



**BROWARD COUNTY**  
**Office of Water and Wastewater Services**  
**Industrial Pretreatment Program**

**Sewer Use Ordinance**  
**Broward County Code Chapter 34 Article VI**  
**Ordinance No. 2001-43**

**Effective Date: August 27, 2001**

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## **Sec. 34-138. General provisions.**

- (a) *Authority.* This article is enacted as an environmental regulation vested in Broward County by Broward County Charter, Section 8.04.
- (b) *Purpose and Policy.* This chapter sets forth uniform requirements for users of the Wastewater Facility ("WWF,") of Broward County and enables the county to comply with all applicable federal and state laws required by the Clean Water Act of 1977 (33 U.S.C. 1251, et seq.) as amended from time to time, the General Pretreatment Regulations (40 CFR, Part 403), and Chapter 62-625, Florida Administrative Code (F.A.C.).

The objectives of this chapter are:

- (1) To prevent the introduction of pollutants into the WWF which will interfere with the operation of the WWF;
- (2) To prevent the introduction of pollutants into the WWF which will pass through the WWF, inadequately treated, into the receiving waters or the atmosphere, or otherwise be incompatible with the WWF;
- (3) To provide fees for the equitable distribution of the costs recovered from users of the WWF for implementation, operation, and maintenance of the program established herein;
- (4) To ensure that the quality of the reclaimed water and biosolids is maintained at a level which allows their reuse and disposal in compliance with applicable statutes and regulations;
- (5) To protect WWF personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;
- (6) To enable the county to comply with its National Pollutant Discharge Elimination System, "NPDES," permit conditions, biosolids use and disposal requirements, and any other federal, state, or local laws to which the WWF is subject.

This chapter shall apply to the Broward County WWF, all industrial users of the WWF, and to persons outside the system who are, by contract or agreement with the county, users of the county WWF. Except as otherwise provided herein, the director of the Broward County Office of Environmental Services ("director") shall administer, implement, and enforce the provisions of this chapter. Any powers granted to, or duties imposed upon, the director may be delegated by the director to other county personnel.

This chapter authorizes the issuance of wastewater discharge and waste hauler discharge permits; establishes effluent limits; requires pretreatment; authorizes monitoring, compliance and enforcement activities; requires user reporting; establishes administrative review procedures; and provides for setting of fees for the equitable distribution of costs resulting from the program

established herein.

(c) *Definitions.* The following terms and phrases when used in this chapter shall have the meaning ascribed to them in this section, except where a provision explicitly states otherwise. The use of the singular shall be construed to include the plural and plural shall include the singular as indicated by the context of its use. Where terms have not been defined in this section, they shall have their accepted meanings or such as context may imply. "May" is permissive. "Shall" is mandatory.

(1) *Act or "the Act"* shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act of 1977, as amended from time to time (33 U.S.C. 1251, et seq.).

(2) *Acute biotoxicity* shall mean the short-term lethal effect reflected in a standard aquatic toxicity protocol for measuring effects on test organisms immediately or shortly following exposure to effluent.

The acute biotoxicity test shall be for forty-eight (48) hours or less with survival of the exposed test organisms as the measured endpoint. The test organisms shall be those permitted by applicable local, state, or federal laws and regulations.

The Microtox test system using photo bacterium phosphoreum organisms and measuring bioluminescent reduction of greater than fifty (50) per cent (EC50) shall be considered equivalent for measuring acute biotoxicity.

(3) *Authorized representative of the industrial user* shall mean either:

- a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation;
- b. The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
- c. An authorized partner or proprietor if the industrial user is a partnership or sole proprietorship, respectively; or
- d. A director or highest official appointed or designated to oversee the operation and performance of the activities of a government facility, or their designee, if the industrial user is a federal, state or local governmental facility.

(4) *Biochemical oxygen demand* shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees Celsius, expressed in terms of mass and concentration.

- (5) *Biosolids* shall mean the nutrient rich organic materials resulting from the treatment of sewage sludge.
- (6) *Building sewer* shall mean the extension from the building drain to the public sanitary sewer or other place of disposal; also called a house connection, which conveys wastewater from the premises of an industrial user to the WWF.
- (7) *Carbamate pesticides* shall mean certain pesticides including, but not limited to, carbaryl, aldicarb, or oxamyl detectable in a user's effluent using EPA Method 632.
- (8) *Categorical pretreatment standards* or *categorical standards* shall mean any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of industrial users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405--471, as amended from time to time.
- (9) *Chemical oxygen demand* shall mean the measure of oxygen equivalent expressed in milligrams per liter (mg/l) of the organic matter content of a sample that is susceptible to oxidation by a strong chemical oxidant.
- (10) *Conventional pollutant* shall mean biochemical oxygen demand, total suspended solids, pH, fecal coliform bacteria, and any additional pollutants identified in the WWF's NPDES permit for which the WWF is designed to treat.
- (11) *Composite sample* shall mean a sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.
- (12) *Constituents* shall mean the particles and dissolved substances which exist in wastewater.
- (13) *Control authority* shall mean the Broward County Office of Environmental Services.
- (14) *Cooling water* shall mean the water discharged from uses such as air conditioning, cooling or refrigeration, of which the only pollutant added is heat.
- (15) *County* shall mean Broward County, Florida, a political subdivision of the State of Florida, acting under authority of the board of county commissioners and by and through its duly authorized, appointed and/or elected officers or employees.
- (16) *Daily Average Values* shall mean the average of all sample values for any one (1) given day.
- (17) *Director* shall mean the director of the Broward County Office of Environmental Services or designee.
- (18) *Discharge permit* shall mean wastewater discharge permits and waste hauler discharge permits.

- (19) *Domestic wastewater* shall mean the human body wastes from sanitary fixtures, domestic laundry wastes, or water-borne solid or grease wastes generated by food preparation.
- (20) *Effluent* shall mean the wastewater or other liquid, partially or completely treated, or in its natural state, flowing out of a reservoir, basin, treatment process, or treatment plant.
- (21) *Enforcement Response Plan ("ERP")* shall mean the Florida Department of Environmental Protection approved enforcement procedures followed by the control authority to identify, document, and respond to any violations of this article.
- (22) *Environmental Protection Agency* shall mean the United States Environmental Protection Agency ("EPA"), or where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of EPA.
- (23) *Existing source* shall be any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards which will be applicable to such source if the standard is promulgated in accordance with Section 307 of the Act.
- (24) *Florida Department of Environmental Protection ("FDEP")* shall mean a component of the executive branch of the State of Florida authorized by Section 20.261, Florida Statutes.
- (25) *Flow proportional composite sample* shall mean a sample consisting of several individual portions in which each portion of the sample is proportional to the flow and combined to form a representative sample.
- (26) *Food service facility* shall mean facilities which prepare and/or package food beverages for sale or consumption, on or off site, with the exception of private residences.
- (27) *Four-day average values* shall mean the average of daily values for four (4) consecutive monitoring days.
- (28) *Garbage* shall mean the solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.
- (29) *General pretreatment regulations* shall mean "The General Pretreatment Regulations for Existing and New Sources of Pollution," published in the Federal Register, 40 CFR 403, on June 26, 1978, as amended from time to time.
- (30) *Grab sample* shall mean a sample which is collected from a waste stream over a period of time not exceeding fifteen (15) minutes, with no regard to the flow in the waste stream.
- (31) *Grease trap waste* shall mean waste removed from grease interceptors, including

under sink interceptors, at food service facilities.

- (32) *Hauled waste* shall mean any hauled domestic wastewater, septic tank waste, storm sewer waste, and hauled industrial wastewater.
- (33) *Hazardous materials* shall have the meaning given in Chapter 27, Article 12 of the Broward County Code of Ordinances, and hazardous substance or waste.
- (34) *Hazardous substance or waste* shall mean any substance defined or identified as a hazardous waste in 40 CFR Parts 260-265 and appendices, promulgated pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. 6901, et seq., as amended, and Rule 62-730, F.A.C.
- (35) *High strength wastewater surcharge* shall mean the additional charge made in excess of the sewer service charge assessed against industrial users of the county WWF or industrial users of persons outside the county system who are, by contract or agreement with the county, users of the county's WWF, whose wastewater characteristics exceed established limits for designated compatible pollutants.
- (36) *Indirect discharge* shall mean the discharge or the introduction of non-domestic pollutant from any source regulated under Section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the WWF.
- (37) *Industrial user* shall mean a source of indirect discharge.
- (38) *Industrial wastewater* shall mean the water-carried wastes from commercial, manufacturing, and other non-domestic sources, as distinguished from domestic wastewater.
- (39) *Instantaneous maximum allowable discharge limit* shall mean the maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any grab or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
- (40) *Interference or interfere* shall mean the inhibition or disruption of the WWF, its treatment processes or operations which causes a violation of any requirement of the county's NPDES permit, state or local permit (including an increase in the magnitude or duration of a violation), prevents effluent use or disposal, or prevents biosolids use or disposal. The term includes prevention of sewage biosolids use or disposal by the WWF in accordance with Section 405 of the Act (33 U.S.C. 1345); or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act ("SWDA"), including Title II commonly referred to as the Resource Conservation and Recovery Act ("RCRA"); the Clean Air Act; the Toxic Substances Control Act; the Marine Protection, Research and Sanctuaries Act; and any amendments to the above-cited authorities; or more stringent state or local criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of the SWDA) applicable to the method of disposal or use employed by the WWF. An industrial user significantly contributes to such a permit violation, prevention of effluent use or disposal, or prevention of biosolids

use or disposal in accordance with above-cited authorities whenever such industrial user: (a) discharges a daily pollutant loading in excess of that permitted by the provisions of this chapter or by federal or state law; (b) discharges wastewater which substantially differs in nature or constituents from the industrial user's average discharge; or (c) discharges, alone or in conjunction with discharges from other sources, wastewater which results in an NPDES permit violation by the county, which prevent effluent use or disposal, or which prevent biosolids use or disposal in accordance with the above-cited authorities as they apply to the county's selected method of effluent management or biosolids management.

- (41) *Maintenance Access Structure* shall mean a cap, cover, hatch, lid, plug, seal, valve or other type of access to a stationary system used to convey wastewater streams or residuals to the WWF.
- (42) *Mass emission rate* shall mean the weight of material discharged during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of the particular constituent or combination of constituents.
- (43) *Medical waste* shall mean isolation wastes, infectious agents, human blood and blood byproducts, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.
- (44) *New source shall mean:*
  - a. Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which is commenced after the publication of proposed Pretreatment Standards prescribed under Section 307(c) (33 U.S.C. 1317) of the Act which will be applicable to such source, if such standards are thereafter promulgated in accordance with that section, provided that: (1) the building, structure, facility or installation is constructed at a site at which no other source is located; or (2) the building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or (3) the production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, will be considered.
  - b. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraph (1), (2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.
  - c. Construction of a new source as defined under this paragraph has commenced if the owner or operator has: (1) begun, or caused to begin as

part of a continuous onsite construction program, (i) any placement, assembly, or installation of facilities or equipment, or (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or (2) entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

- (45) *Non-domestic wastewater* shall mean the non-sanitary liquid wastes from industrial processes, commercial processes, commercial laundries; non-domestic wastewater is considered to have the same meaning as industrial wastewater.
- (46) *Oil and grease* shall mean a group of substances including fats, waxes, free fatty acids, soaps, and certain other non-fatty materials which are from animal or vegetable source and biodegradable. This excludes petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin.
- (47) *Oil/water separator* shall mean any tank, box, sump or other container in which any petroleum or grease product thereof, floating on or entrained or contained in water entering such tank, box, sump or other container, is physically separated and removed from such water prior to outfall, drainage, or recovery of such water; also called "grease trap."
- (48) *Organochlorine pesticides* shall mean certain pesticides including, but not limited to, BHC, lindane, aldrin, heptachlor, dieldrin, heptachlor epoxide, endrin, DDE, DDD, DDT, methoxychlor, endosulfan, mirex, chlordane, or toxaphene detectable in a user's effluent using EPA Methods 608, 617, or 1618.
- (49) *Organophosphorus pesticides* shall mean certain pesticides including, but not limited to, guthion, demeton, diazinon, malathion, or parathion detectable in a user's effluent using EPA Methods 614, 622, or 1618.
- (50) *Pass through* shall mean a discharge which exits the WWF into the waters in the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the county's NPDES permit (including an increase in the magnitude or duration of a violation).
- (51) *Person* shall mean any individual, firm, company, association, society, corporation, partnership, co-partnership, joint stock company, trust, estate, group, industrial concern, municipality, governmental entity, political subdivision, public officer or any other legal entity, or their legal representatives, agents or assigns, or any combination thereof. This definition includes all federal, state or local governmental entities.
- (52) *Person in responsible charge* means the individual or position responsible for the



overall operation of the facilities from which the discharge originates, or has overall responsibility for environmental matters for the facilities.

