RESOLUTION

RESOLUTION ADOPTING THE ORANGE COUNTY
ENFORCEMENT RESPONSE PLAN
FOR USERS OF THE COUNTY WASTEWATER SYSTEM

Resolution No. 2009-M-22

WHEREAS, the Board of County Commissioners establishes the necessary regulations for the use of public and private sewers and drains discharging to the County Wastewater System in the interest of public health, safety and welfare of citizens and residents of the County pursuant to its home rule powers granted to the County by the Florida Constitution, the Orange County Charter, and Chapter 125 of Florida Statutes, and;

WHEREAS, the Board of County Commissioners of Orange County provides for the regulation of direct and indirect contributors to the county Wastewater System to protect against Pass Through and Interference,1 through the issuance of permits to certain non-domestic users, through the enforcement of specific permit conditions and through the enforcement of general sewer use requirements, pursuant to county code, to comply with the federal pretreatment regulations set forth by the United States Environmental Protection Agency general pretreatment regulations, Title 40, Code of Federal Regulations (CFR), Part 403, the state pretreatment regulations set forth by the Florida Department of Environmental Protection (FDEP) pretreatment requirements, Chapter 62-625, Florida Administrative Code (F.A.C.), and the requirements in applicable NPDES and FDEP permits for the county wastewater system, and the terms and conditions in agreements for the reuse of reclaimed water and residuals, and;

WHEREAS, the Board of County Commissioners of Orange County now desires, in order to assure due process and equal protection to all respondents, to establish and adopt an Enforcement Response Plan (ERP) which defines methods of investigating non-compliance, identify personnel responsible for enforcement, describe the types of escalating enforcement responses, time frame requirements for user and county responses, enforcement tools available to the county, establishes tracking requirements, follow-up requirements, provides for an enforcement response guide inclusive of the specific penalty matrix for all non-compliance types pursuant to Chapter 37, Article XX, sections 37-747 through 37-751, Orange County Code, and as authorized by Section 62-625.500, F.A.C., and provides a process and requirements by which the county's appeals Hearing Officer will hear all appeals filed by users in violation of or relating to the following issues or decisions:

- Any provision of Chapter 37 Article XX (except as described in subsection 37-749(j)(2));
- An industrial wastewater discharge permit;

1 See definitions in Orange County Code Chapter 37 Article XX, section 37-703.
• A waste hauler operating permit
• An enforcement order issued hereunder;
• Any pretreatment standard or requirement;
• Any hauled waste requirement;
• Any Oil and Grease Prevention Program requirement;
• Any Best Management Practice Requirement;
• To review a show cause order issued under the ordinance;
• Denial of a variance under the ordinance, and;

WHEREAS, the utilities department intends to embark on an increased and more intense program of enforcement of the above provisions in Orange County, and;

WHEREAS, the number of appeals of such matters is expected to increase, and;

WHEREAS, the director of the Orange County utilities department needs the flexibility to obtain the services of a hearing officer to hear such appeals, and;

WHEREAS, the hiring of a hearing officer to hear the appeals of such matters is both within the legal authority of the Board of County commissioners, and provides adequate due process protection of the appellants, so long as;
   a. The hearing officer is an attorney and qualified to hear such appeals under standard evidentiary rules for administrative hearings, and;
   b. The hearing officer is hired for a fixed term, and not limited to a one-time hearing contract, i.e., for a period of time not less than one year, and;
   c. The hearing officer's contract provides that he or she may not be discharged during that term except for good cause shown, such as failing to appear for a hearing.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY:

Section 1. Adoption of Revised Orange County Enforcement Response Plan for all Users that Directly or Indirectly Discharge Wastewater to the Orange County Wastewater System. The Board of County Commissioners hereby adopts the Orange County Enforcement Response Plan attached hereto and incorporated in this Resolution as Exhibit “A”.

Section 2. Intent.
(a) As of the effective date of this Resolution, any person or user found to be violating of any provision of Chapter 37, Article XX of the County Code, any of the orders, rules, regulations related to or permits issued pursuant to said County Code, shall be subject to the penalties, fines, consent orders, and other enforcement mechanisms stated in the Orange County Enforcement Response Plan.
(b) In addition to the administrative fines and penalties established by the Orange County Enforcement Response Plan, additional enforcement action may be imposed by the County in accordance with Chapter 37, Article XX, sections 37-747 through 37-751 of the County Code.

(c) A hearing officer shall be hired by the utilities director and shall henceforth hear appeals relating to the final determinations of the County, pursuant to the Orange County Enforcement Response Plan and in accordance with Chapter 37 Article XX, section 37-749 of the County Code, and;

(d) The procedures shown in the Orange County Enforcement Response Plan and section 37-749 (j), Orange County Code, shall be applicable to appeals by aggrieved persons of the decisions of the public utilities department to the hearing officer.

Section 3. Implementation of Orange County Enforcement Response Plan. Implementation of the Orange County Enforcement Response Plan will commence upon the approval by the Board of County Commissioners of this Resolution.

Section 4. Severability and Provisions. If any provisions of this Resolution or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this resolution which can be given effect without the invalid provisions or applications, and to this end the provisions of this Resolution are declared severable.

Section 5. Effective Date. This Resolution shall take effect ____________.

ADOPTED THIS _______ DAY OF __ JUL 14 2009 __.

ORANGE COUNTY, FLORIDA
By: The Board of County Commissioners

By: Richard T. Crotty, County Mayor

Attest: Martha O. Haynie, County Comptroller
As Clerk of the Board of County Commissioners

By: _______________ Deputy Clerk

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EXHIBIT “A”

ORANGE COUNTY ENFORCEMENT RESPONSE PLAN
FOR USERS OF THE COUNTY WASTEWATER SYSTEM

Effective upon approval by the Orange County Board of County Commission and
upon final approval by the Florida Department of Environmental Protection
ENFORCEMENT RESPONSE PLAN

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EXECUTIVE SUMMARY

This Enforcement Response Plan (ERP) has been developed in accordance with; 40 CFR 403.8(f)(5); Florida Administrative Code (F.A.C.) 62-625.500(2)(d); and Orange County Sewer Use Ordinance (ORANGE COUNTY CODE) Chapter 37, Article XX – Public and Private Sewer System Use Requirements.

Enforcement is an integral part of the Orange County Utility Department’s pretreatment program. In the 1986 Pretreatment Compliance Enforcement Guidance, the EPA encouraged each Control Authority (CA) to develop an enforcement response guide, which is a set of procedures describing how the CA will investigate industrial users and waste haulers, (hereafter referred to as users), in violation, and which enforcement actions the CA may take to respond to such violations. On November 23, 1988, the EPA proposed to require all CAs with approved pretreatment programs to develop and implement an ERP, and the Domestic Sludge Study (DSS) Regulations finalized the proposed rule in 40 CFR 403.8(f)(5).

This ERP shall be utilized in conjunction with the Orange County Code, Chapter 37, Article XX. The purpose of the County’s ERP is two-fold. First, to ensure user(s) compliance with federal pretreatment regulations, local pretreatment regulations and the provisions stipulated in Orange County Chapter 37, Article XX – Public and Private Sewer System Use Requirements. Second, to make certain that if and when it is necessary for the CA to enforce federal and local pretreatment standards and regulations, associated industrial wastewater discharge permit requirements, and the provisions stipulated in Orange County Code, Chapter 37, Article XX, that all users are treated fairly and equitably.

Key elements for an ERP:

- Description of who will act as the County’s CA and how the CA will investigate instances of noncompliance.
- Description of the types of escalating enforcement response the CA will take in response to all anticipated types of user violations and the time periods in response to all anticipated types of user violations and the time periods within which the responses will take place.
- Identification by title of key personnel and their responsibility for implementing each type of enforcement response.
- CA pretreatment program’s primary responsibility to enforce all applicable pretreatment requirements and standards as provided in 40 CFR part 403 and F.A.C. 62-625.

In general the criteria used to evaluate violations by users will be the following:

- Nature of the violation;
- Magnitude of violation;
- Number of violations cited;
- Duration of violation;
• Effect on the receiving water, reclaimed water quality, residuals, regulatory requirements
• Effect of violation on the WWF, personnel and Orange County residents;
• Compliance history of the users;
• Good faith efforts by the users.
The Orange County Utilities, Environmental Compliance Section (OCU-ECS) is designated as the CA to investigate the compliance status of users, utilizing the following methods:

1.1 Field Inspections – The CA shall inspect each Industrial Pretreatment Program permittee, not less than twice a year to evaluate compliance with federal and local pretreatment standards and regulations, industrial wastewater discharge permit requirements, and the provisions stipulated in Orange County Code Chapter 37, Article XX. During the facility site inspection, the inspector shall gather data necessary for the evaluation of compliance. This data includes facility observations, employee statements, analytical documents, waste manifests, waste disposal or recycle records, physical evidence, and other information supports enforcement action, resulting from noncompliance. Permittees under the hauled wastewater program and non-permitted users on the oil and grease prevention program shall be inspected not less than once per year in accordance with Orange County Code Chapter 37, Article XX.

