# PART V – OPERATION AND MAINTENANCE-SPECIFIC REQUIREMENTS

## 12.0 Operation and Maintenance Requirements

### Responsibilities

(a) In accordance with Rule 62-330.310, F.A.C., and except as provided in section 12.1.1, below, upon completion of a project constructed in conformance with an individual permit issued under Part IV of Chapter 373, F.S., the permit must be converted from the construction phase to an operation and maintenance phase.

(b) Responsibility for operation and maintenance of a regulated activity shall be an obligation in perpetuity as provided in Rule 62-330.310, F.A.C. ~~Such entity or entities must have the financial, legal, and administrative capability to perform operation and maintenance in accordance with Agency rules and permit conditions.~~

(c) Operation and maintenance entities must demonstrate that they have the financial, legal, and administrative capability to perform operation and maintenance in accordance with Agency rules and permit conditions. Legal and financial capability requirements for operation and maintenance entities are specified further in section 12.3 below.

(d)~~(c)~~ Conversion of a permit from the construction to the operation and maintenance phase shall follow the procedures in Rule 62-330.310, F.A.C., and **section 12.2 &, below**.

### Exceptions

The operation phase of mining projects subject to the land reclamation requirements of Chapter 378, F.S., and that are used solely for and by the mine during its life shall be allowed to terminate, without the need to apply for abandonment of the permit, after the mine, or its subunits, has met the requirements described in the applicable paragraph 62-330.310(7)(a) or (b), F.A.C.

### Procedures for Requesting Conversion from the Construction Phase to the Operation and Maintenance Phase

1. Automatic Conversion —
	1. In accordance with subsection 62-330.310(5), F.A.C., projects authorized in a General Permit shall automatically convert to an operation and maintenance phase upon completion of the permitted activities in conformance with all the terms and conditions of the permit.
	2. For projects that serve an individual, private single family dwelling unit, duplex, triplex, or quadruplex that are not part of a larger plan of common development proposed by an applicant, the construction phase of the permit shall automatically convert to the operation and maintenance phase upon receipt of a completed Form 62-330.310(3), “Construction Completion and Inspection Certification for Activities Associated with a Private Single-Family Dwelling Unit.~~,~~” ~~the construction phase of the permit shall automatically convert to the operation and maintenance phase. However, if at any time the Agency determines that such an activity was not built in conformance with the terms and conditions of the permit, the permittee shall be subject to enforcement by the Agency and for all measures required to bring the activity into compliance with the permit.~~

3. If at any time the Agency determines that such activities as referenced in subparagraphs (a) 1. and (a) 2. above were not built in conformance with the terms and conditions of the permit, the permittee shall be subject to enforcement action by the Agency and for all measures required to bring the activity into compliance with the permit.

1. For projects other than those specified in **sections 12.1.1** and **12.2(a), above** — The permittee shall submit ~~Submittal of~~ Form 62-330.310(1) “As-Built Certification and Request for Conversion to Operation Phase,” in accordance with subparagraph 62-330.350(1)(f)2., F.A.C., ~~shall serve~~ to notify the Agency that the project, or independent portion of the project, is completed (other than long-term monitoring and any mitigation that will require additional time after construction or alteration to achieve the success criteria specified in the permit) and ready for inspection by the Agency.
	1. Projects not requiring certification by a registered professional shall be certified by the permittee or their authorized agent. Projects designed by a registered professional shall be certified by a registered professional, unless exempted by law.
	2. The permittee shall submit as-built drawings with Form 62-330.310(1). The person completing Form 62-330.310(1) shall inform the Agency if there are substantial deviations from the plans approved as part of the permit. ~~and include as-built drawings with the form.~~

The plans must be clearly labeled as “as-built” or “record” drawings and shall consist of the permitted drawings that clearly highlight (such as through “red lines” or “clouds”) any substantial deviations made during construction. The permittee shall be responsible for correcting the deviations [as verified by a new certification using Form 62-330.310(1)]. Non-substantial deviations do not require a permit modification. Substantial deviations shall be processed as a minor or major modification as described in section 6.2 of this handbook and under Rule 62-330.315, F.A.C. Such modification must be issued by the Agency prior to the Agency approving the request to convert the permit from the construction to the operation and maintenance phase.