- (53) *pH* shall mean the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions. The concentration is the weight of hydrogen ions in grams per liter of solution, expressed in standard units.
- (54) *Pollutant* shall mean any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, medical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water, and the characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, biochemical oxygen demand, chemical oxygen demand, toxicity, odor).
- (55) *Pollution* shall mean the man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of water.
- (56) *Pretreatment* shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into the WWF. The reduction or alteration may be obtained by physical, chemical or biological processes, or by process changes or by other means, except by diluting the concentration of the pollutants as prohibited by Rule 62-625.410, F.A.C. and 40 CFR 403.6, as amended from time to time, unless allowed by an applicable pretreatment standard.
- (57) *Pretreatment requirements* shall mean any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard, imposed on an industrial user.
- (58) *Pretreatment standards* or *standards* shall mean prohibited discharge standards, categorical pretreatment standards, and local limits. In case of conflicting standards, the more stringent thereof shall apply.
- (59) *Prohibited discharge standards* or *prohibited discharges* shall mean the absolute prohibition against the discharge of certain substances; these prohibitions appear in section 34-139(A) of this chapter.
- (60) *Publicly owned treatment works ("POTW")* shall mean a treatment works as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned in this instance by the county. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes and any conveyances which transport wastewater to the treatment plant.
- (61) *Public sewer* shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
- (62) *Sanitary fixtures* shall mean any toilets or sinks, either fixed or mobile, for the

disposal of human body wastes.

- (63) *Sanitary sewer* shall mean a sewer which carries wastewater and to which storm, surface and ground waters are not intentionally admitted.
- (64) *Self-monitoring* shall mean sampling, analysis and monitoring by an industrial user or the control authority of regulated discharge at the expense of the industrial user.
- (65) *Septic tank* shall mean a subsurface impervious tank designed to temporarily retain sewage or similar waterborne wastes together with:
  - a. A sewer line constructed with solid pipe, with joints sealed, connecting the impervious tank with a plumbing stub out; and
  - b. A subsurface system of piping to drain the clarified discharge from the tank and distribute it underground to be absorbed or filtered.
- (66) *Sewer* shall mean a pipe or conduit intended to carry wastewater.
- (67) *Sewerage system* shall mean sewage treatment works, pipelines or conduits, pumping stations and force mains and all other constructions, devices, and appliances appurtenant thereto, used for conveying sewage or industrial wastes to the point of ultimate disposal. The equivalent term is "sewage system."
- (68) *Significant industrial user* shall mean any industrial user of the county's wastewater disposal system who is (a) subject to Federal Categorical Pretreatment Standards, (b) has an average discharge flow of twenty-five thousand (25,000) gallons or more per work day, (c) has a flow greater than five percent (5%) of the average dry weather hydraulic or organic capacity of the county's wastewater treatment system, or (d) is designated as significant by the control authority on the basis that the industrial user has a reasonable potential for adversely affecting the WWF's operation or violating any pretreatment standard or requirement.
- (69) *Sludge* shall mean the accumulated settled solids separated from liquids, such as water or wastewater, during processing.
- (70) *Slug* or *slug load* shall mean any discharge of water, sewage, or industrial waste at a flow rate or concentration which could cause a violation of the prohibited discharge standards in section 34-139 of this chapter or any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge.
- (71) *Standard Industrial Classification ("SIC") Code* shall mean a classification pursuant to the latest edition of the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.
- (72) *State* shall mean the State of Florida.

- (73) *Storm water* shall mean any flows occurring during or following any form of natural precipitation and resulting there from.
- (74) *Total suspended solids* shall mean the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering through a standard glass fiber filter.
- (75) *Total toxic organics* shall mean the sum of the concentrations of specific toxic organic compounds listed in 40 CFR Part 122, Appendix D, Table II, as amended from time to time, found in the user's effluent at a concentration greater than 0.01 mg/l.
- (76) *Total volatile organics* or *volatile organic compounds* shall mean purgeable halocarbon and aromatic organics detectable in a user's effluent using EPA Methods 601 and 602, 624, or 8260.
- (77) *Toxic organics management plan ("TOMP")* shall mean a strategy for keeping track of all solvents delivered to a site, their storage, use and disposal. This includes keeping spent solvents segregated from process wastewaters to maximize the value of the recoverable solvents, to avoid contamination of other segregated wastes, and to prevent the discharge of toxic organics to the WWF or the environment. The plan should address the control of spills and leaks and also ensure that there is no deliberate dumping of solvents. Also known as a "solvent management plan."
- (78) *Toxic pollutant* shall mean any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under the provision(s) of the Clean Water Act, Section 307(a), as amended from time to time, or other Federal or State Acts.
- (79) *Unpolluted water* shall mean water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of the receiving water quality standards and would not be benefited by discharge to the public sanitary sewers and wastewater treatment facilities provided.
- (80) *User* shall mean any person who contributes, causes or permits the contribution of wastewater into the county's WWF.
- (81) *Waste* shall include wastewater and any and all other substances, liquid, solid, gaseous or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing or processing operations of whatever nature, including such substances placed within containers of whatever nature prior to, and for the purpose of disposal.
- (82) *Waste hauler discharge permit* shall mean the permit issued to waste haulers for the disposal of hauled waste into the WWF as set forth in section 34-142 of this chapter.
- (83) *Wastewater* shall mean the liquid and water-carried waste from dwellings,

commercial buildings, industrial facilities, and institutions, together with any storm, surface or ground waters which may be present, whether treated or untreated, which is contributed or permitted to enter the WWF.

- (84) *Wastewater discharge permit* shall be a permit for an industrial user to discharge wastewater to the WWF as set forth in section 34-142 of this chapter.
  - (85) *Wastewater Facility (WWF)* shall mean the entire sewerage system and POTW, including any sewers that convey wastewater to the POTW from persons outside the Broward County wastewater system who are, by contract or agreement with the county, users of the POTW and as defined in Chapter 62-625.200, F.A.C.
  - (86) *Wastewater treatment plant shall* mean the structures, equipment and processes owned and maintained by the county, or any public or private utility that discharges to the county WWF, that are required to collect, carry away, and treat wastewater and dispose of the effluent.
  - (87) *Watercourse* shall mean a channel in which a flow of water occurs, either continuously or intermittently.
  - (88) *Water pollution* shall mean the introduction in any surface or underground water, tidal or ocean salt water, of any organic or inorganic matter or deleterious substance in such quantities, proportions or accumulations which are injurious to human, plant, animal and other aquatic life or property, or which unreasonably interferes with the comfortable enjoyment of life, and property or the conduct of business.
  - (89) *Waters of the state* shall mean all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.
- (d) *Abbreviations:* The following abbreviations shall have the following meanings:
- (1) BOD--Biochemical Oxygen Demand.
  - (2) CFR--Code of Federal Regulations.
  - (3) COD--Chemical Oxygen Demand.
  - (4) EPA--U.S. Environmental Protection Agency.
  - (5) F.A.C.-- Florida Administrative Code.
  - (6) FR--Federal Register.
  - (7) FS--Florida Statutes.

- (8) FDEP--Florida Department of Environmental Protection.
- (9) gpd--Gallons per day.
- (10) l--Liter.
- (11) MAS--Maintenance Access Structure.
- (12) mg--Milligrams.
- (13) mg/l--Milligrams per liter.
- (14) NPDES--National Pollutant Discharge Elimination System.
- (15) O&G--Oil and Grease.
- (16) O&M--Operations and Maintenance.
- (17) ppb--Parts per billion.
- (18) pH--Logarithm of the reciprocal of the hydrogen ion concentration)
- (19) POTW--Publicly Owned Treatment Works.
- (20) RCRA--Resource Conservation and Recovery Act.
- (21) SIC--Standard Industrial Classification.
- (22) SWDA--Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.
- (23) TOMP--Toxic Organics Management Plan.
- (24) TSS--Total Suspended Solids.
- (25) TTO--Total Toxic Organics.
- (26) U.S.C.--United States Code.
- (27) VOC--Volatile Organic Compounds or Total Volatile Organics.
- (28) WWF--Wastewater Facility.

(Ord. No. 94-36, § 2, 7-12-94; Ord. No. 2001-43 § 1, 8-21-01)

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**Sec. 34-139. Regulations.**

(a) *Prohibited discharge standards.* No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the WWF. These general prohibitions apply to all users of the WWF whether or not the user is subject to national categorical pretreatment standards or any other federal, state, or local pretreatment standards or requirements. A user shall not contribute the following substances to the WWF:

- (1) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the WWF or to the operation of the WWF. This includes, but is not limited to, all waste streams with a closed-cup flashpoint of less than one hundred forty (140) degrees Fahrenheit (sixty (60) degrees Celsius) using the test methods specified in 40 CFR 261.21, as amended from time to time.
- (2) Solids or viscous substances which may cause obstruction to the flow in the WWF resulting in interference, such as, but not limited to: grease, garbage, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, gas, tar, asphalt residues, car wash recirculation sludge, residues from refining or processing of fuel or lubricating oil, mud, glass grinding or polishing wastes, or any solids greater than one-half ( 1/2) inch or 1.27 centimeters in any dimension.
- (3) Any wastewater having a pH less than 5.0 or otherwise causing corrosive damage or hazard to structures, equipment, or endangering personnel of the WWF.
- (4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with the WWF, constitute a hazard to humans or animals, create a toxic effect in the receiving waters or effluent reuse of the WWF, exceed the limitation set forth in a categorical pretreatment standard or local limit, or cause the WWF's effluent to fail a toxicity test. A toxic pollutant shall include but not limit any pollutant identified pursuant to Section 307(a) of the Act.
- (5) Any noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance, a hazard to life, or to prevent entry into the sewers for maintenance and repair.
- (6) Any substance which may cause the WWF's effluent or any other product of the WWF such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process.

In no case shall a substance discharged to the WWF cause the WWF to be in non-compliance with effluent criteria, effluent reuse criteria or biosolids use and

disposal criteria; or guidelines or regulations developed under Section 405 of the Act; or any criteria, guidelines, or regulations affecting effluent reuse or biosolids use and disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state or local criteria applicable to the effluent reuse or the biosolids management method being used.