1.2 Regulatory Sampling - The regulatory sampling shall be carried out by the CA in accordance with the Florida Department of Environmental Protection (FDEP) Field Sampling Standard Operating Procedure. This personnel shall collect representative samples of the users wastewater discharge to the WWF (where possible), and prepare and deliver collected samples to a certified laboratory for analysis according to FDEP regulatory requirements. If a representative sample cannot be collected, then a sample from the process generating the pollutants of concern will be collected for compliance evaluation.

1.3 Document Review - The CA shall review and analyze user documents, which are required by the users, to determine compliance status, such as, self-monitoring documents (MRs), NOV responses, compliance schedule milestones, baseline monitoring reports, spill(slug plans, best management program plans (BMPPs), toxic organic management plans (TOMPs) and any other information pertaining to Orange County Code Chapter 37, Article XX program compliance.

1.4 Meetings - Formal and informal meetings with users are utilized to obtain and share information related to any aspect of the program requirements and may be used to investigate compliance status and technical issues, such as, users classification, additional sampling procedures or location, pretreatment requirements, laboratory analyses, BMPPs, and/or other requirements to ensure compliance.

1.5 Increased Monitoring - Increased self-monitoring and/or regulatory sampling may be required to monitor compliance status.

1.6 Interaction with other Agencies - The FDEP, Orange County Environmental Protection Department (OC-EPD), Orange County, County Attorney Office (OC-CAO), Environmental Protection Agency, Criminal Investigation Division (EPA-CID), and the Federal Bureau of Investigation (FBI) are agencies utilized to further investigate user’s compliance status.
1.7 **Search for Non-permitted Users** - All users, connected with the WWF and discharging industrial wastewater, and/or commercial wastewater containing pollutants of concern, may require a permit prior to discharge or for the continued discharge to the WWF in accordance with Orange County Code Chapter 37, Article XX.
2.1 **Field Personnel** (I): Duties; Limits on authority - Field personnel are the first line of enforcers for pretreatment standards and requirements. If a user denies entry to the field personnel or withdraws this consent during an inspection, the Environmental Compliance Section’s Environmental Coordinator shall be contacted for access to the site. Documented telephone calls to users regarding compliance may be made by the inspector(s), as indicated in Section 5, Enforcement Response Guide. Inspectors under the OC pretreatment program may include managers, supervisors, program specialists, field inspectors or technicians, engineers, environmental compliance officers, or any other certified personnel. Field personnel may:

- Telephone Call
- Issue a Field NOV
- Request/Issue a Warning Letter

2.2 **Environmental Coordinator** – (EC) Duties; Limits on authority - The duties of the Environmental Coordinator include the preparation of enforcement action cases against non-complying users. The actions taken by the Environmental Coordinator include:

- Issue Warning Letter.
- Issue of NOV.
- Issue NOSNC.
- Request/Approval for Compliance Meeting
- Request for Cost Recovery.
- Request for Penalty.

The Environmental Coordinator has a major role in the enforcement responses initiated by the OCU-ECS in order to achieve and maintain users in compliance.

2.3 **Manager** – (M) Duties; Limits on authority - The division or section Manager, as designated by the director, has the full responsibility for the following enforcement actions taken against non-complying users. These responsibilities include:

- Penalty Approval.
- Compliance Schedule Approval
- Show Cause Meeting Request
- Cease and Desist Order Request.
- Emergency Suspension Request.
- Petition for Civil Penalties.
- Performance Bond Request.
- Letter of credit request See ERG Note 16
- Water Supply Severance Request.
2.4 Orange County Utilities Department Director – (D) Duties: Limits on authority - The OCUD Director (director) approves the following enforcement actions, which are severe in nature:

- Issue Cease and Desist Order.
- Show Cause Meeting Approval/Determination
- Termination of Discharge.
- Performance Bond.
- Letter of credit **see ERG Note 16**
- Water Supply Severance.

The director requests the following enforcement actions from the County Attorneys office, which are severe in nature:

- Injunctive relief.
- Civil penalties.
- Criminal prosecution.

The director also acts as the chairman for initial show cause meetings by the users regarding enforcement actions and penalties.¹

2.5 Legal Counsel - Orange County –County Attorney’s Office – (A) Duties: Limits on authority - Orange County -County Attorney’s Office (OC-CAO) provides legal counsel for the CA and has a significant role in the support and preparation of formal enforcement actions against users who are found to be in SNC with Orange Country code. When enforcement actions, such as obtaining search warrants² to inspect users’ facilities, civil and/or criminal suits need to be filed, the legal counsel for the control authority charts out the strategy, gathers evidence, petitions the courts and argues the case for the CA.

2.6 Orange County Sheriff’s Office – (SO) Duties: Limits on authority - If the OCU-ECS field personnel (inspectors) are denied access to a facility, which prevents investigation of potential Environmental crimes, the inspector shall notify the OCU-ECS Environmental Coordinator. The OCU-ECS Environmental Coordinator may request a search warrant² in accordance with Orange County Code Chapter 37 Article XX, Sec. 37-748. The search warrant² shall be served at reasonable hours by the CA personnel in the company of a uniformed police officer of Orange 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.

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¹ Although a show cause meeting has certain characteristics of a hearing, with the Director applying his knowledge and judgment to a given showing by a respondent, what he issues as a result of the meeting, such as a “Compliance Order,” is not a judgment, but a final determination for purposes of appeal, to the third party hearing examiner.

² See references to administrative “inspection” warrants below, where criminal activity is not suspected. A “search” warrant is a term of art referring to a search in a criminal investigation.
This section describes available enforcement actions utilized by the CA. The enforcement philosophy is escalating, that is, violations are addressed at the lowest appropriate level with the least formality and proceed to more formal levels with increasing actions and Penalties until compliance is achieved. However, it should be noted that the enforcement action is not contingent upon any sequence of prior enforcement actions and depending upon the scenario, any level of enforcement tools may be used for the initial action. Below is the list of available enforcement tools used by the CA.

3.1 Compliance Request - A compliance request is an informal but very effective enforcement action. A compliance request may be made either in person (during field inspections, site visits, or in meetings) or by telephone, email or a Faxed correspondence. Depending on the circumstance, the inspector or enforcement coordinator may take this action. Many users will consider the action seriously and try to comply immediately or at least as soon as practicable. If a user continues to be in noncompliance, the enforcement action must be escalated. Internal policy is the source for this action, and the provision is not shown in the County Code. It is a Courtesy for our customer. It is not final and therefore not appealable.

3.2 Warning Letter - The warning letter, signed by the CA may be utilized by staff as an informal tool, which documents that the users’ representative is aware and knowledgeable of requirements to achieve compliance. This document, which is hand delivered via certified mail, identifies the nature of noncompliance, time frames to comply, and requires signatures by the users’ representative. See generally 37-749(a)(1) Orange County Code. Usually, this is a final determination, where notice thereon so indicates. If it is final, then it is appealable to the hearing examiner.

3.3 Compliance Meeting - The compliance meeting is an informal tool for informing the users of their noncompliant status which results in a corrective action agreement to achieve compliance in ninety (90) days or other enforcement action as necessary. The term is not defined in §749: It’s considered a Courtesy for our customer; utilities requests it. It is not final, and not appealable, per se. Its purpose is for development of a Compliance Schedule, which would be final and enforceable, and appealable, or for the development of a Consent agreement, which would be final, and enforceable, if signed by respondent, but not appealable.

ADMINISTRATIVE ENFORCEMENT

3.4 Field Notice of Violation (FNOV) - A field (issued) notice of violation (FNOV) is a notice of violation issued by the field staff for a user's noncompliance with the provisions of the
Oil and Grease Management Program and non-permitted users not operating under a Best Management Plan (BMP), as defined by Orange County Code Chapter 37 Article XX, Sec 37-754 and Sec 37-744. The FNOV clearly states the nature of the noncompliance and requires the user to comply with a specific remedial action within the notated time frame. FNOVs are followed up by the ECS after the notated time frame has elapsed to confirm the required action has been taken. If compliance has not been achieved, escalating enforcement will be taken. See 37-703(definitions): See §§37-749(a)(1): With penalty: See also 37-749(b) ($1000;) and 37-749(g)(1) and (6). Unless special language is placed in the notices indicating otherwise, both NOVs and FNOVs are considered a Final Determination for appeal, in all cases.  

3.5 Notice of Violation (NOV) see ERG Note 3 - Whenever a user has violated the Orange County Code Chapter 37, Article XX, a permit, any provision of 40 CFR Part 403 or 62-625 F.A.C., a notice of violation (NOV) may be issued (by the Environmental Coordinator), pursuant to Orange County Code Chapter 37 Article XX, Section 37-749(a)(b).

The NOV clearly states the noncompliance and requires the user, within thirty (30) working days of the receipt date of this notice, to respond in writing to the violation. The user’s response shall include a written plan for the satisfactory correction and prevention thereof, including proposed specific actions to be taken. See 37-703(definitions): See §§37-749(a)(1): With penalty: See 37-749(b) ($1000;) 37-749(g)(1) and (6). It is considered a Final Determination for appeal, in all cases.

3.6 Compliance Schedule - The Compliance schedule is a schedule of requisite remedial activities or milestones necessary for a user to achieve compliance with all pretreatment program requirements. A compliance schedule is typically set forth in the users industrial wastewater discharge permit, waste hauler operating permit, consent order or other enforcement documents.