* 1. The person certifying compliance with the permit shall submit documentation that demonstrates satisfaction of all permit conditions, other than long term monitoring and inspection requirements, along with Form 62-330.310(1).
1. When projects authorized by a permit under this chapter are constructed in phases, each phase or independent portion of the permitted project must be completed prior to the use of that phase or independent portion. The ~~and the~~ permittee ~~Permittee~~ must ~~have~~ submit~~ted~~ Form 62-330.310(1) “As-Built Certification and Request for Conversion to Operation Phase,” in accordance with subparagraph 62-330.350(1)(f)2., F.A.C., certifying as to such completion ~~for that phase or independent portion to be considered complete.~~ prior to the use of that phase or independent portion of the project.The request for conversion to the operating phase for any phase or independent portion of the permitted project shall occur before construction of any future work that may rely on that infrastructure for conveyance and water quality treatment and attenuation. Phased construction can include a partial certification.
2. Within 60 days of receiving Form 62-330.310(1), the Agency shall approve the request or ~~will~~ notify the permittee of any deficiencies that must be corrected prior to conversion to the operation and maintenance phase. If the Agency fails to take action on the request to convert the permit or notify the permittee of deficiencies, the conversion to operation and maintenance shall be deemed approved.
3. If the Agency notifies the permittee of deficiencies that must be corrected, and if the permittee fails to correct those deficiencies in a timely manner, the project will be considered to be not operating in accordance with a permit issued under Chapter 62-330, F.A.C., and the permittee will be subject to enforcement action by the Agency. In such cases, the permittee will be responsible for any necessary permit modifications, alterations, or maintenance to bring the project into ~~such~~ compliance, and for submitting any new certifications and requests to convert the permit to the operation and maintenance phase as provided in this section.
4. The requirements for submittal of an “as-built certification” contained in a permit issued under Part IV of Chapter 373, F.S., prior to October 1, 2013, the effective date of Chapter 62-330, F.A.C., shall continue to be followed in accordance with the existing permit unless the permittee obtains a modification using the procedures in Rule 62-330.315, F.A.C., to comply with the “as-built certification” requirements of Rules 62-330.310 and 62-330.350, F.A.C., and this section of Volume I.

### Transfer to the perpetual operation and maintenance entity

* + - 1. If the permittee is also the operation and maintenance entity, once the activity has been converted to the operation phase as described in **section 12.2, above,** no other action is required under this section.
			2. In accordance with subparagraph 62-330.350(1)(g)2., F.A.C., if the permittee is not ~~also~~ the operation and maintenance entity, a completed Form 62-330.310(2), “Request for Transfer of Environmental Resource Permit to the Perpetual Operation Entity” must be submitted to transfer the permit to the operation and maintenance entity. If the transfer is to the entity identified in the permit, the submittal of the form does not require a processing fee, and the review shall not require processing as a permit modification under Rule 62-330.315, F.A.C. The form must be signed by a person authorized to represent the operation and maintenance entity, and shall be submitted along with the following, as applicable:
				1. A copy of the recorded transfer of title to the operation and maintenance entity for the common areas on which the stormwater management system, or other permitted works are located (unless dedicated by plat);~~,~~
				2. A copy of all recorded plats;~~,~~
				3. Copies of recorded declaration of covenants and restrictions, amendments, and associated exhibits;~~, and~~
				4. A copy of the filed articles of incorporation and documentation of the operation and maintenance entity’s active corporate status with the Department of State, Division of Corporations, if the entity is a corporation;~~.~~
				5. A copy of the operation and maintenance plan, revised as necessary to be applicable to the stormwater management system as designed and permitted;

6. A copy of the cost estimate in accordance with Section 12.3.5 below; and

7. Documentation demonstrating financial capability in accordance with Section 12.3 below.

* + - 1. The permittee shall ensure that all documents ~~Documents~~ that require recordation in the public records are ~~must be~~ recorded in the county where the project is located prior to any lot or unit sales within the project served by the system or work, or upon completion of construction of the system or work, whichever occurs first.
			2. Within 60 days of receiving a complete request to transfer the permit to the operation and maintenance entity, the Agency shall approve the request, or will notify the permittee that the documentation is insufficient to demonstrate compliance with **Section 12.3, below,** and permit conditions. The permittee shall remain liable until the permit is transferred to the operation and maintenance entity by the Agency. If the Agency fails to take action or notify the permittee of the insufficiencies within 60 days of the request, the transfer shall be deemed approved if the permit has already been certified and converted to the operation phase.
			3. If a permit modification is required to allow for a new entity or multiple entities to operate and maintain the project, the 60-day time period for Agency action shall not commence until the permit modification is issued.

### Operation and Maintenance Entities

* + 1. An acceptable operation and maintenance entity shall have the financial, administrative, and legal capability to access, monitor, operate, and maintain the permitted project. Typically, this is accomplished through ownership or control of all property on which the permitted project is located by one of the entities listed below. However, alternative methods of achieving the legal requirements necessary for operation and maintenance will be considered by the Agency. Drainage easements, cross drainage agreements, or similar documents may be required for connected systems or systems with common infrastructure to be operated by different entities.

The following entities are acceptable for ensuring that an activity will be operated and maintained in compliance with the requirements of Section 373.416(2), F.A.C., and Chapter 62-330, F.A.C.