- (7) Any sludges and/or residues from industrial process, including but not limited to, car wash sludges, catch basin residual, lint trap solids and other similar waste, screenings, or other residues from the pretreatment of industrial wastes without control authority approval.
- (8) Any wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent thereby violating the county's NPDES permit. Color of the wastewater (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten (10) per cent from the seasonally established norm for aquatic life.
- (9) Any wastewater having a temperature greater than one hundred fifty (150) degrees Fahrenheit (65.5 degrees Celsius) or which inhibit biological activity in the WWF resulting in interference, but in no case wastewater which causes the temperature at introduction into the treatment plant to exceed one hundred four (104) degrees Fahrenheit (forty (40) degrees Celsius).
- (10) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with either the WWF, or any wastewater treatment or sludge process, or which will constitute a hazard to humans or animals. In no case shall a slug load have a flow rate or contain a concentration or qualities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.
- (11) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the director in compliance with applicable local, state, or federal laws and regulations.
- (12) Any wastewater which results in the presence of toxic gases, vapors, or fumes within the WWF in a quantity that may cause acute worker health and safety problems or creates a public nuisance.
- (13) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
- (14) Any hauled wastes, except at the discharge point designated by the control authority in accordance with section 34-140(e).
- (15) Any storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water,

noncontact cooling water, ground water remediation discharge, and unpolluted industrial wastewater, unless specifically authorized by the director.

- (16) Any medical wastes, except as specifically authorized by the director in a discharge permit.
- (17) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the WWF.
- (18) Any hazardous substance or waste as defined or identified in 40 CFR Parts 260-265 and appendices, promulgated pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. 6901, et. seq., as amended, and Rule 62-730, F.A.C.
- (19) Any enzyme degreasers, except as specifically authorized by the director and without prior approval of the control authority.

When the director determines that a user is contributing to the WWF any of the above enumerated substances in such amounts as to interfere with the operation of the WWF, the director shall: (1) advise the user of the impact of the contribution on the WWF; and (2) develop effluent limitations for such user to correct the interference with the WWF. Wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the WWF. All floor drains located in process or materials storage areas must discharge to the user's pretreatment facility before connecting with the WWF.

- (b) *Federal categorical pretreatment standards.* The national categorical pretreatment standards as specifically defined by Rule 62-625.500, F.A.C., as amended from time to time, are hereby incorporated.
  - (1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the director may provide equivalent concentration or mass limits, respectively, in accordance with 40 CFR 403.6(c).
  - (2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the director shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).
  - (3) A user may obtain from EPA a variance from a categorical pretreatment standard pursuant to the procedural and substantive provisions in 40 CFR 403.13.
  - (4) A user may obtain a net/gross adjustment from EPA to a categorical standard in accordance with 40 CFR 403.15.
- (c) *State requirements.* State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or more stringent than the requirements and limitations in this chapter.
- (d) *Specific pollutant limitations - local limits; public hearing required.* The county shall establish local pollutant limits, in accordance with Rule 62-625.400, F.A.C., to protect against pass through and interference. No person shall discharge wastewater



containing the material or substances in amounts which exceed the local pollutant limits established by the county. The county shall establish the local pollutant limits at a public hearing at which all the users and all others interested shall have an opportunity to be heard concerning the proposed local pollutant limits. Notice of such public hearing setting forth the proposed schedule or schedules of local pollutant limits shall be given by one publication in a newspaper published in the county at least ten (10) days before the date fixed in such notice for the hearing, which may be adjourned from time to time. After such hearing, such schedule or schedules shall be kept on file in the office of the director and shall be open at all times to public inspection. The county may revise the schedule or schedules of local pollutant limits from time to time in the same manner as the local pollutant limits were originally established. In addition to the local pollutant limits established by the county, the director may impose mass limitations, instantaneous maximum limitations, maximum monthly average values, or maximum four-day average values, in addition to, or in place of, the pollutant limits established by the county.

- (e) *Control authority's right of revision.* The control authority reserves the right to establish, by ordinance or in wastewater discharge permits or in waste hauler discharge permits, more stringent limitations or requirements on discharges to the WWF if deemed necessary to comply with the objectives presented in section 34-138 of this chapter.
- (f) *Dilution.* No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with the limitations unless expressly authorized by an applicable federal categorical pretreatment standard, or in any other pollutant-specific limitation developed by the county or state. The director may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements.

(Ord. No. 94-36, § 2, 7-12-94; Ord. No. 2001-43, § 1, 8-21-01)

## **Sec. 34-140. Pretreatment.**

- (a) *Pretreatment facilities.* Users shall provide necessary wastewater treatment as is required to comply with this chapter and shall achieve compliance with all federal categorical pretreatment standards, local limits, and prohibitions set forth in section 34-139 above within the time limitations as specified by the EPA, the FDEP, or the director, whichever is more stringent. Any user required to pre-treat wastewater to a level acceptable to the control authority shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the control authority for review before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from responsibility for modifying the facility as necessary to produce an effluent within the requirements and limitations under the provisions of this chapter. Any proposed changes in the pretreatment facilities or operating procedures shall be approved by the control authority prior to the user's initiation of the changes.
- (b) *Additional pretreatment measures.*
- (1) Whenever deemed necessary, the director may require industrial users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate domestic wastewater from industrial wastes, and such other conditions as may be necessary to protect the WWF, and determine the industrial user's compliance with the requirements of this chapter.
  - (2) The director may require any industrial user discharging into the WWF to install and maintain, on its property and at its sole expense, a suitable storage and flow control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
  - (3) Oil and grease or sand interceptors shall be provided when, in the determination of the director, they are necessary for the proper handling of wastewater containing excessive amounts of oil and grease or sand; except that such interceptors shall not be required for residential Users. All interception units shall be of type and capacity approved by the director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, at the user's expense.
  - (4) Industrial users that have drains which serve a dual purpose, such as storm water and industrial process water, or drains located in areas, where industrial wastewater is generated or hazardous materials are utilized must have a lock off valve. Such valves should be readily accessible in case of emergency spills, such as fueling island.
  - (5) Industrial users with the potential to discharge flammable substances may be required to install and maintain at their sole expense an approved combustible gas detection meter. At no time shall two readings on an explosion hazard meter at the point of discharge to the WWF, or at any point in the WWF, be more than five (5) percent nor any single reading over ten (10) percent of the lower explosive limit (LEL) on the meter.
  - (6) Grease traps shall be properly maintained by the user to prevent the occurrence of pass through and interference into the sewer system and to meet federal, state

and local standards. Grease traps shall be inspected, cleared, and repaired regularly as needed at the user's sole expense.

- (c) Accidental discharge/slug control plans. Each industrial user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Based on federal, state, or local regulatory requirements and past operations history, the director may require any industrial user to develop and implement an accidental discharge/slug control plan. At least once every two (2) years the director shall evaluate whether each significant industrial user needs such a plan. Any industrial user required to develop and implement an accidental discharge/slug control plan shall submit a plan which addresses, at a minimum, the following:
- (1) Description of discharge practices, including non-routine batch discharges.
  - (2) Description of all stored chemicals.
  - (3) Procedures for immediately notifying the WWF of any accidental or slug discharge. This notification shall include location of the discharge, type of waste, concentration and volume, and corrective actions. Such notification must also be given for any discharge which would violate any of the prohibited discharges in section 34-139 of this chapter.
    - a. *Immediate notification:* In the case of any discharge including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load which may cause potential problems for the WWF, including a violation of the prohibited discharge standards in section 34-139 of this chapter, the user shall notify the control authority by telephone within one (1) hour from the time the user knows or should know of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
    - b. *Written notice:* Within five (5) days following telephone notification of an accidental or slug discharge, the user shall submit to the director a detailed written report describing the cause(s) of the discharge and measures being taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the WWF, natural resources, or any other damage to person or property; nor shall notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or other applicable law.
    - c. *Notice to employees:* A notice shall be permanently posted by the user on a bulletin board or other prominent place advising employees whom to call in the event of an accidental discharge. Employers shall insure that all employees who could cause or suffer such an accidental discharge to occur are advised of the emergency notification procedures. Failure to notify the control authority of potential problem discharges shall be deemed a separate violation of this chapter.

- (4) Each industrial user shall provide procedures to prevent adverse impact from any accidental or slug discharge of toxic organic pollutants (including solvents). These procedures or TOMP shall include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and measures and equipment for emergency response. This TOMP shall be submitted by each industrial user to the control authority for review and approval before construction of new sources. All existing industrial users shall complete and submit a TOMP within one-hundred eighty (180) days following the effective date of this chapter. No industrial user who commences contribution to the WWF after the effective date of this chapter shall be permitted to introduce pollutants into the WWF without a TOMP having been approved by the control authority. Review and approval of such plans and procedures shall not relieve the industrial user from responsibility to modify its facility or procedures as necessary to meet the requirements of this chapter.
- (5) Each industrial user shall prevent the discharge of rain water run-off or storm water from entering the sewer system. Drains located in industrial processing areas, chemical storage areas, fuel storage areas and fuel pumping bays which are connected to the sanitary sewer are prohibited unless approved by the control authority.
- (d) *Tenant responsibility.* Where an owner of property leases premises to any other person as a tenant under any rental or lease agreement, if the owner and/or tenant is an industrial user, both may be held responsible for compliance with the provisions of this chapter.
- (e) *Hauled waste.*
  - (1) Waste may be accepted into the WWF at a designated receiving facility and at such times as are established by the director, provided such wastes do not violate section 34-139 of this chapter or any other requirements established or adopted by the county. Waste hauler discharge permits for individual vehicles to use such facilities shall be issued by the county. All waste haulers shall be required to obtain a waste hauler discharge permit from the control authority. The reoccurring discharge of industrial wastewater requires a wastewater discharge permit from the control authority.
  - (2) The discharge of hauled industrial wastes requires prior approval from the control authority. Generators of hauled industrial waste may be required to obtain wastewater discharge permits. The director shall have the authority to prohibit the disposal of such wastes, if such disposal would interfere with WWF operation. Waste hauler's discharge is subject to all other sections of this chapter.
  - (3) Waste haulers may discharge loads only at locations designated by the director and only with the prior written approval of the director. The director may collect samples of each hauled load to ensure compliance with applicable standards. The director may require the waste hauler to provide a waste analysis of any load prior to discharge.
  - (4) Waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the waste hauler, the waste hauler discharge permit number (if applicable), truck identification, names and

addresses of generators of waste, the generator's discharge permit number (if included in the load), and volume and characteristics of the waste included in the load. The form shall identify the type of industry generating the waste, known or suspected waste constituents, and whether any wastes are RCRA hazardous waste. A non-hazardous waste manifest may be required for each waste, which makes up the load.

- (5) Wastes from locations outside the county sewerage system or from persons outside the system who are, by contract or agreement with the county, users of the county WWF, shall not be discharged into the county sewerage system or any connected system without previous written approval of the director. Such discharge shall only be made at a site approved by the director.
  - (6) Fees for dumping hauled waste will be established as part of the fee system as authorized in section 34-154.
  - (7) All hauled waste rejected by the control authority must submit a manifest of the ultimate disposal site to the control authority.
- (f) *Vandalism.* No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment, or other part of the WWF. Any person found in violation of this requirement shall be subject to the sanctions set out in sections 34-149 through 34-151 below.

(Ord. No. 94-36, § 2, 7-12-94; Ord. No. 2001-43, § 1, 8-21-01)

### **Sec. 34-141. Special agreements.**

The control authority reserves the right to enter into special agreements with industrial users setting out special terms under which they may discharge to the WWF. In no case will a special agreement waive compliance with a categorical pretreatment standard or requirement. However, the industrial user may request a variance or a net/gross adjustment to a categorical standard from EPA in accordance with 40 CFR 403.13 and 403.15, as amended from time to time.