3.7 Show Cause Order - Defined in 37-703 (under “administrative order”). See also 37-749(d)(1) “The director may order a user who has violated . . . , to appear before the director and show cause why the proposed enforcement action should not be taken.” This show cause order itself is a final determination for purposes of appeal.

3.8 Show Cause Meeting - Pursuant to Orange County Code Chapter 37 Article XX, Section 37-749(d), the Director and/or Section Manager may order a user who has violated, or continues to violate any provision of the article, an industrial wastewater discharge permit, or any other order issued hereunder or any other pretreatment standard or requirement, to appear before the director/section manager and show cause why the proposed enforcement action should not be taken. Provided for in 37-703 (under “administrative order”). The meeting itself is not punitive, but a show cause order which requires the meeting to begin with, would likely state that “the Director has found the respondent in violation,” which would count as a final determination, and

3 Orange County would not likely be able to tell whether the non-permitted operator was actually operating under BMP without the permit having been previously screened, supervised and granted.

4 The language will always state affirmatively that the notices may be appealed. Only where there is language making an exception to that standard will the effect be otherwise.
the Order to come in and show cause would therefore be final also. Therefore the time for appeal
starts from the issuance of the show cause order. In the meantime the respondent could come in
and attempt to show the director why he thinks the director is in error, but the setting of the time
for the show cause meeting does not itself stay the running of the time for the appeal of the
underlying finding of violation, unless special language is placed therein to that effect.

3.9 Compliance Orders - When the CA finds that a user has violated, or continues to violate,
any provision of the article, an industrial wastewater discharge permit, or any other order issued
hereunder or any other pretreatment standard or requirement, the Director may issue an order for
the user responsible for the discharge directing that the user come into compliance within a
specified period of time, pursuant to Orange County Code Chapter 37 Article XX, Section 37-749(e). Defined in 37-703, (definitions); A Compliance Order is a Final determination for appeal
in all cases, unless otherwise specified.

3.10 Cease and Desist Order - When a user is found violating the Orange County Code
Chapter 37, Article XX, permit, any order issued hereunder, or any other pretreatment standard
or requirement, the user may be issued an order to cease and desist all such discharge, pursuant
to Orange County Code Chapter 37 Article XX, Section 37-749(f). The Cease and Desist Order
directs the user to:

1. Immediately comply with all Orange County Code Chapter 37, Article XX requirements;
and

2. Take such appropriate remedial or preventive action as may be necessary to properly address
a continuing or threatened violation, including halting operation and/or terminating
discharge.

Defined in 37-703(definitions): Final determination for appeal in all cases, unless otherwise
specified.

3.11 Administrative Penalties - Pursuant to Orange County Code Chapter 37 Article XX,
Section 37-749(g), administrative Penalties are enforcement actions used by the CA before
taking severe enforcement action, such as, termination of service or water service severance. Any
users found to have violated any provision of the Orange County Code Chapter 37, Article XX
permit, any order used hereunder, or any other pretreatment standard or requirement, may be
penalized. Each instance on which noncompliance shall occur or and each day a violation
continues shall be deemed a separate and distinct violation. Final determination for appeal in all
cases, unless otherwise specified.

3.12 Administrative fine - This is a specific type of an administrative penalty, which shall
mean a punitive monetary charge unrelated to actual treatment costs, which is assessed by the
control authority rather than a court for enforcement of the requirements herein. Where an
administrative fine is upheld by a hearing officer, or the amount is changed by that officer, but
the assessment of a fine is still upheld, or where an administrative fine is likewise upheld or the
amount is changed by a court, the fine does not lose its identity as an administrative fine because
it may be so modified. Administrative fines are also distinguished from Civil Penalties or Civil Fines due to their separate matrix and range of severity.

3.13 **Emergency Suspension** - Pursuant to Orange County Code Chapter 37 Article XX, Section 37-749(h), the Director may suspend a user’s permit after formal 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, or causes the WWF to be noncompliant. Any users notified of a suspension of their permit shall immediately stop or eliminate the noncompliant wastewater discharge. 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, or degradation to the quality of its receiving stream, reclaimed water, residuals, cause noncompliance with regulatory requirements or endangerment to any person. The Director may reinstate the permit or in cases where the user does not require a permit, authorize resumption of the discharge when the user has demonstrated to the director the elimination of the non-complying discharge. Final determination for appeal in all cases, unless otherwise specified. This is profound and rare action, not commenced but for a high likelihood of severe and imminent damage, and an appeal does not toll immediate suspension.

3.14 **Termination of Discharge** - Pursuant to Orange County Code Chapter 37 Article XX, Section 37-749(i), a user shall be subject to termination of discharge for the following actions or inactions:

- Violation of OCUD-issued permit conditions,
- Any program requirements contained in Orange County Code Chapter 37, Article XX
- Failure to accurately report wastewater (discharge) constituents and characteristics.
- Failure to report significant changes in operations or wastewater volume, constituents and characteristics, prior to discharge to the Orange County’s wastewater system.
- Refusal to provide the CA access to the user’s premises for the purpose of inspection, monitoring, or sampling.
- Violation of the pretreatment standards or requirements referenced in Orange County Code Chapter 37 Article XX, Section 37-735 through 37-737, Section 37-747, and Section 37-756.

Termination of Discharge is a term of art which is defined as a physical blockage or cutting off of a discharge. For purposes of enforcement, that action may be taken by the respondent/Owner or if respondent/Owner refuses, is unable to do so, or absent, then by personnel from Orange County Utilities or persons contracted to do the work. Such users shall be notified of the proposed termination of their discharge. To require, in an order, a termination of discharge and include a notice that the County will terminate the discharge at respondent’s cost, if such is not done, is a Final determination for appeal in all cases, unless otherwise specified. This is profound and rare action, not commenced but for a high likelihood of severe and imminent damage, and an appeal does not toll immediate suspension.

See “Injunctive Relief” regarding reconnection or interference with County Personnel or contract employees in connection with Termination.
3.15 Judicial Enforcement - Pursuant to Orange County Code Chapter 37 Article XX, Section 37-750, any person discharging wastewater to the Orange County Wastewater Facility (WWF) that is in violation of the provisions of the Orange County Code Chapter 37, Article XX or any order or permit issued hereunder, after being ordered to discontinue such discharge (pursuant to Orange County Code Chapter 37 Article XX, Section 34-139), the Director, through the OC-CAO, may commence an action in the name of the County for appropriate legal or equitable relief in the Circuit Court for Orange County.

a. Injunctive Relief - Pursuant to Orange County Code Chapter 37 Article XX, Section 37-750(a), the Director, through the OC-CAO, may commence an action in the name of the county for injunctive relief, which restrains or compels the specific performance of the provisions of the Orange County Code Chapter 37, Article XX.

b. Civil Penalties (distinguished from administrative penalties) - Civil penalty shall mean, but not be limited to, a monetary fine issued by a Court against a violator in a civil case for enforcement of the requirements herein. If a court’s Civil Penalty is a fine, it will have a separate range of severity from that of Administrative fines. But see also definition, for this purpose, of Code Enforcement Board and Code Enforcement Special Magistrate fines, in Chapter 11, Orange County Code, and as further described hereinabove.

Pursuant to Orange County Code Chapter 37 Article XX, Section 37-750(b), any user who has violated or continues to violate the Orange County Code Chapter 37, Article XX, any order or permit issued hereunder, or any other pretreatment standard or requirement shall be liable to the county to the maximum civil penalty permitted, plus actual damages incurred by Orange County per violation per day for as long as the violation continues. In addition to the above described penalty and damages, the Director 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 CA. The County, through the Director and the OC-CAO, shall petition the court to impose, assess, and recover such sums. In determining the amount of liability, the county shall request that the court take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the users violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires. Filing a suit for civil penalties shall not be a prerequisite for taking any other action against a user.

c. Criminal Prosecution - Pursuant to Orange County Code Chapter 37 Article XX, Section 37-750(c), any user who willfully or negligently violates any provision of the Orange County Code Chapter 37, Article XX, permit, or order issued hereunder, or any other pretreatment requirement shall, upon conviction, be punished by the maximum civil penalty permitted under state law per violation per day or imprisonment or both. 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 the Orange County Code Chapter 37, Article XX, permit, or order, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under the Orange County Code Chapter 37, Article XX, shall, upon conviction, be punished by the maximum civil penalty permitted under state law per violation per day or imprisonment or both.
3.16 Supplemental Enforcement - Pursuant to Orange County Code Chapter 37 Article XX, Section 37-751, the CA may initiate the following supplemental enforcement actions for a user’s failure to comply with Orange County Code Chapter 37, Article XX requirements:

a. Performance Bond - Pursuant to Orange County Code Chapter 37 Article XX, Section 37-751(a), the Director may decline to reissue a permit to any user that has failed to comply with the provisions of the Orange County Code Chapter 37, Article XX, permit, or order issued hereunder, unless such user first files a performance bond, payable to Orange County.

