues or violations. The Pre-enforcement Decision Report is submitted within seven (7) days of the violation findings. The Environmental Specialist makes a recommendation for the type of enforcement based on the severity of the violation and any past noncompliance history of the facility or violator. The Water Quality Section Supervisor approves or denies all informal and most formal enforcement action recommendations for water quality violations. The Pre-enforcement Decision Report is returned to the Environmental Specialist to prepare a draft document. Draft enforcement documents are due to the Supervisor within seven (7) days of approval of the recommendation on the pre-enforcement decision report or as directed by the Supervisor.

V. ENFORCEMENT DOCUMENTS

INFORMAL ENFORCEMENT DOCUMENTS
For minor violations, the Environmental Specialist may use a personal contact, a Field Warning Notice, or a Noncompliance Letter to resolve the issues. If the violation is corrected within the specified time, no further enforcement is taken and the issue is resolved. Draft Noncompliance Letters are reviewed by the Supervisor. The Noncompliance Letter is sent under the Environmental Specialist's signature and the signatory is responsible for final word processing and quality check. Corrective actions requested in Written Warnings, Field Violation Notices and Noncompliance Letters allow the responsible party a reasonable time period to correct the violation and are tracked in the Land Information Management System (LIMS) by the Environmental Specialists. The Environmental Specialist conducts a follow-up inspection to verify that corrective actions have been taken. If the issuance of a noncompliance letter results in the responsible party coming into compliance, no further action is necessary and the case is closed. If the responsible party fails to come into compliance after the issuance of a noncompliance letter, the Environmental Specialist contacts the responsible party to determine the reason(s) why the corrective actions were not completed and if necessary, formal enforcement is recommended.

FORMAL ENFORCEMENT DOCUMENTS
For major violations, the Environmental Specialists may use formal enforcement actions. The draft Notices of Violation (NOV) is always reviewed by the Supervisor and approved by the AWQ Manager. The Supervisor is responsible for final word processing and quality checks for all NOVs. All NOVs must be properly served pursuant to Section 162.12, Florida Statutes.

NOTICE OF VIOLATION (NOV)
- Begins the formal enforcement process.
- Describes each violation, states the specific code cites, and requests corrective actions within a specified time frame.
- May lead to the Code Enforcement Special Magistrate process. Evidence for violations cited in an NOV must be reliable, substantial, and enforceable.
Before progressing to the next level, the assistance of the Office of the County Attorney should be requested.

AFFIDAVIT OF VIOLATION (AOV)
- Division prepares AOV when compliance or corrective actions are not obtained through the NOV for specific violations or corrective actions cited in the NOV.
- Provided to the Clerk of the Circuit Court, as Ex-Officio Clerk for the Board of County Commissioners.
- Clerk prepares Notice of Mandatory Hearing, attaches AOV, and properly serves violator.
- Sets an evidentiary hearing before the Code Enforcement Special Magistrate, which may result in a Compliance Order and a due date for compliance. A status hearing is generally scheduled to determine compliance with the conditions of the Order.
- If compliance is not obtained by the date given on the Order, a penalty hearing will be set to assess daily fines.

AFFIDAVIT OF RECURRENCE (AOR)
- Division prepares AOR when there is a repeat violation.
- Provided to the Clerk of the Circuit Court.
- Clerk prepares Notice of Penalty Hearing, attaches AOR, and properly serves violator.
- The compliance conditions set forth in a Compliance Order from the Code Enforcement Special Magistrate are in effect for five (5) years.
- Any violation of this Order can result in immediate daily fines until compliance with the Order is again obtained.

COURT COMPLAINT (JUDICIAL PROCESS)
- May be filed to obtain an injunction that requires the violator/permittee to cease a particular activity, or if the violator/permittee will not agree to negotiation or other reasonable settlement.
- May be recommended when:
  - There is an immediate need for injunctive relief.
  - There is a need for civil penalties for violations and the respondent is unwilling to agree on an appropriate amount.
  - The respondent is recalcitrant and ignores any order of the Division or the Code Enforcement Special Magistrate.
- All Court Complaints or use of judicial processes must be approved by the Division Manager, Director, and the Office of the County Attorney.