(Ord. No. 94-36, § 2, 7-12-94; Ord. No. 2001-43, § 1, 8-21-01)

### **Sec. 34-142. Permit administration.**

- (a) *Wastewater discharge permit eligibility.*
  - (1) *Wastewater survey.* When requested by the director, all industrial users must submit information on the nature and characteristics of their wastewater by completing a wastewater survey within thirty (30) days of the request. The director shall prepare a form for this purpose and may periodically require industrial users to update the survey. Failure to complete this survey shall be reasonable grounds for terminating service to the industrial user and shall be considered a violation of this chapter.
  - (2) *Wastewater discharge permit requirements.* It is unlawful to discharge industrial

wastewater without a county wastewater discharge permit in any area under the jurisdiction of the county or into any part of the county's WWF; or by any person outside the WWF who is, by contract or agreement with the county, a user of the county WWF; except as authorized by the director in accordance with the provisions of this chapter. It is unlawful for any significant industrial user to discharge wastewater into the county's WWF without first obtaining a wastewater discharge permit from the director. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this chapter and shall subject the holder of the wastewater discharge permit to the sanctions set out in sections 34-149 through 34-151. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment requirements and limitations or any other requirements and limitations of federal, state, and local laws. It shall be unlawful for a waste hauler to deposit wastewater into a MAS or other point of discharge in the wastewater facility without prior written approval by the director and payment of applicable fees.

- (3) *Wastewater discharge permitting: existing connections.* Any industrial user discharging industrial waste into the WWF prior to the effective date of this chapter and who wishes to continue such discharges shall, within ninety (90) days after said effective date, apply to the control authority for a wastewater discharge permit in accordance with section 34-142(A)5 below, and shall not cause or allow discharges to the WWF to continue one hundred eighty (180) days after the effective date of this chapter without a wastewater discharge permit issued by the director.
- (4) *Wastewater discharge permitting: new sources.* Any industrial user proposing to begin or recommence discharging industrial wastes into the WWF must obtain a wastewater discharge permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit may be filed at least one hundred eighty (180) days but no later than thirty (30) days prior to the date upon which any discharge will begin.
- (5) *Wastewater discharge permit application contents.* In order to be considered for a wastewater discharge permit, all industrial users required to obtain a wastewater discharge permit must submit the information required by section 34-143(a) of this chapter on a permit application in the form prescribed by the director, and accompanied by the application fee. In support of the application, the industrial user shall submit, in units and terms appropriate for evaluation, the following information:
  - a. Name, address, and location, (if different from the facility address);
  - b. SIC number according to the Standard Industrial Classification Manual, United States Office of Management and Budget, 1987, and the North American Industry Classification System (NAICS) as amended from time to time;
  - c. Wastewater constituents and characteristics including, but not limited to, those mentioned in section 34-139 of this chapter as determined by a FDEP approved analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended from time to time;

- d. Time and duration of discharge;
- e. Average daily and thirty (30) minute peak wastewater flow rates, including daily, monthly, and seasonal variations if any;
- f. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location, and elevation, and all points of discharge;
- g. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the WWF;
- h. Accidental and slug discharge control procedures and TOMP;
- i. Where known, the nature and concentration of any pollutants in the discharge which are limited by any local, state, or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional O&M and/or additional pretreatment is required for the industrial user to meet applicable pretreatment standards;
- j. If additional O&M and/or additional pretreatment will be required to meet the pretreatment standards; the shortest schedule by which the industrial user will provide such additional pretreatment shall be included. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standards and the following conditions shall apply to this schedule:
  - 1. The schedule shall contain milestone dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
  - 2. No milestone referred to in paragraph (1) above shall exceed nine (9) months.
  - 3. Not later than fourteen (14) days following each milestone date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the director including, at a minimum, whether the milestone date was complied with and, if not, the projected date for compliance, the reason for delay, and the steps being taken by the industrial user to return the project to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the director.
- k. Each product produced by type, amount, process or processes, and rate of production;

- l. Type and amount of raw materials processed (average per day and maximum per day);
  - m. Number and type of employees, hours of operation of plant and proposed or actual hours of operation of pretreatment system; and
  - n. Any other information as may be deemed by the director to be necessary to evaluate the permit application. Incomplete or inaccurate applications will not be processed but will be returned to the industrial user for revision. After evaluation and acceptance of the information furnished, the director may issue a wastewater discharge permit subject to terms and conditions provided herein.
- (6) *Application signatories and certification.* All wastewater discharge permit applications and industrial user reports must contain the following certification statement and be signed by an authorized representative of the industrial user:
- "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for known violations."
- (7) *Wastewater discharge permit decisions.* Within one hundred twenty (120) days of receipt of a complete wastewater discharge permit application, the director will determine whether or not to issue a wastewater discharge permit. The director may deny any application for a wastewater discharge permit when the information indicates that the industrial user would not meet the requirements of this chapter.
- (b) *Wastewater discharge permit issuance process.*
- (1) *Wastewater discharge permit conditions.* All wastewater discharge permittees shall be subject to all provisions of this chapter, all other applicable regulations, and user charges and fees established by the county. Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the director to prevent pass through or interference; to protect the quality of the water body receiving the WWF's effluent; to protect worker health and safety; to facilitate biosolids and effluent reuse management and disposal; to protect ambient air quality; and to protect against damage to the WWF.
    - a. Wastewater discharge permits must contain the following conditions:
      - 1. Wastewater discharge permit duration, which in no event shall exceed five (5) years;
      - 2. A statement that the wastewater discharge permit is nontransferable without prior notification to and approval from the control authority in accordance with section 34-142(b)(3) of this chapter, and provisions for furnishing the permit transferee with a copy of the existing wastewater discharge permit;



3. Effluent limits applicable to the industrial user;
  4. Self-monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on local, state, and federal laws, rules, and regulations;
  5. Statement of applicable civil, criminal, and administrative penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by local, state, and federal laws, rules, and regulations.
- b. Wastewater discharge permits may contain, but need not be limited to, the following conditions:
1. The unit charge or schedule of user charges and fees for management of the wastewater to be discharged to the WWF;
  2. Limits on the instantaneous maximum, daily average, monthly average and four-day maximum concentration, mass, or other measure of identified wastewater constituents and characteristics;
  3. Limits on the average and maximum rate of discharge, time of discharge, and requirements for flow regulations and equalization;
  4. Requirements for installation and maintenance of inspection facilities, and flow metering and sampling equipment;
  5. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices designed to reduce, eliminate, or prevent the introduction of pollutants into the WWF;
  6. Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges;
  7. Development and implementation of waste minimization pollution prevention plans to reduce the amount of pollutants discharged to the WWF;
  8. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable state and federal pretreatment standards, including those which become effective during the term of the wastewater discharge permit;
  9. Other conditions as deemed appropriate by the director to ensure compliance with this chapter, and local, state, and federal laws, rules, and regulations.

(2) *Wastewater discharge permit duration.* Permits shall be issued for any specified

time period, not to exceed five (5) years. Each wastewater discharge permit will be stated to expire on a specific date as set forth in the permit.

- (3) *Wastewater discharge permit transfer.* Wastewater discharge permits are issued to a specific user for a specific operation at a specific location. A wastewater discharge permit may be transferred to another person only if the permittee gives at least thirty (30) days' advance written notice to the director and the director approves the wastewater discharge permit transfer. The notice to the director shall include a written certification by the proposed transferee which:

- a. States that the proposed transferee has no immediate intent to change the permitted facility's operations and processes;
- b. Identifies the specific date on which the transfer is to occur;
- c. Acknowledges full responsibility for complying with the terms and conditions of the existing permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit voidable by the control authority.

- (4) *Wastewater discharge permit review.* The director may provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the control authority to review the conditions of a wastewater discharge permit within fifteen (15) days of its issuance. The petition for review must be received by the control authority within the fifteen (15) day filing period.

- a. Failure to submit a timely petition shall be deemed to be a waiver of the administrative review.
- b. In its petition, the party seeking review must indicate the wastewater discharge permit conditions objected to, the reasons for the objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- c. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- d. Decisions denying review of a wastewater discharge permit, denying issuance of a wastewater discharge permit, or denying proposed modifications to a wastewater discharge permit shall be considered final administrative action for purposes of judicial review. If the control authority fails to act within fifteen (15) days, a petition for review and relief sought therein shall be deemed to be denied.
- e. Aggrieved parties seeking judicial review of the final administrative action by the control authority must do so by certiorari to the circuit court in accordance with the Florida Rules of Appellate Procedure.

- (5) *Wastewater discharge permit modification.* The director or permittee may request by written notice a modification of the wastewater discharge permit at any time for good cause including, but not limited to, the following:

- a. Any new or revised local, state, or federal pretreatment standards or requirements;

- b. Alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- c. A change in the WWF that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- d. Information indicating that the permitted discharge poses a threat to the county's WWF, county personnel, or the waters of the state;
- e. Violations of any terms or conditions of the wastewater discharge permit;
- f. Permittee's misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- g. Revision of, or a grant of variance from, categorical pretreatment standards pursuant to 40 CFR 403.13;
- h. Discovery of typographical or other errors in the wastewater discharge permit;
- i. A transfer of the facility ownership, location, or operation.

The filing of a request by the permittee for a wastewater discharge permit modification does not stay any wastewater discharge permit condition.

(6) *Wastewater discharge permit revocation.* Wastewater discharge permits may be revoked for any of the following actions or inactions by the permittee:

- a. Failure to provide prior notification to the control authority of significant changes to the wastewater before discharge.
- b. Failure to provide prior notification to the control authority of a changed condition pursuant to section 34-143(f).
- c. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.
- d. Falsifying self-monitoring reports.
- e. Tampering with monitoring equipment.
- f. Refusing to allow the control authority timely access to the facility premises and records.
- g. Failure to meet effluent limitations.
- h. Failure to pay penalties.
- i. Failure to pay sewer charges.
- j. Failure to meet compliance schedules.

- k. Failure to complete a wastewater survey or the wastewater discharge permit application.
- l. Failure to provide advance notice of the transfer of a permitted facility.
- m. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this chapter.

Wastewater discharge permits shall be voidable by the control authority upon nonuse, cessation of operations, or transfer of business ownership. All wastewater discharge permits are void upon the issuance of a new wastewater discharge permit.

- (7) *Wastewater discharge permit reissuance.* A user with an expiring wastewater discharge permit shall apply for reissuance of its wastewater discharge permit by submitting a complete discharge permit application, in accordance with section 34-142 of this chapter at least thirty (30) days prior to the expiration of the user's existing wastewater discharge permit.
- (8) *Regulation of wastewater discharge from other jurisdictions.* In the event another jurisdiction or municipality discharges all or a portion of its wastewater to the WWF, the director may require such jurisdiction or municipality to enter into an interlocal agreement for the regulation of its wastewater with the control authority.
  - a. Prior to entering into an agreement as provided above, the discharging jurisdiction or municipality shall provide to the director the following information:
    - 1. A description of the quality and volume of the wastewater at the point(s) where it enters the WWF from the discharging jurisdiction or municipality.
    - 2. An inventory of all industrial users within the discharging jurisdiction or municipality.
    - 3. Such other information as may be required by the director.
  - b. An interlocal agreement as required above, shall contain the following conditions:
    - 1. The discharging jurisdiction or municipality shall adopt a sewer use ordinance which is at least as stringent as this chapter and local limits which are at least as stringent as those set out in section 34-139. The interlocal agreement shall provide that such ordinance and limits must be revised as necessary to reflect changes made to this chapter.
    - 2. The discharging jurisdiction or municipality shall submit a revised industrial user inventory on at least an annual basis.
    - 3. The discharging jurisdiction or municipality shall: (i) conduct pretreatment implementation activities including Industrial User permit issuance, inspection and sampling, and enforcement; or (ii) authorize the control authority to conduct such activities on its behalf.

4. The discharging jurisdiction or municipality shall provide the control authority with access to all information that the jurisdiction or municipality obtains as part of its pretreatment activities.
5. Limits on the nature, quality, and volume of wastewater at the point where the discharging jurisdiction or municipality discharges to the WWF.
6. Requirements for monitoring the jurisdiction or municipality discharge.
7. The director shall have access to the facilities of industrial users located within the discharging jurisdiction or municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the director.
8. Specific remedies available for breach of the terms of the interlocal agreement.