b. Letter of Credit (LOC) - Pursuant to Orange County Code Chapter 37 Article XX, Section 37-751(a)( ), the Director may decline to reissue a permit to any user that has failed to comply with the provisions of the Orange County Code Chapter 37, Article XX, permit, or order issued hereunder, unless such user first files an LOC, payable to Orange County. This LOC may be required where:
   • Special circumstances exist requiring an immediate source of revenue for cleanup or repair.
   • Construction of wastewater pretreatment facilities.
   • Collection of a suspended fine.

c. Water Supply Severance - Pursuant to Orange County Code Chapter 37 Article XX, Section 37-751(c), whenever a user has violated or continues to violate the provisions of the Orange County Code Chapter 37, Article XX, 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 County shall not be responsible for any damages incurred by a user caused by, or related to, the water supply being severed. This is a final determination for purposes of appeal. see ERG Note 15

d. Search Warrants - Pursuant to Orange County Code Chapter 37 Article XX, Section 37-748(c), if CA personnel have been refused access to a building, structure or property or any part thereof, and if the 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 by the control authority to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety, and

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5 More specifically referred to in the Florida statutes, section 933.20, as administrative “Inspection Warrants,” except those issued during criminal investigations. See section 933.20; "Inspection warrant"; definition.—As used in ss. 933.20-933.30, "inspection warrant" means an order in writing, in the name of the people, signed by a person competent to issue search warrants pursuant to s. 933.01, and directed to a state or local official, commanding him or her to conduct an inspection required or authorized by state or local law or rule relating to municipal or county building, fire, safety, environmental, animal control, land use, plumbing, electrical, health, minimum housing, or zoning standards.
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.

3.17 Notice of Significant Noncompliance - Pursuant to Orange County Code Chapter 37 Article XX, Section 37-749(a)(b) or F.A.C. 62-625.500(2)(b), the CA notify a user (in writing) that is found to be in SNC with Orange County Code Chapter 37 Article XX requirements and will annually publish the list of all users in SNC in the daily newspaper with the largest circulation in Orange County. A user is defined to be in SNC (of the county code) if the user’s noncompliance meets one or more of the following criteria:

1. Chronic violations of wastewater discharge limits, defined here as those in which sixty six percent (66%) or more of all wastewater measurements for the same pollutant parameter taken during a rolling six (6) month period exceed (by any magnitude) a numeric pretreatment standard, limit, or requirement, including instantaneous limits,

2. Technical Review Criteria (TRC) violations, defined here as those in which thirty three percent (33%) or more of all the wastewater measurements taken for the same pollutant parameter during a rolling six (6) month period equal or exceed the product of the numeric pretreatment standard, limit, or requirement including instantaneous limits as defined in 40 CFR 403.3(1) multiplied by the applicable TRC criteria (TRC = 1.4 for BOD, COD, TSS, TOC, TDS and O&G, and TRC = 1.2 for all other pollutants except pH) in accordance with 40 CFR 403.8(f)(2)(viii)(B) and the F. A. C.

3. Any other violation of a pretreatment effluent limit (daily maximum or long term average) that the control authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of wastewater 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 county's exercise of its emergency authority to halt or prevent such a discharge,

5. Failure to meet, within ninety (90) days after a scheduled date, a compliance schedule milestone contained in a control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance,

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6 If the requirements of section 933.21 have been properly followed up to that point, the County Attorney may so appear and request the issuance of the warrant. However that section provides: . . . An inspection warrant shall be issued only upon cause, supported by affidavit, particularly describing the place, dwelling, structure, or premises to be inspected and the purpose for which the inspection is to be made. In addition, the affidavit shall contain a statement that consent to inspect has been sought and refused or a statement setting forth facts or circumstances reasonably justifying the failure to seek such consent. Owner-occupied family residences are exempt from the provisions of this act.
6. Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules,

7. Failure to provide waste acceptance sampling results and manifest information to the control authority prior to the discharge of hauled waste to the C. A.,

8. Failure to accurately report compliance,

9. Any other violation or group of violations which the control authority determines will adversely affect the operation or implementation of County's pretreatment program, its WWF, or WWF compliance with regulatory permits or requirements.

3.18 Method of Tracking - Enforcement actions are maintained by the CA. The date of the initial violation begins the tracking of the user's noncompliance. When compliance is achieved, this provides closure of the enforcement case.

After violation detection, requests for enforcement actions are prepared with appropriate documentation; an enforcement action initiated by ECS will be taken within 30 days. The enforcement action is then entered in the database and monitored for compliance with established milestone due dates.

3.19 Follow-Up Procedures - Failure to achieve compliance invokes the next level of enforcement. Generally, escalating enforcement proceeds as follows:

a. Telephone logs, inspection reports, field issued NOVs, and/or other enforcement tools documenting required actions having completion dates shall be verified ECS ten (10) working days after their due date. Failure of the users to achieve compliance shall require an issuance of a request for escalated enforcement actions.

b. An issued NOV requires a user's response within thirty (30) working days. The NOV shall be considered closed on the date when compliance is achieved.

c. If compliance isn't achieved by the user utilizing the above tools, then the OCU-ECS Section Manager may request: Cease and Desist Orders, Termination of Service, Water Supply Severance, or any Judicial Enforcement as provided by the Orange County Code Chapter 37, Article XX.

3.20 Appealable and non appealable elements and determinations - The Director's determinations, findings, permit conditions, or requirements may or may not be appealable to a

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7 In virtually all cases, when the language in this ERP says "Director," it is intended to include those individuals occupying managerial and code enforcement officer's positions to which the Director has specifically or by inference delegated authority. The exceptions to that general rule are always made clear by context or by specific provision, such as where only the Director chairs a show cause hearing.
disinterested board or hearing examiner, depending on their content and the circumstances surrounding them. The following is a summary showing which ones may be appealed, and which may not.

**Telephone Call:** Internal policy, not shown in Code. Courtesy for customer. Not final and not appealable.

**Warning Letter:** See 37-749(a)(1): May be final determination, where notice thereon so indicates. If final, then appealable to hearing examiner.

**NOV/ NOSNC:** See 37-703(definitions) w/ or w/o Penalty §§37-749(a)(1), with penalty: 37-749(b) ($1000; ) 37-749(g)(1) and (6): Final Determination for appeal, in all cases.

**Compliance Meeting:** Not defined in §749: Courtesy for customer; utilities requests it. Not final. Purpose is for development of Consent agreement.

**Consent agreement:** Not directly defined in Code. Enforceable agreement between County and Respondent. Not a consent order, but similar in effect if signed by respondent. Not appealable if signed by respondent and County.

**Consent order:** See 37-703(definitions) and 37-749( c): Final resolution, and enforceable, not appealable if signed by respondent. If refused by respondent, must be appealed within specific time.

**Show cause order:** Defined in 37-703: (under “administrative order”). See also 37-749(d)(1): Final determination.

**Show Cause Meeting:** Provided for in 37-703: (under “administrative order”). See also 37-749(d): Meeting not a final determination.

**Compliance Order:** Defined in 37-703, and see 37-749( e): Final determination for appeal in all cases, unless otherwise specified.

**Cease and Desist Order:** Defined in 37-703(definitions), 37-749(f): Final determination for appeal in all cases, unless otherwise specified.

**Emergency Suspension:** See 37-749(h): Final determination for appeal in all cases, unless otherwise specified.

**Termination of Discharge:** See 37-749(i): Final determination for appeal in all cases, unless otherwise specified.

**Civil Penalties:** See 37-749(g) or 37-750(b): Final determination for appeal in all cases, unless otherwise specified.
**Performance Bond:** See 37-751(a): Final determination for appeal in all cases, unless otherwise specified, or agreed to in writing by respondent.

**Letter of Credit (LOC):** Final determination for appeal where not agreed to in writing by respondent. LOC may be required where special circumstances exist requiring an immediate source of revenue for cleanup, repair, etc.

**Liability Insurance:** See 37-751(b): Final determination for appeal in all cases, unless otherwise specified.

**Water Severance:** See 37-749(c) and 37-751(c): Final determination for appeal in all cases, unless otherwise specified.

**Rescind Authority for Waste Transporter/Hauler to Discharge into County Wastewater system:** See 37-739(h): Final determination for appeal in all cases, unless otherwise specified.

**Rescind Authority to Discharge to the Orange County Wastewater System:** See, 37-739(h), 37-739(v), 37-746(h), 37-749(h), 37-749(i), 37-754(i)(6): Final determination for appeal in all cases, unless otherwise specified.

**Revocation of Waste Hauler Operating Permit:** See 37-749(v)(6): Final determination for appeal in all cases, unless otherwise specified.

**Revocation of Industrial Wastewater Discharge Permit:** See 37-739(h), 37-745(a), 37-746(h): Final determination for appeal in all cases, unless otherwise specified.

**County May Refuse to Accept Hauled Waste:** See 37-739(a): Final determination for appeal in all cases, unless otherwise specified.

**Rescind Authority for Waste Transporter/Hauler to Service, etc** grease traps, grease interceptors, oil and water separators, sand traps or pump stations in Orange County. Rescind product approval.: See 37-739(j): Final determination for appeal in all cases, unless otherwise specified.

**Rescind Product Approval.** 37-754(g)(7) Final determination for appeal in all cases, unless otherwise specified.

**3.21 Injunction:** See 37-750: Utilized when immediate action must be taken to abate irreparable harm. Requires delegated authority: See (37-750(1): to act or permission from governing authority, but may be used at very early stage. (Outside consideration of appeal to hearing examiner.)