* + - 1. Local government units, including counties and municipalities, Municipal Service Taxing Units, or special taxing units;
			2. Water control districts created pursuant to Chapter 298, F.S., drainage districts created by special act, special districts defined in Chapter 189, F.S., Community Development Districts created pursuant to Chapter 190, F.S., Special Assessment Districts created pursuant to Chapter 170, F.S., or water management districts created pursuant to Chapter 373, F.S.;
			3. State or federal agencies;
			4. Duly constituted communication, water, sewer, stormwater, electrical, or other public utilities;
			5. Construction permittees, subject to the restrictions below; or
			6. Non-profit corporations, including homeowners’ associations, property owners’ associations, condominium owners’ or master associations, subject to the restrictions below.
		1. If the proposed operation and maintenance entity falls within paragraph (a), (b), (c), or (d) above, a preliminary letter of intent or statement from such entity must be submitted to the Agency with the permit application, or in a permit modification request, indicating the entity's intention to accept responsibility for operation and maintenance of the permitted system. The letter of intent or statement must be submitted along with Form 62-330.301(#), “Certification of Financial Capability for Perpetual Operations and Maintenance Entities,” and must clearly indicate what portions of the system will be operated and maintained by the entity, and whether any portions of the system are to be operated and maintained by another entity. If portions of the system are to be operated and maintained by another entity, similar letters of intent or statements must be received from those entities. Upon approval by the Agency, all such identified entities will be responsible for operation and maintenance of the system.
		2. A construction permittee is an acceptable operation and maintenance entity, provided the property on which all of the permitted project is located will continue to be owned or controlled by the construction permittee. When a construction permittee intends to convey the property to a third party, the permittee will be an approved operation and maintenance entity from the time construction begins until the system is transferred to the established legal entity approved by the Agency. If a permittee intends to convey or transfer any portion of the property on which the permitted project is located, the permittee may continue to be the long-term operation and maintenance entity only if appropriate drainage easements, cross drainage agreements or similar documents that provide the entity with the legal capability and authority to operate and maintain the permitted project is approved as part of the permit application, are recorded in the official records of the applicable county, and are in effect prior to any conveyance or transfer of the property or conversion of the permit to the operation and maintenance phase, whichever occurs first. Where the property is leased or rented to a third party, the property owner shall continue to be the responsible operation and maintenance entity, unless the Lessor is the permittee.
		3. Homeowners’ associations, property owners’ associations, and condominium owners’ or master associations (collectively, “Associations”) are acceptable operation and maintenance entities only if they have the financial, legal, and administrative capability to provide for the perpetual ~~long term~~ operation and maintenance of the project. Accordingly, the applicant must:
			1. Submit draft Articles of Incorporation, Declaration, Restrictive Covenants, Deed Restrictions or other organizational and operation documents, or draft amendments thereto, that affirmatively assign responsibility to the Association for the operation or maintenance of the project. Model language for Declaration and Restrictive Covenants is included in section 7 of the “References and Design Aids” for Volume I. The Association documents must comply with Chapters 617, 718, 719, and 720, F.S., as applicable.
			2. Submit documentation that the Association will have sufficient powers (reflected in governing documents where applicable)~~,~~ to:
				1. Own and convey property;
				2. Operate and perform maintenance of the permitted project on common property as exempted or permitted by the Agency;
				3. Establish rules and regulations governing membership or take any other actions necessary for the purposes for which the corporation or association was organized;
				4. Assess members for the cost of operating and maintaining the common property, including the stormwater management system, and enforce the collection of such assessments;
				5. Sue and be sued;
				6. Contract for services to provide for operation and maintenance (if the association contemplates employing a maintenance company);
				7. Require all owners of real property or units to be members of the corporation or association; and
				8. Demonstrate that the land on which the system is located is owned or otherwise controlled by the corporation or association to the extent necessary to operate and maintain the system or convey operation and maintenance to another entity.
			3. Submit documentation that the following covenants and restrictions, will be or have been set forth in the Declaration of Restrictive Covenants, Deed Restrictions, Declaration of Condominium, or other recorded document setting forth the Association’s rules and regulations:
				1. That it is the responsibility of the Association to operate and maintain the system;
				2. The system is owned by the Association or described therein as common property;

3. That there is a method of assessing and collecting the assessment for operation and maintenance of the system;

4. That assessments are such that they would cover, at minimum, the annual costs of operation and maintenance for the permitted stormwater systems, outlined in the cost estimate as described in section 12.3.5, and that those assessments are intended to be allocated sufficiently within the annual budget to cover projected operating expenses, including any operation and maintenance costs for the permitted stormwater systems for periodically required capital expenditures or deferred maintenance, that would be in addition to annual operating expenses pursuant to Chapter 720, F.S.;

5. ~~4.~~ That any proposed amendment to the Association’s documents affecting the system (including environmental conservation areas and the water management portions of the common areas) must be submitted to the Agency for a determination of whether the amendment necessitates a modification of the environmental resource permit. If a modification is necessary, the Agency will so advise the permittee. The amendment affecting the system may not be finalized until any necessary permit modification is approved by the Agency or the Association is advised that a modification is not necessary;

6. ~~5.~~ That the governing provisions of the Association must be in effect for at least 20 years with automatic renewal periods thereafter, and must state that the Association shall maintain governing provisions as needed to maintain compliance with any applicable local, state, or federal regulations for perpetual operation and maintenance of the permitted stormwater system;

7. 6. That the Association shall exist in perpetuity. However, should the Association dissolve, the operational documents shall provide that the system shall be transferred to and maintained by one of the entities identified in **sections 12.3.1(a) through (f), above**, who has the powers listed in **section 12.3.4(b)1. through 8., above**, the covenants and restrictions required in **section 12.3.4(c)1. through 9., herein**, and the ability to accept responsibility for the operation and maintenance of the system described in **section 12.3.4(d)1. or 2., below**;