(c) *Waste hauler discharge permit eligibility.*

- (1) *Waste hauler discharge permit requirements.* It is unlawful to discharge hauled waste in Broward County without a waste hauler discharge permit. It shall be unlawful for any waste hauler to discharge hauled waste into the county's WWF or areas approved by the director without first obtaining a waste hauler discharge permit from the director. Any violations of the terms and conditions of the waste hauler discharge permit or policies and procedures established for hauled waste disposal shall be deemed a violation of this chapter and shall subject the waste hauler discharge permit to the sanctions set out in this chapter. Obtaining a waste hauler discharge permit does not relieve a permittee of its obligations to comply with all federal and state requirements and limitations or any other requirements and limitations of federal, state, and local laws. It shall be unlawful for a domestic waste hauler or industrial waste hauler to deposit wastewater into a MAS or other point of discharge in the wastewater system of the WWF without prior written approval by the director and payment of applicable fees. The director may require waste haulers hauling industrial wastewater to obtain a wastewater discharge permit as necessary to carry out the purposes of this chapter.
- (2) *Waste hauler discharge permitting: new sources.* Any waste hauler proposing to begin discharging hauled wastes into the WWF or areas designated by the director must obtain a waste hauler discharge permit prior to beginning of such discharge. An application for this waste hauler discharge permit must be filed prior to the date upon which any discharge will begin. Prior to requesting a waste hauler discharge application, the waste hauler must establish a billing account with the director and comply with the requirements associated with establishing a billing account, which may include the submission of information and deposits by the waste hauler.
- (3) *Waste hauler discharge permit application contents.* In order to be considered for a waste hauler discharge permit, all waste haulers required to obtain a waste hauler discharge permit must submit the information specified on a permit application in the form prescribed by the director, and accompanied by the application fee. In support of the application, the waste hauler shall submit, in terms appropriate for evaluation, the following information:

- a. Hauler name, address, and location, (if different from the facility address);
- b. Business name, address, telephone number and fax number;
- c. Vehicle storage location;
- d. Identify the specific waste types to be disposed;
- e. Designated facility contact;
- f. Identify all environmental permits and/or licenses held, including type, issuing body, and applicable expiration date; and
- g. Waste hauling vehicle information for every vehicle to be utilized for the disposal of hauled waste in the county, including vehicle make/model, year, license tag number, Broward County Department of Planning and Environmental Protection Hauled Waste Transporter License decal number, and waste disposal capacity (in gallons);

(4) *Application signatories and certification.* All waste hauler discharge permit applications must contain the following certification statement and be signed by an authorized representative of the waste hauler:

"I certify under the penalty of law that this document and all attachments were prepared under my direction or supervision. The information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(5) *Waste hauler discharge permit decisions.* Upon receipt of a complete waste hauler discharge permit application, the director may issue a waste hauler discharge permit requiring the waste hauler to comply with this chapter.

(d) *Waste hauler discharge permit issuance process.*

(1) *Waste hauler discharge permit conditions.* All holders of waste hauler discharge permits shall be subject to all provisions of this chapter, all other applicable regulations, and user charges and fees established by the county. Waste hauler discharge permits shall include such conditions as are reasonably deemed necessary by the director to prevent pass through or interference; to protect the quality of the water body receiving the WWF's effluent; to protect worker health and safety; to facilitate biosolids and effluent reuse management and disposal; to protect ambient air quality; and to protect against damage to the WWF.

a. Waste hauler discharge permits must contain the following general permit conditions:

- 1. A statement that violation of any permit condition may result in the suspension or revocation of the permittee's disposal privileges at the designated waste disposal facility;
- 2. A statement that the director reserves the unconditional right to refuse the acceptance of any load or stop an unloading operation in

- progress at any time;
3. A listing of acceptable waste types;
  4. A listing of waste types subject to approval by the director on a case-by-case basis before disposal;
  5. A listing of prohibited waste types;
  6. The administrative requirement of the waste hauler to obtain a waste hauler discharge permit prior to discharging wastewater at the Broward County Septage Receiving Facility or location approved by the director;
  7. The administrative requirement of the waste hauler to obtain a waste hauler license from the Broward County Department of Planning and Environmental Protection for the transportation of each waste type identified by the waste hauler on the hauled waste discharge permit application, and in accordance with Broward County "Waste Transporters Ordinance" Chapter 27, Article XVII;
  8. The administrative requirement of the waste hauler to obtain a waste hauler license vehicle decal from the Broward County Department of Planning and Environmental Protection for the transportation of domestic or industrial waste
  9. The administrative requirement of the waste hauler to maintain a current waste hauler account with the director;
  10. A statement that the waste hauler must complete and submit to the director prior to discharge, a waste tracking form identifying the source of all waste (i.e., origin/location, address, and estimated volume) for each load to be disposed at the Broward County Septage Receiving Facility or designated disposal location;
  11. A statement that all vehicles used to haul waste must be equipped with a safe and easily accessible sample point;
  12. A statement that analytical data may be required of all waste types subject to approval;
- b. Waste hauler discharge permits must contain the following specific permit conditions:
1. A detailed listing of specific acceptable waste types and a statement that the waste hauler may dispose the specific waste types listed;
  2. A detailed listing of the specific vehicles (as identified by vehicle make, waste transportation license number, license tag, and waste capacity [in gallons]) authorized to dispose hauled waste;
  3. A statement that the original waste hauler discharge permit must be

- kept on file in the permanent business office location of the waste hauler;
4. A statement that each registered waste hauling vehicle shall carry a copy of the waste hauler discharge permit at all times;
  5. A statement that the waste hauler shall immediately report any changes in business name, ownership, address or registered vehicles in writing by submitting to the director a waste hauler discharge permit application (with appropriate fee) detailing all reported changes;
  6. A statement that all wastes subject to approval shall not be commingled with other waste;
  7. A statement that in the case of multiple pump-outs contained in one vehicle load, any part of the load which is unacceptable may render the entire load unacceptable for discharge;
  8. A statement that the waste hauler shall follow the established procedures and policies regarding the use of the Broward County Septage Receiving Facility;
- c. Waste hauler discharge permits must contain vehicle-specific waste tracking forms or non-hazardous waste disposal manifest identifying the following information at a minimum:
1. Waste hauler business name;
  2. Broward County Department of Planning and Environmental Protection vehicle waste transporter license number;
  3. Waste hauler account number;
  4. Waste hauler discharge permit number;
  5. Waste pick-up date;
  6. Waste generator name, and address (of waste origin), including specification of county, for all waste types excluding portable toilet waste. Waste haulers disposing of portable toilet waste must maintain customer records identifying generator name and address and shall make this information available to the director upon request;
  7. Waste type and estimated volume (in gallons);
  8. Identify the presence of liquid waste;
  9. Identify the need for vehicle cleaning at the septage receiving facility;
  10. A certification from the waste hauler that the information provided



on the waste tracking form or non-hazardous waste disposal manifest is true, accurate and complete;

11. Waste hauler driver name and signature.

- d. Signature requirements for waste tracking forms or non-hazardous waste disposal manifests. Waste hauler discharge permits may require that all waste generators sign and date the waste tracking form or non-hazardous waste disposal manifest to be submitted to the director with every load (excluding portable toilet waste).
- (2) *Waste hauler discharge permit duration.* Permits shall be issued for any specified time period, not to exceed two (2) years. Each waste hauler discharge permit will be stated to expire on a specific date as set forth in the permit.
  - (3) *Waste hauler discharge permit transfer.* Waste hauler discharge permits are issued to a specific waste hauler for a specific operation at a specific location. A waste hauler discharge permit is not transferable to another person or business.
  - (4) *Waste hauler discharge permit review.* Any user may petition the control authority to review the conditions of a waste hauler discharge permit within fifteen (15) days of the user's receipt. The petition for review must be received by the control authority within the fifteen (15) day time period.
    - a. Failure to submit a timely petition shall be deemed to be a waiver of the administrative review.
    - b. In its petition, the party seeking review must indicate the waste hauler discharge permit conditions objected to, the reasons for the objection, and the alternative condition, if any, it seeks to place in the waste hauler discharge permit.
    - c. The effectiveness of the waste hauler discharge permit shall not be stayed pending the appeal.
    - d. Decisions denying review of a waste hauler discharge permit, denying issuance of a waste hauler discharge permit, or denying proposed modifications to a waste hauler discharge permit shall be considered final administrative action for purposes of judicial review. If the control authority fails to act within fifteen (15) days, a petition for review and relief sought therein shall be deemed to be denied.
    - e. Aggrieved parties seeking judicial review of the final administrative action by the control authority must do so by certiorari to the circuit court in accordance with the Florida Rules of Appellate Procedure.
  - (5) *Waste hauler discharge permit modification.* The director or permittee may request by written notice a modification of the waste hauler discharge permit at any time for good cause including, but not limited to the following:
    - a. Any new or revised local, state, or federal pretreatment standards or requirements;
    - b. Alterations or additions to the industrial user's operation, processes, acceptable or unacceptable waste types or vehicle make, license tag, waste

capacity or waste transporter license number since the time of waste hauler discharge permit issuance;

- c. A change in the WWF that requires either a temporary or permanent reduction or elimination of the authorized waste discharge;
  - d. Information indicating that the permitted discharge poses a threat to the county's WWF, or persons or waters of the state;
  - e. Violations of any terms or conditions of the waste hauler discharge permit;
  - f. Permittee's misrepresentations or failure to fully disclose all relevant facts in the waste hauler discharge permit application or in any required reporting;
  - g. Discovery of typographical or other errors in the waste hauler discharge permit;
  - h. A transfer of the facility ownership, location, operation. The filing of a request by the permittee for a waste hauler discharge permit modification does not stay any waste hauler discharge permit condition.
- (6) *Waste hauler discharge permit revocation.* Waste hauler discharge permits may be revoked for any of the following actions or inactions by the permittee:
- a. Discharge of industrial wastewater without prior control authority approval.
  - b. Disposing hauled waste at any location not designated or approved by the control authority.
  - c. Misrepresentation or failure to fully disclose all relevant facts in the waste hauler discharge permit application.
  - d. Falsifying information provided on waste tracking forms or non-hazardous waste disposal manifests.
  - e. Tampering with samples collected from waste loads.
  - f. Refusing to allow the control authority timely access to the facility premises and records.
  - g. Failure to meet effluent requirements.
  - h. Failure to pay penalties.
  - i. Failure to pay waste disposal charges.
  - j. Failure to meet compliance schedules.
  - k. Failure to complete a waste hauler discharge permit application.
  - l. Violation of any general or specific permit condition or requirement, or any terms of the waste hauler discharge permit or this chapter.

Waste hauler discharge permits shall be voidable by the control authority upon non-use, cessation of operations, or transfer of business ownership. All waste hauler discharge permits are void upon the issuance of a new waste hauler discharge permit.

- (7) *Waste hauler discharge permit reissuance.* A user with an expiring waste hauler discharge permit may apply for reissuance of its waste hauler discharge permit by submitting a complete discharge permit application, in accordance with section 34-142(d)3 of this chapter prior to the expiration of the user's existing waste hauler discharge permit.
- (8) *Regulation of hauled waste received from outside service area.*
  - a. All hauled waste discharged to the Broward County Septage Receiving Facility which originates from an area located outside Broward County is subject to an "Out of Service Area" fee.
  - b. Any industrial facility discharging industrial waste to the WWF by means of a waste hauler may be subject to the requirement of obtaining a discharge permit and regulation by the control authority.
- (e) Violation of the terms and conditions of the interlocal agreement subjects the discharging jurisdiction or municipality to the sanctions set out in sections 34-149 through 34-151.