**3.22 Respondent’s/ Violator’s Appeal** from findings or other elements will be considered waived if the notice of appeal is not filed within the time frame for appeal - A respondent/ violator must file a notice of appeal and request for hearing with the Director within the period for such, or such right will be considered waived by respondent/violator. See time frames for responses, in section 4, below
3.23 Use of the “code enforcement board” (CEB) or “code enforcement special magistrate” (SM) methodology provided in Orange County Code Chapter 11 - Nothing in the provisions herein shall prevent the Public Utilities Department from utilizing the above CEB or SM methodology, which has been available prior to the establishment of this ERP and the amendment of Article XX of chapter 37, establishing the requirement for this ERP.
SECTION 4 - TIME FRAMES FOR RESPONSES
FOR APPEAL AND PROCEDURE FOR APPEAL

4.1 Enforcement Time Frames; Flexibility; CA’s Discretion; Appellate times separate -
One of the foundations of effective enforcement is the timely response upon discovery of a violation. Therefore, time frames are an important aspect of the OCUD’s ERP. The actual time frames to be incorporated into the ERP are left to the discretion of each C. A. By leaving this decision to the CA, the EPA and FDEP recognize the need for local (OCU-ECS) flexibility in determining appropriate responses. But see subsection 4.7 below, for time frames for appeal.

4.2 Initial Enforcement Action Response; thirty days to notify; thirty days to respond - The OCU-ECS shall identify and document all noncompliance events as soon as detected. Once the violation is detected, the initial enforcement action shall be issued within 30 days. The following internal procedures will support the 30-day time frame.

The users in violation shall respond in writing, within thirty (30) days of the receipt date of this notice. The response shall include the following: a written plan for the satisfactory correction and prevention thereof, including specific actions to be taken.

4.3 Requesting Escalating Enforcement Action - A request for escalated enforcement action shall be completed within five (5) working days of documented continued noncompliance. This request shall include support documentation, i.e., a copy of the initial enforcement action, copy of users permit, report of analytical results, chain of custody, industrial self-monitoring report, corporate officers' list, inspection report, inspection site photos, or any other documents or evidence to support the enforcement case file.

The OCU-ECS is responsible for preparation of the request and case documentation. Once prepared, these case documents shall be submitted to the OCU-EC for review and preparation of a draft enforcement action document. This draft shall be reviewed and approved within five working (5) days of receipt by the M for execution or forwarded to the appropriate C. A. personnel for execution.

Within five working (5) days of receipt of an approved request for escalated enforcement action, the M shall review, approve and sign the final enforcement document. The enforcement document(s) are then delivered via certified mailing.

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8 Though discretion is liberally delegated to the C.A.s by the Director, and by operation of this document, the time frames themselves are usually appealable under this ERP, and the County Code, with provisions available for the respondents to request a temporary stay.
4.4 Follow-Up Actions; Ten working days to initiate - Within ten working (10) days of receipt of the initial enforcement action response by the users, the OCU-ECS shall initiate follow-up action. This follow-up action may include penalty determination, escalated enforcement action, or case closure.

4.5 Emergency Enforcement Actions; immediate responses - Violations which threaten health, property, impact the environment, water, reclaimed water quality, residuals quality, regulatory requirements are considered emergencies and shall receive immediate responses, such as, halting the discharge or termination of service. The Orange County Code Chapter 37, Article XX has provisions for termination of both sewer and water services, if the situation warrants such drastic enforcement actions to be taken.

4.6 Enforcement Actions for NOSNC; Permitted users’ evaluations, violations, SNC violations, ten days to respond; 90 day compliance, publication of SNC - All permitted users will be evaluated for SNC at the end of each quarter for the previous six (6) month period.

NOSNC identification and issuance time frames for the CA will be as follows:

a. The violations of all users will be evaluated monthly to determine the facility’s compliance status meets the criteria for SNC.

b. The users found in SNC will be issued written correspondence identified as a Notice of SNC (NOSNC).

c. Within ten (10) days of receipt of the NOSNC, the user shall contact the EC to schedule a compliance meeting within the next thirty (30) days.

d. The users will be given a ninety (90) day period to achieve compliance.

e. Failure to achieve compliance in item d above will place the user in a ninety (90) day enforceable compliance schedule.

f. All users determined to be in SNC for any period of the reporting year will be published in the daily newspaper with the largest circulation in Orange County prior the date of the submittal of the CA’s Annual Pretreatment Report to the FDEP.

4.7 Time period for filing notice of appeal: thirty (30) calendar days unless otherwise notified - Except where a time frame for appeal of a matter is specified in such notices or other papers given to respondent by the Director, or where a time is specified for appeal in the County Code for a particular issue, a respondent/ violator shall have thirty (30) calendar days to file any notice of appeal of such determination, finding, requirement, etc. If such notice is not received by the Director within that period, the appeal of that determination, etc., is waived.

4.8 Time period for compliance with order; Appeal not automatic stay of compliance - Except where a time period for compliance with the order is to be stayed, as stated in the notice of violation or other similar paper, or a request for stay is granted, the filing of an appeal does toll or stay the required compliance.
4.9 Appeals; General provisions; persons aggrieved may appeal; must be directly affected; provisions exclude division 2, and exclude Surcharge billing issues - Persons aggrieved as a result of the enforcement proceedings set out herein, or by certain other determinations by the director or his or her designees shall have and opportunity to have their grievances heard by a neutral third party. However, Only a user directly affected by the decision or enforcement order or interpretation has standing to bring such an appeal, and the appeals procedure referenced in this section does not include appeals pursuant to Division 2 of Article XX, the ordinance relating to septic tanks or package or interim treatment plants since an appeals mechanism for these issues is provided for elsewhere in the ordinance. Surcharge billing issues, pursuant to Section 37-755(h), are not appealable hereunder.

4.10 Provisions made for Hearing examiner - The board of county commissioners having created the position of hearing examiner by ordinance, the hearing examiner shall conduct the hearing in accordance with the rules and regulations set forth herein.

4.11 Appeal Procedure; whether notice final; person or user directly affected may appeal final determination - All notices of enforcement decision, notices of violation, notices of interpretation of code or orders by the Director must include notice whether those are final determinations for purposes of appeal under this chapter. Any person or user directly affected may appeal the final enforcement decision, interpretation or order of the director described herein, to the hearing examiner above.

4.12 Appeal through Administrative hearing, subjects for appeal. The appeal will be accomplished through an administrative hearing, initiated by appellant's filing of a notice of appeal in writing to include the decision, interpretation or order being appealed and the grounds for the appeal. The notice of appeal shall be sent to the address indicated on the instrument being appealed, not later than thirty (30) days after the receipt date. Appeals sent (postmarked) after thirty (30) days from receipt by the county shall not be considered for appeal by the hearing examiner. The appeal shall relate to the following decisions about which the user is alleged to be in violation:

- an industrial wastewater discharge permit;
- a waste hauler operating permit
- an enforcement order issued hereunder;
- any pretreatment standard or requirement;
- to review a show cause order issued under this ordinance;
- denial of a variance under this ordinance;
- any provision of article XX, Chapter 37, Orange County Code (except as described in subsection 37-749(j)(1) (a) Orange County code;

4.13 Appeal to be set for hearing, and inter alia, decision to be followed - Upon receipt of a timely request for an administrative hearing, the matter shall be set for hearing on the next regularly scheduled hearing date that shall not exceed 90 days from county receipt of the hearing request, or be less than 30 days, unless involving emergency suspensions The decision of the
director shall be complied with until the director’s decision is altered, amended or reversed by
the appeals hearing examiner or a court.

4.14 Director’s duty to schedule hearing, continuances, notices of hearing, method of
notice, contents of notice, right to bring evidence, witnesses - After the date that the notice of
appeal is filed with the director, the director shall schedule a hearing date before the hearing
examiner for the purpose of considering the appeal, based upon the grounds set forth in the
notice of appeal and the provisions in Ch. 37, Article XX. The hearing may be continued by the
hearing examiner on his or her own motion, or at the request of the director or the appealing
party for good cause shown. A notice of the hearing scheduled to consider the appeal shall be
provided to the person filing the appeal, by hand delivery or by registered/certified mail setting
forth the time and place of the hearing and providing notification that, should any person decide
to appeal the decision of the hearing examiner, a verbatim record may be necessary, and the
appellant shall make arrangements for securing such a transcript. The hearing 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 regarding the decision thereof,
   will need to ensure that a verbatim record of the proceedings is made.

4.15 Powers, duties, requirements and limitations on the Hearing examiner; administrative
hearing rules - Prior to the administrative hearing the hearing officer shall have reviewed the
written documents issued and received, including written testimony so long as the individual
author of written testimony has indicated thereon that he or she will be present at the hearing to
verify and be cross examined on it. At the administrative hearing, the designated hearing
examiner shall verify his or her jurisdiction over the matters under appeal and thereafter shall
consider the evidence and arguments presented in the hearing and may either affirm the decision,
interpretation or order of the director; modify the decision if technically justified by the appellant
under this ordinance, based on information presented by the appellant at the hearing; or, the
hearing examiner may reverse same.