8. ~~7.~~ If wetland mitigation monitoring is required by the permit and the operational entity will be responsible to carry out this obligation, the rules and regulations of the Association shall state that it will be the Association’s responsibility to complete the task successfully, including meeting all conditions associated with mitigation maintenance and monitoring;

9. ~~8.~~ The Agency has the right to take enforcement action, including a civil action for an injunction and penalties, against the Association to compel it to correct any outstanding problems with the system facilities or in mitigation or conservation areas under the responsibility or control of the Association; and

10. ~~9.~~ A “Recorded Notice of Environmental Resource Permit,” Form No. 62- 330.090(1), shall be recorded in the public records of the County(s) where the project is located. The Registered Agent for the Association shall maintain copies of all permitting actions for the benefit of the Association.

* + - 1. Submit documentation that the Association will ~~have the ability to accept responsibility for the operation and maintenance of the system~~:
				1. Have the ability to accept responsibility for the operation and maintenance of the system for ~~For~~ future phases of the project, if the operation and maintenance entity is proposed for a project that will be constructed in phases, and subsequent phases will utilize the same system as the initial phase or phases; ~~or~~
				2. Have, either separately or collectively, the responsibility and authority to operate and perform maintenance of the system for the entire project area, if the development scheme contemplates independent operation and maintenance entities for different phases, and the system is integrated throughout the project. That authority must include cross easements for surface water management and the ability to enter and maintain the various portions of the system, should any sub-entity fail to maintain a portion of the system within the project area; and~~.~~

3. Have ownership or control of the reserve fund(s), if established by the construction permittee or a prior operation and maintenance entity, or provide other reasonable assurance that financial obligations of the system will be met.

**12.3.5**  All applicants for operation and maintenance phase activities must demonstrate that they have the financial capability to operate and maintain the stormwater management system as designed and permitted. All operation and maintenance entities shall provide a cost estimate for the perpetual operation and maintenance of the stormwater management system through the submission of the documents described herein.

(a) Cost estimates:

1. Cost estimates will be required for all stormwater management systems, except those that self-certify in accordance with the 10-2 general permit authorization under section 403.814(12), F.S.

2. The cost estimate shall be computed in current year dollars, to determine the annual operating expenses, including inspection costs, maintenance costs, for the estimated remaining useful life of the system accounting for replacement costs or deferred maintenance expenses for non-annual expenditures, for all components of the stormwater management system, including for each BMP in the stormwater management system.

3. The operation and maintenance entity may adjust replacement reserve assessments annually to take into account any changes in estimates of cost or useful life of a reserve item.

4. The applicant shall submit written cost estimates with verifiable bases for the estimates to the Agency along with the financial assurance. At the time of request for transfer the permittee shall submit an updated written cost estimate. The source of any cost estimates shall be indicated.

5. If more than one financial mechanism is proposed for perpetual operation and maintenance, the cost estimate shall specify the appropriate mechanism for each itemized cost.

b) Demonstration of Financial Capability for Operation and Maintenance:

Applicants for the operation and maintenance phase must provide Form 62-330.xyz, “Certification of Financial Capability for Perpetual Operations and Maintenance Entities,”

c) Associations which are subject to reporting and budgeting requirements under Chapter 720, F.S., shall provide the summary information reported on Form 62-330.301(#) to conform with the financial reporting and budget requirements of Chapter 720, F.S. Such certification shall provide reasonable assurance that the Association has the financial capability to operate and maintain the permitted system as designed and permitted. An Association may submit draft documentation, including information regarding a reserve account, to the Agency with the permit application. If it is a part of the Association’s demonstration of financial capability as approved by a permit, the reserve account must be executed and funded prior to the transfer to the operation and maintenance phase, unless another time frame is specified in the permit.

1. If the budget for an Association includes a reserve account for capital expenditures and deferred maintenance, the required funds for such shall be computed by a means consistent with the requirements of 12.3.5 (a) above.

2. The operation and maintenance entity may adjust replacement reserve assessments annually to take into account any changes in estimates of cost or useful life of a reserve item.

3. Reserve funds originally proposed to support operation and maintenance activities for a stormwater management system shall remain in the reserve account(s) and shall be used only for authorized operation and maintenance expenditures, unless their use for other purposes is approved in advance by the Association in accordance with the requirements of Chapter 720, F.S.

### Minimum Operation and Maintenance Standards

(a) In accordance with Section 373.416(2), F.S., unless revoked or abandoned, all stormwater management systems, dams, impoundments, reservoirs, appurtenant works, or works permitted under Part IV of Chapter 373, F.S., must be operated and maintained in perpetuity. The operation and maintenance shall be in accordance with the designs, plans, calculations, and other specifications that are submitted with an application, approved by the Agency, and incorporated as a condition into any permit issued.