(Ord. No. 94-36, § 2, 7-12-94; Ord. No. 2001-43, § 1, 8-21-01)

### **Sec. 34-143. Reporting requirements.**

- (a) *Baseline monitoring reports.* Any industrial user subject to a national categorical pretreatment standard, and currently discharging to or scheduled to discharge to the WWF, shall submit to the director within one hundred eighty (180) days of the effective date of the national categorical pretreatment standard promulgated under Section 307 (b) or (c) of the Act, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, a baseline monitoring report.

At least ninety (90) days prior to commencement of their discharge, new sources and sources that become industrial users, subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the director a baseline monitoring report.

A new source shall also be required to report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged. A baseline monitoring report shall include at least the following:

- (1) The name and address of the facility including the name of the operator and owner;
- (2) A list of any environmental control permit(s), license(s), or registration(s) held by or for the facility;

- (3) A brief description of the nature, average rate of production and standard industrial classification number(s) of the operation(s) carried out by the industrial user. This description shall include a schematic process diagram which indicates points of discharge to the WWF from the regulated processes;
- (4) Information showing the measured average daily flow and maximum daily flow, in gallons per day, to the WWF from each regulated process stream and other streams as necessary to allow use of the combined waste stream formula of Section 62-625.410, F.A.C. and included in 40 CFR 403.6(e);
- (5) The national pretreatment standards applicable to each regulated process;
- (6) The results of sampling and analysis identifying the nature and concentration of regulated pollutants in the discharge of each regulated process. Instantaneous, daily maximum and long term average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be sampled and analyzed in accordance with the procedures set forth in section 34-143(d);
- (7) Where the flow of the regulated stream being sampled is less than or equal to two hundred fifty thousand (250,000) gallons per day, the industrial user shall take three (3) samples within a two-week period. Where the flow of the regulated stream is greater than two hundred fifty thousand (250,000) gallons per day, the industrial user shall take six (6) samples within a two-week period;
- (8) Samples shall be taken immediately downstream from pretreatment facilities if such facilities exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the industrial user shall measure the flows and concentrations necessary to allow use of the combined waste stream formula of Section 62-625.410, F.A.C. and included in 40 CFR, 403.6 in order to evaluate compliance with the pretreatment standards;
- (9) A baseline monitoring report may be submitted which utilizes only historical data so long as the data comes from a facility of similar production and capacity and the data provides information sufficient to determine the need for industrial pretreatment measures;
- (10) A statement, signed by the authorized representative of the industrial user and certified by the person in responsible charge, indicating whether national pretreatment standards are being met on a consistent basis, and, if not, whether O&M and/or additional pretreatment is required for the industrial user to meet national pretreatment standards and county requirements;
- (11) If O&M and/or additional pretreatment will be required to meet the pretreatment standards, the shortest compliance schedule by which the industrial user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable national categorical pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set forth in section 34-142(a)(5)j. of this chapter; and
- (12) All baseline monitoring reports must be signed and certified in accordance with section 34-142(a)(6).

- (b) *Compliance with categorical pretreatment standard deadline report.* Within ninety (90) days following the date for final compliance with the applicable standards, or in case of a new source following commencement of the introduction of wastewater into the WWF, any industrial user subject to pretreatment requirements shall submit to the director a baseline monitoring report containing the information described in section 34-143 of this chapter. For industrial users subject to equivalent mass or concentration limits established in accordance with the procedures in Section 62-625.410, F.A.C. and included in 40 CFR 403.6, this report shall contain a reasonable measure of the industrial user's long term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the industrial user's actual production during the appropriate sampling period. The report shall state whether the applicable standards or requirements are being met on a consistent basis and, if not, what O&M and/or additional pretreatment is necessary to bring the industrial user into compliance with the applicable standards and requirements. This statement shall be signed by the authorized representative of the industrial user in accordance with section 34-142 of this chapter and certified by the person in responsible charge.
- (c) *Periodic compliance reports.* Any industrial user required to perform self-monitoring by its wastewater discharge permit shall submit to the director at a frequency determined by the director, but in no case less than twice per year, a periodic compliance report indicating the nature and concentration of the pollutants in the effluent which are limited in the wastewater discharge permit. In addition, the periodic compliance report shall include the measured or estimated average and maximum daily flows for the reporting period for the discharge. At the discretion of the director and in consideration of such factors as high or low flow rates, holidays, budget cycles, etc., the director may agree to alter the months during which the above periodic compliance reports are to be submitted. All periodic compliance reports must be signed and certified in accordance with section 34-142 of this chapter.

If an industrial user subject to the reporting requirement monitors any pollutant more frequently than required by the WWF using the procedures prescribed in section 34-143 of this chapter, the results of this monitoring shall be included in the periodic compliance reports.

- (d) *Hauled waste - waste acceptance request.* Any waste generator requesting to dispose hauled waste subject to control authority waste acceptance approval prior to disposal (including without limitation, industrial and/or commercial process, holding tank or septic tank waste, storm sewer clean out, processed restaurant grease trap clean out, leachates, condensates, equipment or facility wastewater or wastewater treatment facility sludges) may be required to perform self-monitoring by its wastewater discharge permit (if applicable) and/or as required by the waste transporter's waste hauler discharge permit. The permitted waste hauler shall submit to the director at a frequency determined by the director, a waste acceptance request indicating the nature and concentration of the pollutants in the hauled waste which are limited in the wastewater discharge permit (if applicable) or the WWF local limits (if no wastewater discharge permit exists). In addition, the waste acceptance request shall indicate the total volume of waste to be hauled to the WWF, and the estimated frequency of further discharges.

- (e) *Self-monitoring and analysis of user discharges reports.* The reports required in paragraphs (a), (b), and (c) of section 34-143 shall contain the results of sampling and analysis of the discharge, including the waste stream concentration or mass of pollutants contained therein which are limited by the wastewater discharge permit. The frequency of monitoring to demonstrate compliance shall be as prescribed in the wastewater discharge permit. All pollutant analyses, including sampling techniques, shall be performed in accordance with procedures established by EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended from time to time, unless otherwise specified in an applicable categorical pretreatment standard. Where 40 CFR, Part 136 does not include sampling or analytical techniques for pollutants in question, or where EPA determines that the 40 CFR, Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed using validated analytical methods approved by the director.
- (1) Except as indicated in section 34-143(d)(2) below, the industrial user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is not feasible, the director may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the industrial user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous maximum allowable discharge limits.
- (2) Samples for oil and grease, temperature, ph, cyanide, phenols, sulfides, toxicity, and volatile organic chemicals must be obtained using grab sample collection techniques.
- (f) *Self-monitoring and analysis of hauled waste acceptance request.* The information required in paragraph (d) of section 34-143 shall contain the results of sampling and analysis of the requested hauled waste discharge, including the waste stream concentration of pollutants contained therein which are limited by the wastewater discharge permit (if applicable) or the WWF local limits. The frequency of monitoring to demonstrate compliance shall be as prescribed in the wastewater discharge permit (if applicable) or as specified by the control authority. All pollutant analysis, including sampling techniques, shall be performed in accordance with procedures established by EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended from time to time, unless otherwise specified in an applicable categorical pretreatment standard. Where 40 CFR, Part 136 does not include sampling or analytical techniques for pollutants in question, or where EPA determines that the 40 CFR, Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed using validated analytical methods approved by the director.

The waste hauler requesting the acceptance of hauled waste for disposal at the WWF must collect a grab sample representative of the waste to be discharged by the waste generator.

- (g) *Reporting of slug loading.* The industrial user shall notify the director immediately of any accidental slug loading by the industrial user and shall meet all requirements of section 34-140(c) of this chapter.
- (h) *Report of significant material changed conditions.* Each industrial user shall notify the director of planned significant material changes to the industrial

user's operations or system which might alter the nature, quality or volume of its wastewater at least sixty (60) days before the change. "Significant" material changes shall include flow increases of ten (10) per cent or greater, the discharge of any previously unreported pollutants, or modification to the industrial user's facilities, operations, or pretreatment system which alters the nature or quantity of its wastewater.

- (1) The director may require the industrial user to submit such information as may be deemed necessary by the director to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 34-142(a)(5);
- (2) The director may issue a wastewater discharge permit under section 34-142(b)(1) or modify an existing wastewater discharge permit under section 34-142(b)(5);
- (3) No industrial user shall implement a planned significant material change of condition unless and until the director has responded to the industrial user's notice.
  - (i) *Notice of violation/repeat sampling and reporting for industrial users.* If sampling and analysis performed by an industrial user indicates a parameter violation (for all pollutants except BOD, COD, and TSS), the industrial user must notify the director within twenty-four (24) hours of becoming aware of the violation. The industrial user shall also repeat the sampling and analysis and submit the results of the repeat sample analysis to the control authority within thirty (30) days after becoming aware of the violation. The industrial user is not required to re-sample if the control authority performs monitoring at the industrial user's facilities at least once a month, or if the control authority performs sampling between the industrial user's initial sampling and when the industrial user receives the results of this sampling.
  - (j) *Notice of violation and reporting for waste haulers.* If sampling and analysis performed by a waste hauler or waste generator requesting waste acceptance from the control authority indicates a parameter violation (for all pollutants except BOD, COD, and TSS), the control authority reserves the right to deny waste acceptance waste disposal request. If at the time of waste discharge it is identified by the control authority that a waste is subject to waste acceptance sampling, the control authority may collect a sample of the waste for analysis. If sampling and analysis performed by a control authority indicates a parameter violation (for all pollutants except BOD, COD, and TSS), the waste hauler and waste generator may be subject to penalties and fines, in addition to costs associated with the analysis of hauled waste. For instances where sampling and analysis performed by the control authority indicate compliance with waste acceptance requirements, the waste hauler and waste generator may be subject to fees associated with the recovery of costs for the analysis of hauled waste samples.
  - (k) *Timing.* Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the U.S. Postal Service, the date of receipt of the report shall govern.

(Ord. No. 94-36, § 2, 7-12-94; Ord. No. 2001-43, § 1, 8-21-01)

### **Sec. 34-144. Records.**

- (a) *Sampling and analysis records.* Any user subject to the reporting requirements established in section 34-143 shall retain, and make available for inspection and copying, all records and necessary information resulting from monitoring activities required by section 34-143 and any additional records or necessary information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Such records shall include for all samples at least the following:
  - (1) The date, exact place, method, time of sampling and names of the person or persons taking the sample, and any appropriate field sample preservation methods, and chain-of-custody information;
  - (2) The dates analyses were performed;
  - (3) Who performed the analyses;
  - (4) The analytical methods/techniques used and detection limits; and
  - (5) The results of such analyses.
  
- (b) *Monitoring activities and results records.* Any user subject to the reporting requirements established in section 34-143 shall be required to retain for a minimum of three (3) years any records of monitoring activities and results (whether or not such monitoring activities are required by this chapter) and shall make such records available for inspection and copying by EPA, FDEP, and the control authority. This period of retention shall be extended during the course of any unresolved litigation regarding the user, or when requested by the control authority, FDEP or EPA.

(Ord. No. 94-36, § 2, 7-12-94)

### **Sec. 34-145. Monitoring facilities.**

The control authority may require any industrial user to provide and operate, at the industrial user's sole expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and the regulated process discharge. The monitoring facility shall be situated on the industrial user's property at a location approved by the control authority prior to its installation, but the control authority may, when such a location would be impractical or cause undue hardship on the industrial user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling MAS or facility to allow accurate flow measurements, sampling and preparation of samples for analysis. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the control authority's requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by the control authority.

The control authority may require any significant industrial user to provide and operate, at the significant industrial user's sole expense, suitable flow metering and sampling equipment to facilitate the accurate observation, sampling, and flow measurement of process wastewater. Such sampling and measuring equipment shall be properly operated, kept clean, and maintained in good working order at all times and at the expense of the significant industrial user, and shall be accessible to the control authority at all times. All devices used to measure wastewater flow



and quality shall be calibrated periodically based on the manufacturer's recommendation to ensure their accuracy. The failure of a significant industrial user to keep its monitoring facility in good working order shall not be grounds for the significant industrial user to claim that sample results are unrepresentative of its discharge and will be deemed a separate violation of this chapter.