4.16 Oaths, subpoenas, ruling on motions, orders on discovery, regulation of hearing,
disposition of procedural requests, etc; Hearing Examiner’s powers, duties, and
requirements regarding such:
Prior to and during the hearing, the examiner may

- Administer oaths and affirmations.
- 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.
- Rule upon motions presented and offers of proof and receive relevant evidence.
- Issue appropriate orders to effectuate discovery.
- Regulate the course of the hearing.
- Dispose of procedural requests or similar matters.
- Enter any order, consistent with the authority granted by this division, to carry out the
  purposes of this section.
• Make final orders and issue findings of fact and conclusions of law.
• Enter agreed final orders upon motion of the parties.
• Upon motion by the director/control authority, enter finalized settlements as final orders.
• 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.
• Render unchallenged fines, fees or penalties into final orders.
• Enter orders resolving administrative review of final director/control authority decisions.
• 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 affirm the control authority's compliance requirements, or establish his or her own compliance requirements.
• The hearing examiner may consider and review the control authority’s determination and assessment against the violator of reasonable costs incurred by the county in the enforcement of this chapter.
• The hearing examiner may issue an order setting aside or withdrawing an order, for good cause shown.
• Enter other orders and consider other issues as necessary for the exercise of the hearing examiner's jurisdiction.

4.17 Examiners: fines related to time; where fine amount is challenged: health concerns, cooperation, history, economics, knowledge, compliance costs; fine limits, power to remand, compliance statements, retention of jurisdiction, writing requirement, decision rendered within reasonable time.

• Entry of orders regarding certain fines related to reasonable time: If the hearing examiner finds that the fine, fee or penalty was issued by the director before the reasonable time expired, the hearing examiner may enter an order finding that a fine, fee or penalty should occur, but is not required to agree with the assessment of the applicable fine against the violator, or the amount. However, if the hearing examiner finds that the alleged violator has not complied by the time of the hearing, the hearing examiner may choose, on cause shown, to disregard the failure of the control authority to provide a reasonable time for the alleged violator to come into compliance and agree with the entry of the fine.

• Entry of orders regarding fines where issue of existence of violation has been determined at the hearing to exist, where the director has previously ordered a specific fine to be paid, and the appellant contests the amount or duration in days of the fine: If it is determined by the hearing examiner, from a preponderance of the evidence, after receiving all of the competent relevant evidence, that the respondent (alleged violator) has violated a provision of this chapter, and/or the existence of the violation is or was not the issue, and a specific fine amount has been demanded, the hearing examiner may either affirm the decision, interpretation or order of the director regarding that fine; modify the decision if technically justified by the appellant under this ordinance based on information presented by the appellant at the hearing; or may reverse same, specifically; it may order that the civil penalty determined by the control authority be upheld and ratified, as is, upheld at a reduced level,
eliminated altogether, or upheld at an increased level. The hearing examiner may consider, during the review of a penalty, among other issues, the following:

- The potential extent of the health concerns, damage to the WWF and/or environmental damage;
- 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;
- History of non-compliance before and after the violation;
- Economic benefit of non-compliance;
- Whether the violator knew or should have known that it was not complying with this chapter; and/or
- The amount necessary to ensure immediate and continued compliance with this chapter.

- **Hearing examiner’s limitations regarding amount of fines.** During the appeal hearing of a fine, fee or penalty, the hearing examiner may exceed the schedule of civil penalties for fines, fees or penalties and ratify the assessment of a fine per day not to exceed a cumulative total of ten thousand dollars ($10,000) per day. Notwithstanding that limit, 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 an appellate hearing.

- **Hearing examiners power to remand.** During the hearing of an appeal, the hearing examiner may remand the matter with instructions that the issuance of a general, (and new) notice of violation be considered when the violation is not identified in the schedule of civil penalties for fines, fees or penalties, but causes or may cause substantial harm, health issues, WWF non-compliance, degradation of the environment, or is a substantial violation or significant noncompliance of this chapter.

- **Compliance requirements;** may be stated generally or, upon delegation by the hearing examiner, established by the control authority.

- **Retention of jurisdiction.** The hearing examiner shall retain jurisdiction until the compliance activities have been completed to ensure compliance with this chapter.

- **Decisions in writing.** Any decision by the hearing examiner shall be in writing, setting forth findings of fact conclusions of law, and an order determining the outcome.

- **Decision within reasonable time.** At the conclusion of the hearing, or within a reasonable time thereafter, depending on the complexity and difficulty of the issues, facts and law, the hearing examiner shall issue the above findings of fact, conclusions of law and, based on evidence of record and conclusions of law, issue an order affording the proper relief consistent with powers granted by this chapter.
4.18 Compliance activities reviewed and monitored by 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.

4.19 Rules before the hearing examiner require due process, but not strict formality; testimony under oath; Minutes required; recordings where available; Hearings must be open to the public. - All testimony before the hearing examiner shall be under oath. The Florida Evidence Code shall not apply, i.e., formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. Nor shall strict adherence to the Florida Rules of Civil Procedure apply, but the hearing shall otherwise comply with the requirements of due process, as follows:

- Formal rules of evidence not applying, nonetheless irrelevant, immaterial, or unduly repetitious evidence shall be excluded, and all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of this state.

- Minutes shall be kept of all hearings. Where available a video record shall be made, but if such is not available, an audiotape recording with each speaker identifying himself for the record, shall be made.

- All hearings and proceedings shall be open to the public.

4.20 Hearing the cases: Written Testimony - The hearing examiner shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded, as stated above. The hearing examiner shall take testimony from the inspector, alleged violator and any witnesses. The hearing examiner may, at the examiner's sole discretion, consider sworn written testimony, prior to the hearing, so long as 1) The original and one copy have been sent to the hearing examiner and the opposing party by US mail not later than 15 calendar days, evidenced by post-mark, prior to the hearing; 2) the witness giving the written testimony gives a sworn written assurance therein, that he or she will be present at the hearing to be cross-examined on it, and 3) that the witness is present at the hearing.

4.21 Examination and Cross examination - Examination and cross examination shall be allowed, as follows: a hearing examiner, or the counsel to the hearing examiner, if any, may inquire of any witness before the hearing examiner. The respondent or his attorney, the county staff, including but not limited to the officer/inspector, or member of the County Attorney's staff, shall be permitted to inquire of any witness before the hearing examiner and present brief opening and closing statements.

4.22 Order by examiner must be issued with reasonable dispatch - At the conclusion of the hearing, or within a reasonable time thereafter, the Hearing examiner's determination shall be issued, as stated above.
4.23 Order by examiner must contain notice that it can be appealed - The order by the hearing examiner must include a statement that any person aggrieved by the order who was a party before the hearing examiner may appeal in accordance with the procedures shown in this chapter. A certified copy of such order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors and assigns if the matter concerns real property, and the findings therein shall be binding upon the respondent, and, if the issue concerns real property, any subsequent purchasers, successors and assigns.

4.24 Examiner may set aside own order - If an order is recorded in the public records pursuant to this subsection the hearing examiner may issue an order setting aside or withdrawing it, for good cause shown, recording it in the public records. (A hearing is not required to issue an order withdrawing or setting aside such order.)

4.25 General upper and lower limits on administrative fines - At a notice of violation hearing, an administrative fine if upheld by the hearing examiner, assessed against the violator on a per day basis, shall be in an amount, determined by the hearing examiner, not to exceed a maximum cumulative amount of fifty thousand dollars ($50,000.00) per case and shall not be less than $1,000.00 per violation per day. If the case is not presented on appeal as one for a running fine per day, but instead reviewed on the case of a single incident or fixed (non running daily) fine, the maximum single fine shall not exceed ten thousand dollars ($10,000) per case. More than one case against, and appealed by, the respondent, may be presented on appeal, and a fine may reach the same limit on that case as in the first case, except where the hearing examiner determines that there is significant overlap between the two cases, in which circumstance both may, in the discretion of the hearing examiner, be combined into one case to avoid abuse.

4.26 Continuous violation counted as separate violation each day it continues - Each day during any portion of which a violation of this chapter occurs constitutes a separate violation, except that the cumulative total may not exceed $10,000 [GD1], whether couched as a separate charge or a running fine on the same charge, unless [GD1] the violation is not the same or very similar.

4.27 Appeal of examiner to be by writ of certiorari - The director/ control authority or the appealing party may challenge the hearing examiner's decision hereunder by filing a petition for writ of certiorari in the circuit court of the county within thirty (30) days of the hearing examiner's written decision.