(b) Operation and Maintenance Access

An operation and maintenance entity shall provide documentation of legal authorization, such as access easements, deed restrictions, or other legal instruments, for the operation and maintenance entity to have and maintain sufficient access for operation and maintenance of the stormwater treatment system, except where the operation and maintenance entity has provided separate documentation of having ownership control of the related stormwater management system property. The following requirements shall apply to operation and maintenance access easements:

* + - 1. Access easements must cover at least the primary and high-maintenance components of the system (i.e., inlets, outlets, littoral zones, filters, pumps, etc.), including provisions for equipment to enter and perform the necessary maintenance on the system. Applicants may propose site-specific easements that meet this requirement.
			2. Easements for stormwater management systems must:
				1. Include the area of the water surface measured at the control elevation;
				2. Extend a minimum of 20 feet from the top of bank and include side slopes or an allowance for side slopes calculated at no steeper than 4H:1V (horizontal to vertical) or an alternate allowance for installation and maintenance of a fence or other public access restriction, whichever is greater; and
				3. Be traversable by operation and maintenance equipment and personnel.
			3. Easements for piped stormwater conveyance must be a minimum of the width of the pipe plus 4 times the depth of the pipe invert below finished grade.
			4. Easements must provide a minimum access width of 20 feet, unless it can be demonstrated that smaller widths will provide sufficient access for equipment and personnel to enter and perform the necessary maintenance for the system. The easement(s) shall extend from a public road, public right-of-way or other location from which operation and maintenance access is legally and physically available and extend to provide access as needed for operation and maintenance for each stormwater management system component.

As an alternative, the applicant may propose other forms of legal authorization for provided operation and maintenance access provided the applicant affirmatively demonstrates that equipment and operators can enter and perform the required operation and maintenance activities on the stormwater management system.

**12.4.1** **Stormwater Management System Operation and Maintenance Plan**

An applicant for construction, alteration, operation of a stormwater management system shall provide a written operation and maintenance plan (O&M Plan) at time of application. Such application shall be prepared and certified by a qualified registered professional, and shall specifically identify the O&M Plan activities that must be done to ensure the perpetual performance of the stormwater management system. The O&M Plan shall describe the overall inspection and maintenance requirements, including applicable operations and maintenance requirements as specified herein, and shall identify future capital and maintenance expenditures that are required to ensure that the stormwater management system continues to function as designed and permitted.

Applicants for systems where the operation and maintenance entity is or will be a Municipal Separate Storm Sewer System permittee subject to Chapter 62-624, F.A.C. (MS4 Entity), shall not submit a separate O&M plan hereunder and shall instead conduct operation and maintenance of the ERP-permitted stormwater management systems in accordance with their MS4 permit requirements and any associated stormwater management program requirements, MS4 Entities shall nonetheless ensure that operation and maintenance activities are sufficient to perpetually maintain the performance of the ERP stormwater management system so that it functions as designed and permitted hereunder.

(a) The written O&M Plan for all operation and maintenance entities other than an MS4 Entity shall, at a minimum, include:

1. A list and details of all stormwater system components including their location, type, and other pertinent information;
2. A list and description of each of the identified maintenance and inspection tasks for each of the system’s components and for the overall system, (refer to the BMP library for reference on procedures for BMPs);
3. All regular inspection and maintenance schedules;
4. Inspection checklists;
5. Copies or references for of the pertinent sections of all covenants, conditions, restrictions, and other association documents, permits, approvals, and agreements that govern the operation and maintenance of the stormwater management system; and
6. Permitted or as-built plans of the stormwater water management system.

(b) Once transferred to the operation and maintenance phase, as-built plans shall be included in the operation and maintenance plan upon completion of construction of each completed phase, if applicable. The operation and maintenance plan must also include or reference other pertinent facility information such as design limitations and replacement schedules for any components of the stormwater management system that are needed to maintain performance as originally designed and permitted, including those components where maintenance or replacement frequencies are less frequent that once per year. The O&M Plan should also include a list of after-hours telephone numbers of key maintenance personnel in case of emergencies and information necessary for reviewing copies of maintenance and inspection records.

(c) The operation and maintenance entity shall maintain a copy of the O&M Plan as submitted and approved in accordance with this Chapter 62-330, F.A.C. If a third-party entity performs operation and maintenance on behalf of the owner or permittee, the permittee shall remain responsible for all operation and maintenance requirements.

(d) The operation and maintenance plan should be periodically reviewed, at least at the time of inspections required under 12.5 below, to identify any new or additional required operation and maintenance activities. The operation and maintenance entity shall ensure that the plan is updated as needed with applicable contact information and any new operation and maintenance requirements to ensure that the stormwater system continues to function as designed and permitted. If any document is updated, the updated document(s) shall be available for inspection upon request by the permitting Agency.

### 12.5 Inspections

(a) The operation and maintenance entity for a stormwater management system shall conduct inspections at a minimum frequency as needed to ensure that the stormwater management system, and each component thereof, continues to function as designed and permitted. The operation and maintenance entity shall employ a qualified registered professional, or a qualified inspector as described in (c) below, to inspect the stormwater treatment system permitted under rule 62-330, F.A.C., and to submit a report to the Agency describing and certifying the results within 30 days of the inspection. The report shall certify that the stormwater treatment system is operating as designed and permitted. The results of required inspections shall be filed with the Agency using Form 62-330.311(1), “Operation and Maintenance Inspection Certification.” Inspections under this section shall be performed and submitted within 30 days from the date of the stormwater management system inspection.