(Ord. No. 94-36, § 2, 7-12-94; Ord. No. 2001-43, § 1, 8-21-01)

### **Sec. 34-146. Compliance monitoring.**

- (a) *Inspection and sampling.* The control authority shall have the right to inspect the facilities and vehicles of any industrial user or waste hauler to ascertain whether the purposes of this chapter, and any permit or order issued hereunder, are being met and all requirements being complied with.

Persons occupying or operating such facilities or vehicles where waste is created, transported or discharged shall allow the control authority ready access to all parts of the facility or vehicle premises for the purposes of inspection, sampling, records examination and copying, and the performance of any of the control authority's duties. The control authority, FDEP, and EPA shall have the right to set up or attach such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Tampering with, or knowingly rendering inaccurate, such devices shall be a significant violation and could result in immediate wastewater discharge permit and waste hauler permit termination and shall place the user in significant non-compliance as defined in section 34-147 of this chapter.

Where a user has security measures in force which require proper identification and clearance before entry into its premises, the industrial user or waste hauler shall make necessary arrangements with its security guards so that upon presentation of proper identification, personnel from the control authority, FDEP, or EPA shall be permitted to enter, without delay, for the purposes of performing compliance monitoring.

Any temporary or permanent obstruction to safe and easy access to the industrial user's or waste hauler's facility shall be promptly removed by the industrial user or waste hauler at the written or verbal request of the control authority and shall not be replaced. The costs of clearing such access shall be borne by the industrial user or waste hauler. Unreasonable delays in allowing control authority, FDEP, or EPA personnel access to the industrial user's or waste hauler's premises shall be a violation of this chapter.

- (b) *Search warrants.* If control authority personnel have been refused access to a building, structure or property or any part thereof, and if control authority personnel have demonstrated probable cause to believe that there may be a violation of this chapter or that there is a need to inspect as part of a routine inspection program of the control authority designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the county attorney may appear before any magistrate empowered to issue warrants in criminal cases and provide an affidavit and apply for the issuance of a warrant in the manner provided by law. The warrant shall specify what may be searched on the property described. Such warrant shall be served at reasonable hours by control authority personnel in the company of a uniformed police officer of Broward County or the local municipality. In the event of an emergency affecting public health and safety, inspections shall be made without the issuance of a warrant.

(Ord. No. 94-36, § 2, 7-12-94; Ord. No. 2001-43, § 1, 8-21-01)

**Sec. 34-147. Publication of industrial users and waste haulers in significant noncompliance.**

The control authority shall annually publish, in any daily newspaper of general circulation in the county where the WWF is located, a list of the users determined to be in significant non-compliance with any pretreatment requirements or standards during the previous twelve (12) months.

The notification shall also summarize any enforcement actions taken against a user during the same twelve (12) months.

All records relating to compliance with pretreatment standards shall be made available to the EPA or FDEP upon request. The term "significant non-compliance" shall mean:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) per cent or more of the wastewater measurements taken during a six (6) month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
- (2) Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) per cent or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, COD, TOC, TDS, TSS, O&G, and 1.2 for all other pollutants except pH);
- (3) Any other discharge violation that has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of control authority personnel or the general public);
- (4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the control authority's exercise of its emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or waste hauler discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to provide waste acceptance sampling results and information to the control authority prior to the discharge of hauled waste to the WWF.
- (8) Failure to accurately report non-compliance; or
- (9) Any other violation(s) of this chapter which the control authority determines will adversely affect the operation or implementation of the local pretreatment program.

(Ord. No. 94-36, § 2, 7-12-94; Ord. No. 2001-43, § 1, 8-21-01)

### **Sec. 34-148. Confidential information.**

Information and data on a user obtained from reports, questionnaires, wastewater discharge permit or waste hauler discharge permit applications, wastewater and waste hauler discharge permits and monitoring programs, and from inspections and sampling activities and waste tracking forms or non-hazardous waste disposal manifests shall be available to the public or other government agency without restriction unless the information is exempt or protected from disclosure by law.

(Ord. No. 94-36, § 2, 7-12-94; Ord. No. 2001-43, § 1, 8-21-01)

### **Sec. 34-149. Administrative enforcement.**

- (a) *Notification of violation.* Whenever the control authority finds that any user has violated or is violating this chapter, a discharge permit, or any prohibition, limitation or requirements contained herein, the director shall serve upon said user a written notice of the violation. Within ten (10) days of the receipt date of this notice, the user shall respond, in writing, to the director in defense of the violation and shall provide a written plan for the satisfactory correction and prevention thereof, including specific actions proposed to be taken. Submission of this plan in no way relieves the user of liability for any violation occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the control authority to take action, including emergency actions or any other enforcement action, without first issuing a notice of violation.
- (b) *Cease and desist orders.* When the Director finds that a user is violating this chapter, a discharge permit, any order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the director may issue an order to the user directing it to cease and desist all such violations and directing the user to:
  - (1) Immediately comply with all requirements; and
  - (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a prerequisite to taking any other action against the user.
- (c) *Authority to impose administrative fines and penalties.*
  - (1) Notwithstanding any other section of this chapter, any user who is found to have violated any provision of this chapter, a discharge permit, any order issued hereunder, or any other pretreatment standard or requirement, may be fined in an amount described in the county's FDEP approved ERP. Each day on which non-compliance shall occur or continue shall be deemed a separate and distinct violation. Assessments of such fines may be added to the user's next scheduled sewer service charge. Unpaid charges, fees, fines, and penalties shall, after thirty

(30) calendar days, be considered delinquent and the control authority shall pursue other collection remedies as may be permitted under applicable law. A lien against the user's property may be filed for unpaid charges, fines, fees, and penalties. Any user desiring to dispute such fines, fees and penalties must file a request in writing within ten (10) days of being notified of the fine, fee or penalty, as described in section 34-153 of this chapter. The request must include a non-refundable violation appeal process charge in accordance with Section 38.18, Broward County Administrative Code, as amended from time to time. The control authority may seek reimbursement of all prosecutorial costs including, but not limited to, laboratory costs, consultants fees, and sampling and inspection expenses.

- (2) The county shall establish the ERP in accordance with Section 62-625.500, F.A.C. The ERP shall contain at a minimum; methods of investigating non-compliance, identify personnel responsible for enforcement, describe the types of escalating enforcement responses, time frame for responses, enforcement tools, tracking, and follow-up, and an enforcement response guide inclusive of the penalty matrix. The county shall establish the ERP at a public hearing at which all the users and all others interested shall have an opportunity to be heard concerning the proposed ERP. Notice of such public hearing setting forth the proposed schedule or schedules of the ERP shall be given by one publication in a newspaper published in the county at least ten (10) days before the date fixed in such notice for the hearing, which may be adjourned from time to time. After such hearing, such schedule or schedules shall be kept on file in the office of the director and shall be open at all times to public inspection. The county may revise the ERP from time to time in the same manner as the ERP was originally established. In addition to the administrative fines and penalties established by the county within the ERP, additional enforcement action may be imposed by the director in accordance with sections 34-150 and 34-151 herein.
- (3) Issuance of an administrative fine shall not be a prerequisite for taking any other action against the user nor shall an administrative penalty release the user of liability for any violation, including any continuing violation.
- (d) *Emergency suspensions.* The director may immediately suspend a user's discharge permit after written notice to the user whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to be an imminent or substantial endangerment to the health or welfare of persons. The director may also immediately suspend a user's discharge permit after notice and opportunity to respond which reasonably presents an endangerment to the environment, or threatens interference with the operation of the WWF. Any user notified of a suspension of its discharge permit shall immediately stop or eliminate the waste. If the user fails to immediately comply with the suspension order, the director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the WWF, its receiving stream, or endangerment to any person. The director may reinstate the discharge permit when the user has demonstrated to the director the elimination of the non-complying discharge. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment to the WWF, its receiving stream, or to the health and welfare of persons, shall submit a detailed written statement to the director describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, prior to the date of any hearing. Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension.
- (e) *Termination of discharge.* The following actions or inactions by a user shall subject a

user to discharge termination:

- (1) Violation of discharge permit conditions;
- (2) Failure to accurately report the waste constituents and characteristics of its discharge;
- (3) Failure to report significant changes in operations or waste volume, constituents and characteristics prior to discharge;
- (4) Refusal of access to the user's premises for the purpose of inspection, monitoring, or sampling;
- (5) Refusal of access to the waste hauler's vehicle waste contents for the purpose of inspection, monitoring, or sampling;
- (6) Violation of the pretreatment standards in section 34-139 of this chapter.

Such users shall be notified of the proposed termination of their discharge and shall be entitled to a hearing to contest such action against the user . A request for a hearing shall not be a bar to, or a prerequisite for, taking any other action against the user.

(Ord. No. 94-36, § 2, 7-12-94; Ord. No. 2001-43, § 1, 8-21-01)

### **Sec. 34-150. Judicial enforcement.**

If any person discharges wastewater, industrial wastes, or other wastes into the wastewater disposal system in violation of the provisions of this chapter or any order or permit issued hereunder after being ordered to discontinue such discharge as provided in section 34-149, the director, through the county attorney, shall have the authority to commence an action in the name of the county for appropriate legal or equitable relief.

- (a) *Injunctive relief.* Whenever a user has violated a pretreatment standard or requirement or continues to violate the provisions of this chapter, discharge permits or orders issued hereunder, or any other pretreatment requirement imposed by this chapter, the director, through the county attorney, may commence an action in the name of the county for injunctive relief which restrains or compels the specific performance of the provisions of this chapter, discharge permits, or orders issued hereunder, or any other pretreatment requirement on activities of the user. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a user.
- (b) *Civil penalties.* Any user who has violated or continues to violate this chapter, any order or discharge permit issued hereunder, or any other pretreatment standard or requirement shall be liable to the county to the maximum civil penalty permitted under the FDEP approved ERP as described in Section 34-149 herein, plus actual damages incurred by the control authority per violation per day for as long as the violation continues. In addition to the above-described penalty and damages, the county may recover court costs and other expenses associated with the enforcement activities, including sampling and monitoring expenses and the cost of any actual damages incurred by the control authority. The county, through the director and county attorney, shall petition the court to impose, assess, and recover such sums. Filing a suit for civil penalties shall not be a prerequisite for taking any other action against a

user.

- (c) *Criminal prosecution.* Any user who willfully or negligently violates any provision of this chapter, discharge permit, or order issued hereunder, or any other pretreatment requirement shall, upon conviction, be punished by the maximum penalty permitted per violation per day or imprisonment or both.

Any user that willfully or negligently introduces any substance into the WWF which causes personal injury or property damage shall, upon conviction, be punished by the maximum penalty per violation per day or imprisonment or both. This penalty shall be in addition to any other action for personal injury or property damage available under state law.

Any user who knowingly makes false statements, representations, or certifications in any application, record, report, plan or other documentation filed, or required to be maintained, pursuant to this chapter, discharge permit, or order or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished by the maximum penalty permitted per violation per day or imprisonment or both.

- (d) *Remedies non-exclusive.* The provisions in sections 34-149 and 34-150 are non-exclusive remedies. The control authority reserves the right to take any, all, or any combination of these actions against a non-compliant user. Enforcement of pretreatment violations will be in accordance with the control authority's FDEP approved ERP. However, the control authority reserves the right to take other action against any user when the circumstances warrant. Further, the control authority is empowered to take more than one enforcement action against any non-compliant user. These actions may be taken concurrently.