4.28 Enforcement remedies on refusal to comply - Should the respondent/ violator refuse to comply with the Director/ Control Authority's orders, and fail to appeal within a reasonable time, to the hearing examiner, and/ or appeal beyond to such appellate courts as are provided by law, or fail to comply with the results of the review on appeal, the control authority may avail itself of such remedies as are available under the law, including but not limited to the filing of a "Statement of Violation and Request for Hearing" before the Orange County Code Enforcement Special Magistrate, established under chapter 162, Florida Statutes, which authority is set forth in Chapter 11, Orange County Code.
4.30 Administrative fine limitations don’t apply if Director is compelled to enforce in Court or before some other tribunal. The limitations on the administrative fine levels shown above shall not apply and be considered waived in any case, if the respondent does not comply as exemplified above, i.e., the above limits shall be considered to apply to the director / control authority, or hearing examiner, only, and shall not be considered a defense to a fine exceeding the dollar limitations on a fine assessed by the control authority and/or if appealed, affirmed by the hearing examiner, if such later fine should be set by a code enforcement board, code enforcement special magistrate or court of law or other legal authority.
SECTION 5 - ENFORCEMENT RESPONSE GUIDE

5.1 Instructions for using the Enforcement Response Guide (ERG)

a. Locate the type of noncompliance in the NONCOMPLIANCE column.

b. In the NATURE OF VIOLATION column, (column one), identify the most accurate description of the severity of the violation.

c. Assess the appropriateness of the recommended response(s) in the ENFORCEMENT ACTION column, (column three). Document the rationale for selecting the particular enforcement response if the minimum enforcement action is not used initially. Repeat violations for the same violation will subject the user to the following penalties, at minimum:
   - 2nd Offence = 2 times the defined Enforcement Action penalty amount
   - 3rd Offense = 3 times the defined Enforcement Action penalty amount
   - 4th or more Offence = 4 times the defined Enforcement Action penalty amount

d. For those violations that are identified in the field by County staff, a Field Notice of Violation may be issued by the County, prior to and/or in addition to the initiation of the enforcement action items identified in the ENFORCEMENT ACTION column.

e. The County personnel identified in the PERSONNEL column will then apply the enforcement response(s) identified in the ENFORCEMENT ACTION column to the users. Specify corrective action and the response required from the users.

f. County personnel identified in the PERSONNEL column will then follow up with escalating response(s) identified in the ENFORCEMENT ACTION column if the users’ response is not received, received late or if the violation continues.
## ENFORCEMENT RESPONSE GUIDE

### OC PERSONNEL CODES:
- I = Field Personnel (Environmental Technician or Environmental Specialist)
- EC = Environmental Coordinator
- M = Section Manager or Division Manager
- D = Director
- A = Orange County Attorney

### 5.2 PERMIT ADMINISTRATION VIOLATIONS

<table>
<thead>
<tr>
<th>NONCOMPLIANCE</th>
<th>NATURE OF VIOLATION</th>
<th>ENFORCEMENT ACTION</th>
<th>PERSONNEL</th>
</tr>
</thead>
</table>
| 5.2.A. Discharge to the County without an Industrial Wastewater Discharge Permit: | 1. Unaware of permit requirements. Failure to apply. [37-745(a), [37-745(b), [37-745(e), [37-739(q)], [37-739(r)]]. | For Nature of Violations 1-3: a): Compliance Request  
b): Warning Letter  
c): NOV w/250 Penalty  
d): Compliance Meeting | For EA:  
a-b): I, EC  
c-d): EC |
| | 2. Failure to submit wastewater survey. [37-746(h)(8)]. | For Nature of Violation 4: a): Compliance Request  
b): Warning Letter  
c): NOV w/500 Penalty  
d): Compliance Meeting | For EA:  
a): I, EC  
b-d): EC |
| | 3. Failure to submit Baseline Monitoring Report. [37-747(a), [37-745(b)], [37-745(e)]. | For Nature of Violation 5 (26) a): NOSNC w/$1,000 Penalty  
b): Compliance Meeting  
c): Show Cause Order  
d): Show Cause Meeting  
e): Consent Order  
f): Compliance Order  
g): Cease and Desist Order  
h): Emergency Suspension  
i): Civil Penalties  
j): Criminal Prosecution  
k): Performance Bond  
l): Letter of Credit  
m): Liability Insurance  
n): Water Severance | For EA:  
a-b): EC  
c-d): M  
e-h): D  
l-k): A  
l-n): D |
| | 4. Failure to submit permit application. [37-745(b), [37-745(c)], [37-745(e)], [37-747(h)(8)], [37-739(q)], [37-739(r)], [37-739(s)]. | For Nature of Violation 6 (26, 27) a): NOSNC w/5,000 Penalty  
b): Compliance Meeting  
c): Show Cause Order  
d): Show Cause Meeting  
e): Consent Order  
f): Compliance Order  
g): Cease and Desist Order  
h): Emergency Suspension  
i): Civil Penalties  
j): Criminal Prosecution  
k): Performance Bond  
l): Letter of Credit  
m): Liability Insurance  
n): Water Severance | For EA:  
a-b): EC  
c-d): M  
e-h): D  
l-k): A  
l-n): D |
<p>| | 5. Failure to respond or provide an adequate response within 30 days of CA issuance of NOV, or NOSNC. [37-749(b)]. | | |
| | 6. Harm to the CA, WWF, and/or the environment. [37-735(a), [37-735(b), [37-745(i)]. | | |</p>
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<tr>
<th>NONCOMPLIANCE</th>
<th>NATURE OF VIOLATION</th>
<th>ENFORCEMENT ACTION</th>
<th>PERSONNEL</th>
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</table>
| 5.2.E. Discharging or operating without renewing permit | 1. Permit application not received 120 days before the permit expiration date. [37-746(i)]. | For Nature of Violations 1-4:  
|                                   | 2. Waste Hauler Operating Permit application not received 60 days before the permit expiration date. [37-739(v)(8)]. | a) Compliance Request¹  
b) Warning Letter²  
c) NOV w/$500 Penalty³  
d) Compliance Meeting⁴ | For EA:  
a) I, EC  
b-d) EC |
| 5.2.F. Discharging or operating without modifying permit | 3. Permit application not received before the effective date of change. [37-745(d)] | For Nature of Violation 5 (26):  
|                                   | 4. Waste Hauler Operating Permit application not received 60 days before the effective date of change. [37-739(v)(8)]. | a) NOSNC w/$1,000 Penalty³  
b) Compliance Meeting⁴  
c-1) Show Cause Order⁷  
c-2) Show Cause Meeting⁶  
d) Consent Order⁸  
e) Compliance Order⁹  
f) Cease and Desist Order¹⁰  
g) Emergency Suspension¹¹  
i) Termination of Discharge¹²  
j) Performance Bond¹⁵  
k) Letter of Credit¹⁶  
l) Liability Insurance¹⁷  
m) Water Severance¹⁸  
n) Civil Penalties¹³  
o) Criminal Prosecution¹⁴ | For EA:  
a) EC  
b-d) M  
e-m) D  
n-o) A |
### 5.3 MONITORING VIOLATIONS

#### NONCOMPLIANCE

<table>
<thead>
<tr>
<th>Nature of Violation</th>
<th>Enforcement Action</th>
<th>Personnel</th>
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</thead>
</table>
| 1. Pretreatment equipment not working properly. [37-741(h), [37-747(d)(2)] | For Nature of Violation 1:  
   a) NOV w/$1,500 Penalty  
   b) Compliance Meeting  
   c) Compliance Schedule | For EA:  
   a-b): EC  
   e): M |
| 2. Failure to install monitoring equipment. [37-741], [37-748(a)(4)(b)], [37-748(b)] | For Nature of Violations 2-4 (26, 27):  
   a): NOSNC w/$2,000 Penalty  
   b): Compliance Meeting  
   c): Compliance Schedule  
   d-1): Show Cause Order  
   d-2): Show Cause Meeting  
   e): Consent Order  
   f): Compliance Order  
   g): Cease and Desist Order  
   h): Emergency Suspension  
   i): Termination of Discharge  
   j): Civil Penalties  
   k): Criminal Prosecution  
   l): Performance Bond  
   m): Letter of Credit  
   n): Liability Insurance  
   o): Water Severance | For EA:  
   a-b): EC  
   c-e): M  
   f-i): D  
   j-k): A  
   l-o): D |
   a): NOSNC w/$5,000 Penalty  
   b): Compliance Meeting  
   c): Compliance Schedule  
   d-1): Show Cause Order  
   d-2): Show Cause Meeting  
   e): Consent Order  
   f): Compliance Order  
   g): Cease and Desist Order  
   h): Emergency Suspension  
   i): Termination of Discharge  
   j): Civil Penalties  
   k): Criminal Prosecution  
   l): Performance Bond  
   m): Letter of Credit  
   n): Liability Insurance  
   o): Water Severance | For EA:  
   a-b): EC  
   c-e): M  
   f-i): D  
   j-k): A  
   l-o): D |
| 4. Failure to respond or provide an adequate response within 30 days of CA issuance of NOV, or NOSNC. [37-749(b)] | | |
| 5. Causing harm to the WWF, and/or the environment, and/or to WWF personnel. [37-735(a)], [37-735(b)], [37-745(i)] | | |