(b) In addition to subpart (a) above, the operation and maintenance entity shall perform stormwater management system inspections in accordance with the following frequencies:

1. an MS4 Entity shall conduct inspections of ERP-permitted stormwater management systems in accordance with their MS4 permit requirements and any associated Standard Operating Procedures (SOPs) required pursuant to Chapter 62-624, F.A.C.; and

2. all operation and maintenance entities other than an MS4 Entity shall, at a minimum, conduct stormwater management system inspections at a frequency specified pursuant to (g) below.

(c) For stormwater management system inspections conducted on or after {insert date for the effective date of rule, plus one year}, a qualified inspector for conducting, certifying, and submitting inspection reports must be, at a minimum, either: (i) be a registered professional, (ii) include documentation for the inspection that the inspection was conducted by a person while under the supervision of a registered professional, or (iii) be a person having documentation of training, completed within no more than three years prior to the date of a stormwater management system inspection hereunder that, at a minimum, covers the following:

 1. The ability to read construction drawings, plans, specifications and modeling of recovery timeframes;

 2. Principles of traditional BMPs, as listed in 62-330.311(3), for stormwater treatment, including functions that convey and remove pollutants from stormwater;

 3. For traditional BMPs, the potential causesof failure or malfunction, replacement needs, and reduction in treatment efficiency;

 4. Understanding of the purpose, design, and function of manufactured devices or non-traditional BMPs and the ability to ensure the device meets manufacturers’ specifications and maintenance requirements; and

 5. Performance of inspections, including field inspection experience and the completion of required reports and documentation, consistent with the requirements of Section 12 of Volume I, any relevant requirements of the applicable Applicant’s Handbook, Volume II, and all other applicable rules and regulations.

(d~~b~~) Upon completion of the permitted stormwater management systems, dams, reservoirs, impoundments, appurtenant work, or works, the Agency may conduct ~~shall have~~ periodic inspections ~~made~~ to ensure the project was constructed and is being operated in compliance with the terms and conditions of the permit, and in a manner that protects the public health and safety and the natural resources of the state.

(e~~c~~) Inspections may be performed by Agency staff during and after construction and as~~. When~~ needed to ensure a project is being operated and maintained in perpetuity in compliance with permit conditions.~~, the permit may require the operation and maintenance entity to conduct the periodic inspections. The required inspection schedule for a specific project will be specified in the permit.~~

(f~~d~~) Some projects **that do not consist of or include a stormwater management system, dam, impoundment, reservoir, or appurtenant work,** whether designed by a registered professional or not, also may be required in the permit to be regularly inspected and monitored to ensure continued compliance with permit conditions and the functioning of the project. This may include individual permits issued for activities at a private residential single-family residence. For example, a residential fill pad may have been permitted with specific requirements for slope drainage or runoff. A dock located in waters with sensitive resources may have been permitted with conditions prohibiting mooring in certain locations, limiting the number or size of boats to be moored at the dock, or with requirements for handrailing or other associated structures. The permit will specify the periodic inspections that will be required, and how the results of the inspections are to be either retained by the permittee or reported to the Agency.

The following are examples of activities as discussed above that are subject to an initial inspection prior to conversion to the operation phase, and then subject to routine inspections during the operation and maintenance phase. The inspection frequency during the operation and maintenance phase will be determined in the permit:

* + Single-family dock (to verify that: handrails are constructed and are maintained to prevent mooring of vessels in shallow waters);
	+ Multi-slip docking facility (to verify maintenance of manatee protection signs, sewage pumpout facilities, or over-water fueling operation);
	+ Single-family lot fill (to verify lawn grading and sloping is maintained to reduce discharges of nutrients from lawn runoff entering sensitive waters);
	+ Seawalls or rip rap (to verify integrity of system or shoreline plantings);
	+ Lands within a conservation easement (for encroachments, alterations, or exotic/nuisance vegetation removal) in accordance with a permit under this chapter;
	+ Mitigation sites (to determine compliance with success criteria, including the status of exotic species removals); and
	+ Other dredging or filling (for example, dredged material sites and dams to ensure functioning and stability of dikes and control structures).

~~(e) The efficiency of stormwater management systems, dams, impoundments, and most other projects normally decreases over time without periodic maintenance. For example, a significant reduction in the flow capacity of a stormwater management system often can be attributed to partial blockages of its conveyance system. Once flow capacity is compromised, flooding may result. Therefore, operation and maintenance entities must perform periodic inspections to identify if there are any deficiencies in structural integrity, degradation due to insufficient maintenance, or improper operation of projects that may endanger public health, safety, or welfare, or the water resources. If deficiencies are found, the operation and maintenance entity will be responsible for correcting the deficiencies so that the project is returned to the operational functions required in the permit and contemplated by the design of the project as permitted. The corrections must be done a timely manner to prevent compromises to flood protection and water quality.~~