(Ord. No. 94-36, § 2, 7-12-94; Ord. No. 2001-43, § 1, 8-21-01)

### **Sec. 34-151. Supplemental enforcement.**

- (a) *Performance bonds.* The director may decline to reissue a discharge permit to any user that has failed to comply with the provisions of this chapter, discharge permit, or order issued hereunder, unless such user first provides a performance bond, payable to the control authority, in a sum not to exceed a value determined by the director to be necessary to achieve consistent compliance.
- (b) *Water supply severance.* Whenever a user has violated or continues to violate the provisions of this chapter, wastewater discharge permit, or order issued hereunder, water service to the user may be severed and service will only recommence, at the user's expense, after the user has satisfactorily demonstrated its ability to comply. The control authority shall not be responsible for any damages incurred by a user caused by, or related to, the water supply being severed.

(Ord. No. 94-36, § 2, 7-12-94; Ord. No. 2001-43, § 1, 8-21-01)

### **Sec. 34-152. Affirmative defenses.**

- (a) *Treatment upsets.*
- (1) For the purposes of this section, "upset" means an incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
  - (2) An upset shall be an affirmative defense to an administrative action brought for noncompliance with categorical pretreatment standards if the requirements of section 34-152(a)(3) are met.
  - (3) An industrial user who wishes to establish the affirmative defense of an upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
    - a. An upset occurred and the industrial user can identify the cause of the upset;
    - b. At the time of the upset, the facility was being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;
    - c. The industrial user has submitted the following information to the director within twenty-four (24) hours of becoming aware of the upset. If this information is provided verbally, a written submission must be provided to the director within five (5) days and must include the following:
      1. A description of the discharge and cause of noncompliance;
      2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;
      3. A plan including specific measures to reduce, eliminate and prevent recurrence of the noncompliance.
  - (4) In any administrative enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.
  - (5) Industrial users will have the opportunity for judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
  - (6) Upon reduction, loss, or failure of the industrial user's treatment facility, the industrial user shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation including, but not limited to, where the primary source of power of the treatment facility is reduced, lost or fails.
- (b) *Specific prohibitions.* An industrial user shall have an affirmative defense to an administrative enforcement action brought against it for noncompliance with the

general and specific prohibitions in section 34-139 of this chapter if it can prove that it did not know or have reason to know that its discharge, along or in conjunction with, discharges from other sources, would cause pass through or interference and that either:

- (1) A local limit exists for each pollutant discharged and the industrial user was in compliance with each limit directly prior to, and during, the pass through or interference; or
  - (2) No local limit exists, but the discharge did not change substantially in nature or constituents from the industrial user's prior discharge when the control authority was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.
- (c) *Treatment bypasses.*
- (1) For purposes of this section, "bypass" means the intentional diversion of waste streams from any portion of an industrial user's treatment facility or vehicles used to haul waste. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage shall not include economic loss caused by delays in production.
  - (2) An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of section 34-152(c)(3) and (4).
  - (3) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the director at least ten (10) days before the date of the bypass. An industrial user shall verbally notify the director of an unanticipated bypass that exceeds applicable pretreatment standards to the director within twenty-four (24) hours from the time the industrial user becomes aware of the bypass. A written report shall also be submitted to the director within five (5) days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times; and, if the bypass has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The director may waive the written report on a case-by-case basis if the verbal report has been received within twenty-four (24) hours and includes all information deemed necessary by the director.
  - (4) Bypass is prohibited, and the director may take enforcement action against an industrial user or waste hauler for a bypass, unless:
    - (a) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
    - (b) There was no feasible alternative to the bypass, such as the use of auxiliary treatment, retention of the wastewater, or maintenance during normal periods of equipment downtime. This condition is not satisfied if



adequate back-up equipment should have been installed in reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

- (c) The industrial user properly notified the director as required under section 34-152(c)(3).

Director may approve an anticipated bypass, after considering adverse effects, if the director determines that it will meet three (3) conditions listed in section 34-152(c)(4).

(Ord. No. 94-36, § 2, 7-12-94; Ord. No. 2001-43, § 1, 8-21-01)

### **Sec. 34-153. Appeal process.**

(a) *Appeal procedure.*

- (1) Appeal by administrative hearing shall be accomplished by filing a request in writing to the address indicated on the enforcement action, not later than ten (10) days after the receipt date.
  - (2) Upon receipt of a timely request for an administrative hearing, the matter shall be set for hearing on the next regularly scheduled hearing, unless involving emergency suspensions.
  - (3) The county shall serve a notice of hearing to the violator, which notice shall include, but not be limited to, the following:
    - a. Place, date and time of the hearing;
    - b. Right of the violator to present witnesses and evidence and conduct cross-examination; and
    - c. A conspicuous statement reflecting the requirements of Chapter 286, Florida Statutes, that a person deciding to appeal a decision of a hearing examiner on a fine, fee or penalty will need to ensure that a verbatim record of the proceedings is made.
  - (4) If the hearing examiner finds that a violation occurred but determines that the time given for correction was not reasonable, the hearing examiner shall determine a reasonable time period and enter an order that the alleged violator comply with this chapter.
  - (5) If the hearing examiner finds that the fine, fee or penalty was issued before the reasonable time expired, the hearing examiner shall enter an order finding that a fine, fee or penalty occurred, but shall not assess the applicable fine against the violator. However, if the hearing examiner finds that the alleged violator has not complied by the time of the hearing, the hearing examiner may choose to disregard the failure of the control authority to provide a reasonable time for the alleged violator to come into compliance and enter an appropriate fine.
- (b) *Hearing examiner.* There is hereby created for the purposes of this chapter the position of hearing examiner. The hearing examiner shall be a member in good

standing of the Florida Bar. The hearing examiner shall conduct the hearing in accordance with the rules and regulations set forth herein.

- (c) *Authority of the hearing examiner.* In addition to all other authority granted in this section and other sections of this division, the hearing examiner shall have the authority with regard to adjudicatory proceedings, to:
- (1) Administer oaths and affirmations.
  - (2) Issue subpoenas authorized by law, including those requiring the attendance of witnesses and the production of documents and other items which may be used as evidence.
  - (3) Rule upon motions presented and offers of proof and receive relevant evidence.
  - (4) Issue appropriate orders to effectuate discovery.
  - (5) Regulate the course of the hearing.
  - (6) Dispose of procedural requests or similar matters.
  - (7) Enter any order, consistent with the authority granted by this division, to carry out the purposes of this subsection.
  - (8) Make final orders and issue findings of fact and conclusions of law.
  - (9) Enter agreed final orders upon motion of the parties.
  - (10) Upon motion by control authority, enter finalized settlements as final orders.
  - (11) Enter final orders which require compliance with the standards, rules and provisions established by this chapter and with any license condition and may specify a reasonable time for such compliance.
  - (12) Render unchallenged fines, fees or penalties into final orders.
  - (13) Enter orders resolving administrative review of final control authority decisions.
  - (14) Render final orders as liens upon all real and personal property of the violator.
  - (15) Enter other orders and consider other issues as necessary for the exercise of the hearing examiner's jurisdiction.
- (d) *Assessment penalties and order for correction of the violation and environmental damage.*
- (1) If it is determined by a preponderance of the evidence by the hearing examiner, after receiving all of the competent relevant evidence, that the respondent (alleged violator) has violated a provision of this chapter, the hearing examiner shall order that the violator be assessed a civil penalty. The hearing examiner shall consider during the determination of a penalty, among other issues:

- a. The potential extent of the health concerns, damage to the WWF and/or environmental damage;
  - b. The violator's cooperation with the control authority in taking remedial action to correct the violation and any environmental damage and/or to perform other mitigation prior to the hearing;
  - c. History of non-compliance before and after the violation;
  - d. Economic benefit of non-compliance;
  - e. That the violator knew or should have known that it was not complying with this chapter; and/or
  - f. The amount necessary to ensure immediate and continued compliance with this chapter.
- (2) In setting the penalty, the hearing examiner may not consider the amount of money or its equivalent expended by the violator to correct the violation or to come into compliance with this chapter.
  - (3) At a notice of violation hearing, a civil penalty assessed against the violator shall be in an amount, determined by the hearing examiner, not to exceed ten thousand dollars (\$10,000.00) per violation.
  - (4) During the hearing of and appeal of a fine, fee or penalty, the hearing examiner may exceed the schedule of civil penalties for fines, fees or penalties and assess a fine not to exceed five hundred dollars (\$500.00). The hearing examiner may not exceed the amount of penalty established in the schedule of civil penalties in accordance with the ERP merely because the respondent has exercised its right to a hearing.
  - (5) During the hearing of an appeal, the hearing examiner may remand the matter with instructions that the issuance of a notice of violation be considered when the violation is not identified in the schedule of civil penalties for fines, fees or penalties, causes or may cause substantial harm, health issues, WWF non-compliance, degradation of the environment, or is a substantial violation of this chapter.
  - (6) In addition, the hearing examiner shall determine and assess against the violator reasonable costs incurred by the county in the enforcement of this chapter.
  - (7) Each day during any portion of which a violation of this chapter occurs constitutes a separate violation.
  - (8) The hearing examiner shall order that the violator conduct appropriate actions as necessary to correct the violation, any environmental damage and to ensure compliance with this chapter. The hearing examiner may establish compliance requirements. Compliance requirements may be stated generally or, upon delegation by the hearing examiner, established by the control authority. The violator's compliance activities shall be reviewed by the control authority to ensure compliance with the hearing examiner's order and this chapter and shall be conducted in accordance with the control authority requirements and/or pursuant to an appropriate control authority permit. The hearing examiner shall retain

jurisdiction until the compliance activities have been completed to ensure compliance with this chapter.

(Ord. No. 94-36, § 2, 7-12-94; Ord. No. 2001-43, § 1, 8-21-01)

### **Sec. 34-154. Surcharge rates.**

The county may adopt high strength wastewater surcharge rates for the following of conventional parameters:

- (1) BOD<sub>5</sub>--above 400 mg/l
- (2) COD--above 800 mg/l
- (3) TSS--above 400 mg/l
- (4) TKN--above 30 mg/l and not exceeding 100 mg/l
- (5) NH<sub>3</sub>-N--above 25 mg/l and not exceeding 70 mg/l
- (6) Total P--above 5 mg/l and not exceeding 20 mg/l
- (7) O&G--above 100 mg/l and not exceeding 500 mg/l

High strength wastewater surcharge rates will be based on the WWF's treatment cost and will be charged on a mass emission basis. The rates shall be established and set forth in the Broward County Rate Schedule, as amended from time to time.

(Ord. No. 94-36, § 2, 7-12-94; Ord. No. 2001-43, § 1, 8-21-01)

### **Sec. 34-155. Fees.**

- (a) *Purpose.* It is the purpose of this chapter to provide for the recovery of costs from users of the WWF for the implementation of the program established herein. The applicable charges or fees shall be established and set forth in the Broward County Rate Schedule, as amended from time to time.
- (b) *Fees.* The control authority may adopt charges and fees which may include the following:
  - (1) Fees for reimbursement of costs of setting up and operating the county's pretreatment monitoring program;
  - (2) Fees for monitoring, inspections, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing self-monitoring reports submitted by users;
  - (3) Fees for reviewing accidental slug discharge procedures, TOMP, and construction plans;
  - (4) Fees for wastewater discharge permit and waste hauler discharge permit

applications including the cost of processing such applications;

- (5) Fees for wastewater discharge permits and waste hauler discharge permits;
- (6) Fees for high strength wastewater surcharges for conventional parameters;
- (7) Fees for filing appeals;
- (8) Other fees as the county may deem necessary to carry out the purposes of this chapter.

These fees relate solely to matters covered by this chapter and are separate from all other fees chargeable by the county.

(Ord. No. 94-36, § 2, 7-12-94; Ord. No. 2001-43, § 1, 8-21-01)

Secs. 34-156--34-164. Reserved.

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