(g)~~(f)~~  The applicant or permittee, for an operation and maintenance entity other than an MS4 Entity, shall propose a project specific minimum inspection frequency for a stormwater management system that is designed to ensure that the stormwater management system will perpetually function as designed and permitted. The proposed minimum inspection frequency shall include documentation on the considerations listed below. In the event of a permit modification, a reduction of a permitted stormwater management system inspection frequency shall be considered a minor modification under Rule 62-330.315, F.A.C., where the proposed inspection frequency is either consistent with the applicable time frames specified in Table 12-1, or is reasonably expected to maintain equivalent performance of the stormwater management system based on the considerations listed below. The permitting Agency shall allow a minimum inspection schedule proposed by a registered professional where consistent with the applicable time frames specified in Table 12-1, or where an applicant has otherwise provided reasonable assurance that the proposed inspection schedule will ensure that the system is being operated and maintained as designed and permitted. A proposed minimum inspection frequency for a stormwater management system shall provide historical information on the operation and maintenance of any existing stormwater management system, as well as the specific operational and maintenance requirements of the site, which includes the following: ~~Inspection and reporting frequencies will be included as permit conditions based on site- specific operational and maintenance requirements, considering things as:~~

1. The type, nature, and design of the design and performance standards proposed, including any alternative designs such as pervious pavement, green roofs, cisterns, managed aquatic plant systems, stormwater harvesting, wetland treatment trains, low impact designs, alum or polymer injection systems;
2. The proximity of receiving waters classified as Outstanding Florida Waters in Rule 62-302.700, F.A.C., or impaired for constituents likely to be contained in discharges from the project;
3. The nature of the site, such as whether it is part of a port or landfill, whether it will impound more than 40 acre-feet of water, or will include above ground impoundments;
4. The topography, rainfall patterns, and adjacent development surrounding the activity site, including any special basin designations within the District in which the activity is located, as identified in paragraph 62-330.301(1)(k), F.A.C.;
5. The nature of the underlying soils, geology, ~~and~~ groundwater, and hydrology;
6. The potential for construction and operation of the project to cause harm to public health, safety, or welfare, or harm to water resources, water quality standards, or water quality; ~~and~~
7. Prior compliance history with the proposed design and performance type, including whether the activity characteristics are likely to pose more than a minimal risk for harm~~.~~; and
8. Type of BMPs in the system. Table 12-1 lists common BMPs and their recommended reduced inspection frequency. For stormwater systems with multiple BMPs in series, the most frequent inspection rate is recommended for the entire system. This listing is suggested as general guidance for reduced inspection frequencies and is not all inclusive. These frequencies can be altered by the permitting Agency based on considerations of 1-7 above and in accordance with this section of Volume 1.

Where an applicant’s proposed minimum inspection frequency does not provide reasonable assurance that the minimum inspection frequency will ensure that the stormwater management system will continue to function perpetually as designed and permitted, the Agency shall require at least annual inspection frequencies in a specific permit condition for the operation and maintenance entity. Where a minimum stormwater management system inspection frequency is not included in a permit condition by the Agency for a permit issued or modified on or after {insert date for the effective date of rule, plus 90 days}, the permittee shall conduct inspections at a minimum frequency of at least once per year.

Table 12-1: Recommended Inspection Frequencies for common BMPs

|  |  |
| --- | --- |
| **TYPE OF SYSTEM** | **INSPECTION FREQUENCY** |
| Dry Retention basins  | Once every 5 years  |
| Exfiltration trenches  | Once every 2 Years |
| Underground retention  | Once every Year  |
| Sand or Media Filters | Once every Year |
| Underdrain System | Once every 2 Years |
| Underground vault/chambers  | Once every Year |
| Swales (treatment) | Once every 5 years |
| Wet Detention systems | Once every 2 years |
| Vegetated Natural Buffers  | Once every 5 years |

**12.5.1 Inspection Requirements**

Operation and maintenance entities must ensure that inspections are being conducted to ensure that stormwater management systems are being maintained as designed and permitted. The efficiency of stormwater management systems, dams, impoundments, and most other projects normally decreases over time without periodic maintenance. For example, a significant reduction in the flow capacity of a stormwater management system often can be attributed to partial blockages of its conveyance system. Once flow capacity is compromised, flooding may result. Therefore, operation and maintenance entities must perform periodic inspections to identify if there are any deficiencies in structural integrity, degradation due to insufficient maintenance, or improper operation of projects that may endanger public health, safety, or welfare, or the water resources. If deficiencies are found, the operation and maintenance entity will be responsible for correcting the deficiencies so that the project is returned to the operational functions required in the permit and contemplated by the design of the project as permitted. The corrections must be done a timely manner to prevent flooding and protect water quality.

(a) ~~(g)~~ Special attention shall be made during inspections to ensure that:

1. All erosion is controlled, and soil is appropriately stabilized to prevent sediment discharge to waters in the state;
2. The system is kept free of debris, trash, garbage, oils and greases, floatables, and other refuse;
3. Stormwater management systems that include oil and grease separators, skimmers, or collection devices are working properly and do not allow the discharge of oils or greases. Oils and greases or other materials removed from such a device during routine maintenance shall be disposed of at a sanitary landfill or by other lawful means; ~~and~~
4. All structures within stormwater management systems have not become clogged or choked with vegetative or aquatic growth to such an extent as to render them inoperable~~.~~;

5. System components have been maintained to remove sediments, debris, and other deleterious materials to ensure that the systems continue to perform as designed and permitted, and that their original permitted dimensions have not been altered substantially; and

6. All system components associated with nutrient or other pollutant removal are in good working order. Maintenance logs and records are reviewed to ensure devices are functioning properly and are being replaced at intervals recommended in the operation and maintenance plan.

(b) Inspection checklists shall be used for reporting and supplemented with other forms as appropriate. Inspection checklists shall be used for the permitted inspections after the project has been transferred to the operation and maintenance phase, to ensure that all system components are functioning as originally permitted and constructed.

(c) ~~(h)~~ Unless otherwise specified in the permit, the operation and maintenance entity must maintain a record of each inspection, including the date of inspection, the name and contact information of the inspector, whether the system was functioning as designed and permitted, and make such record available upon request of the Agency, in accordance with **section 12.6~~12.5~~, below**.

~~(i) The inspection and reporting requirements contained in a permit issued under Part IV of Chapter 373, F.S., prior to October 1, 2013, the effective date of Chapter 62-330, F.A.C., which implements Section 373.4141, F.S., shall continue to be followed in accordance with the existing permit unless the permittee obtains a modification using the procedures in Rule 62-330.315, F.A.C., to comply with the inspection and reporting requirements of Rule 62- 330.311, F.A.C., and this section of the Handbook.~~

### 12.6 ~~12.5~~ Reporting

1. All forms required for reporting can be submitted to the respective Agency Internet site. If the permittee does not use the electronic forms provided on that site, they shall be responsible for retaining records of the inspections and for delivering such records within 30 days of request to the requesting Agency, unless a more rapid delivery is requested for such reasons as the potential for the activity harm to water quality, water resources, public health, or public safety.

(b) Operation and maintenance entities, other than an MS4 Entity, responsible for a stormwater management system shall submit an inspection report to the agency describing and certifying the results of the inspection within 30 days of the date of the inspection. A qualified inspector shall certify the results of all such inspections. The permittee shall submit inspection reports with the Agency using Form 62-330.311(1), “Operation and Maintenance Inspection Certification.” Reports shall also include, as applicable:

1. Form 62-330.311(3) “Inspection Checklists”,

2. Any updated operation and maintenance cost estimates as described in Section 12.3.5,

3. A summary of updates to the operation and maintenance plan described in Section 12.4.1, and

4. Any monitoring reports as may be required by a permit specific condition.

(c)~~(b)~~ Within 30 days of any failure of a stormwater management system or deviation from the permit, a report shall be submitted electronically or in writing to the Agency using Form 62-330.311(1), “Operation and Maintenance Inspection Certification,” describing the remedial actions taken to resolve the failure or deviation.

(d)~~(c)~~ The operation and maintenance entity of a regional stormwater management systems must notify the Agency on an annual basis, using Form 62-330.311(2), “Regional Stormwater Management System Annual Report,” of all new systems and their associated stormwater volumes that have been allowed to discharge stormwater into the regional system, and confirming that the maximum allowable treatment volume of stormwater authorized to be accepted by the regional stormwater management system has not been exceeded.

(e) The inspection and reporting requirements contained in a permit issued under Part IV of Chapter 373, F.S., prior to October 1, 2013, the effective date of Chapter 62-330, F.A.C., which implements Section 373.4141, F.S., shall continue to be followed in accordance with the existing permit unless the permittee obtains a modification using the procedures in Rule 62-330.315, F.A.C., to comply with the inspection and reporting requirements of Rule 62- 330.311, F.A.C., and this section of the Handbook.

(f)~~(d)~~ A listing of all the forms that are incorporated by reference in Chapter 62-330, F.A.C., is contained in Appendix C and Appendix L of this Volume; copies of which may be obtained from the Agency, as described in Appendix A of this Volume and subsection 62-330.010(5), F.A.C.

### 12.7~~12.6~~ Recording of Operation and Maintenance Documents and Notice of Permit

1. Operation and maintenance documents required by **section 12.3.3 above**, must be submitted to the Agency for approval prior to recording. Such documents must be recorded in public records of the county where the project is located prior to any lot or unit sales within the project served by the system, or upon completion of construction of the system, whichever occurs first. ~~For those systems that are to be operated and maintained by county or municipal entities, fina~~l Final operation and maintenance documents must be received by the Agency when maintenance and operation of the system is accepted by the operation and maintenance ~~local government~~ entity. Failure to submit the appropriate final documents will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system.
2. Permittees are advised that the Agency shall cause a “Recorded Notice of Environmental Resource Permit,” Form No. 62-330.090(1), to be recorded in the public records of the county where the property is located in accordance with subsection 62-330.090(7), F.A.C., upon issuance of a permit, except for certain types of activities identified in that subsection.

### 12.8 ~~12.7~~ Subsequent Transfers

Transfers of the permitted activity or the real property on which the permitted activity is located once a permit is in the operation and maintenance phase are governed by the procedures described in Rule 62-330.340, F.A.C., and **section 6.3 of this Volume**.