#### 5.3.B. Sample collection violation

<table>
<thead>
<tr>
<th>Nature of Violation</th>
<th>Enforcement Action</th>
<th>Personnel</th>
</tr>
</thead>
</table>
| 1. Failure to collect sample as required by permit. [37-746(b)(4)], [37-747(h)] | For Nature of Violation 1:  
   a): Compliance Request  
   b): Warning Letter  
   c): NOV w/$250 Penalty plus cost of analysis for ea. Parameter  
   d): Compliance Meeting  | For EA:  
   a): I, EC  
   b-d): EC |
<table>
<thead>
<tr>
<th>NONCOMPLIANCE</th>
<th>NATURE OF VIOLATION</th>
<th>ENFORCEMENT ACTION</th>
<th>PERSONNEL</th>
</tr>
</thead>
</table>
| 5.3.B. Sample collection violation, continued... | 2. Failure to collect sample at permitted sample point. [37-746(b)] | **For Nature of Violations 2-3:**  
a: Warning Letter
b) NOV w/$1,000 Penalty
c) Compliance Meeting | For EA:  
a-c): EC |
| | 3. Failure to provide representative sample or monitoring results. [37-747(d)(2)], [37-747(e)(2)], [37-747(j)] |  |  |
| | 4. Failure to respond or provide an adequate response within 30 days of CA issuance of NOV, or NOSNC. [37-749(b)] | **For Nature of Violation 4** (26, 27):  
a: NOSNC w/ $2,000 Penalty  
b-1): Show Cause Order  
b-2): Show Cause Meeting  
c): Cease and Desist Order  
d): Termination of Discharge | For EA:  
a-b): EC, M  
c-d): D |
| 5.3.C. Permit limit violation, County local limits violation, or Categorical limits violation. | 1. A parameter violation (excluding pH), with no harm to the CA, the WWF, and/or the environment, and does not meet the definition as an SNC, having discharge that is:  
1a): > The Limit but less than 2 Times the Limit  
1b): ≥ 2 Times the Limit but less than 3 Times the Limit  
1c): ≥ 3 Times the Limit but less than 4 Times the Limit  
1d): ≥ 4 Times the Limit but less than 6 Times the Limit. Where the Limit may be a federal pretreatment standard or limit, county local limit or specified industrial wastewater discharge permit limit or pretreatment standard, [37-736], [37-737], [37-756(b)] | **For Nature of Violation 1a:**  
a: Warning Letter  
b) NOV w/$250 Penalty for each parameter in violation  
c) Compliance Meeting | For EA:  
a-c): EC |
| | **For Nature of Violation 1b:**  
a: Warning Letter  
b) NOV w/$325 Penalty for each parameter in violation  
c) Compliance Meeting |  |  |
| | **For Nature of Violation 1c:**  
a: Warning Letter  
b) NOV w/$400 Penalty for each parameter in violation  
c) Compliance Meeting |  |  |
| | **For Nature of Violation 1d:**  
a: Warning Letter  
b) NOV w/$500 Penalty for each parameter in violation  
c) Compliance Meeting |  |  |
| 5.3.D. Groundwater or applicable discharge does not meet County local limit, FDEP minimum cleanup level, or Florida water quality standards. | | | |

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<tr>
<th>NONCOMPLIANCE</th>
<th>NATURE OF VIOLATION</th>
<th>ENFORCEMENT ACTION</th>
<th>PERSONNEL</th>
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</thead>
</table>
| Items 5.3.C.- 5.3.D Continued... | Violation 1. Continued... 1e): > 6 Times the Limit Where the Limit may be a federal pretreatment standard or limit, county local limit or specified industrial wastewater discharge permit limit or pretreatment standard. [37-736], [37-737], [37-756(b)] | **For Nature of Violation 1e:**  
   a): Warning Letter  
   b) NOV w/amount per Figure 1 calculation  
   c): Compliance Meeting | For EA:  
   a-c): EC |
|  | 2. Failure to respond or provide an adequate response within 30 days of CA issuance of NOV, or NOSNC. [37-749(b)]. | **For Nature of Violations 2-3 (26, 27):**  
   a): NOSNC w/$2,000 Penalty for each parameter in violation  
   b): Compliance Meeting  
   c): Compliance Schedule  
   d): Consent Order  
   e-1): Show Cause Order  
   e-2): Show Cause Meeting  
   f): Compliance Order  
   g): Cease and Desist Order  
   h): Emergency Suspension  
   i): Termination of Discharge  
   j): Civil Penalties  
   k): Criminal Prosecution  
   l): Performance Bond  
   m): Letter of Credit  
   n): Liability Insurance  
   o): Water Severance | For EA:  
   a-b): EC.  
   c-e): M  
   f-i): D  
   i-k): A  
   l-o): D |
|  | 3. A parameter violation meeting the definition of SNC, resulting in no harm to the WWF, and/or the environment, interference and/or pass through. [37-736], [37-737], [37-756(b)] | **For Nature of Violation 4 (26, 27):**  
   a): NOSNC w/$5,000 Penalty for each parameter in violation  
   b): Compliance Meeting  
   c): Compliance Schedule  
   d): Consent Order  
   e-1): Show Cause Order  
   e-2): Show Cause Meeting  
   f): Compliance Order  
   g): Cease and Desist Order  
   h): Emergency Suspension  
   i): Termination of Discharge  
   j): Civil Penalties  
   k): Criminal Prosecution  
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   a-b): EC.  
   c-e): M  
   f-i): D  
   i-k): A  
   l-o): D |
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<th>NONCOMPLIANCE</th>
<th>NATURE OF VIOLATION</th>
<th>ENFORCEMENT ACTION</th>
<th>PERSONNEL</th>
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</table>
| 5.3.E. Compliance schedule violation | 1. Failure to meet a Compliance Schedule milestone date that is less than 30 days late from the due date, without affecting the final compliance milestone date. [37-736(c)],[37-747(b)] | For Nature of Violation 1:  
  a) Warning Letter  
  b) NOV w/$250 Penalty  
  c) Compliance Meeting | For EA:  
  a-c): EC |
| | 2. Failure to meet a Compliance Schedule milestone date that is 30 days or more late from the due date or affecting the final compliance milestone date. [37-736(c)],[37-747(b)] | For Nature of Violation 2 (26, 27):  
  a) NOSNC w/$1,000 Penalty  
  b) Compliance Meeting  
  c) Consent Order  
  d-1): Show Cause Order  
  d-2): Show Cause Meeting  
  e) Compliance Order  
  f) Cease and Desist Order  
  g) Emergency Suspension  
  h) Termination of Discharge  
  i) Civil Penalties  
  j) Criminal Prosecution  
  k) Performance Bond  
  l) Letter of Credit  
  m) Liability Insurance  
  n) Water Severance | For EA:  
  a-b): EC  
  c-d): M  
  e-h): D  
  i-j): A  
  k-n): D |
| 5.3.F. pH violation | 1. pH violations:  
  Low pH Violation  
  High pH Violation  
  1a): 5.1 - 5.9  
  1b): 3.1 - 5.0  
  1c): 2.1 - 3.0  
  1d): < 2.0  
  [37-737(k)]  
  [37-749(g)(7)]  
  > 13.1  
  [37-737(k)]  
  [37-749(g)(7)] | For Nature of Violation 1a:  
  a) Warning Letter  
  b) NOV w/$150 Penalty  
  c) Compliance Meeting | For EA:  
  a-c): EC |
| | 2. Any violation causing corrosive damage, hazard or harm to the WWF and/or to the environment or endangering WWF personnel. [37-737(k)],[37-749(g)(7)] | For Nature of Violation 1b:  
  a) Warning Letter  
  b) NOV w/$300 Penalty  
  b) Compliance Meeting | For EA:  
  a-c): EC |
| | | For Nature of Violation 1c:  
  a) Warning Letter  
  b) NOV w/$500 Penalty  
  c) Compliance Meeting | For EA:  
  a-c): EC |
| | | For Nature of Violation 1d & 2 (26, 27):  
  a) NOSNC w/$2,000 Penalty  
  b) Compliance Meeting | For EA:  
  a-b): EC  
  c): M |
<table>
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<tr>
<th>NONCOMPLIANCE</th>
<th>NATURE OF VIOLATION</th>
<th>ENFORCEMENT ACTION</th>
<th>PERSONNEL</th>
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<tbody>
<tr>
<td>5.3.F. pH violation, Continued…</td>
<td>3. Any pH resulting in harm to WWF personnel. [37-737(k)], [37-749(g)(7)]</td>
<td>For Nature of Violation 1d and 2(26, 27) Continued...</td>
<td>For EA::</td>
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<td>c): Compliance Schedule</td>
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<td>k): Criminal Prosecution</td>
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<td>For Nature of Violation 3(26,27):</td>
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<tr>
<td></td>
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<td>a): NOSNC w/$5,000 Penalty</td>
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<tr>
<td>5.3.G. Hauled Wastewater</td>
<td>1. Failure to comply with Waste Hauler Operating Permit requirements. [37-739]</td>
<td>For Nature of Violations 1-2(27):</td>
<td>For EA:</td>
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<tr>
<td></td>
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<td>a): Compliance Request</td>
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<td>b): Field Notice of Violation</td>
<td>c-e): EC</td>
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<td>c): Warning Letter</td>
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<td>d): NOV w/$300 Penalty</td>
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<td>e): Compliance Meeting</td>
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</table>
### NONCOMPLIANCE

#### 5.3.G. Haules Wastewater, Continued...

<table>
<thead>
<tr>
<th>NONCOMPLIANCE</th>
<th>NATURE OF VIOLATION</th>
<th>ENFORCEMENT ACTION</th>
<th>PERSONNEL</th>
</tr>
</thead>
<tbody>
<tr>
<td>4. Discharge, trucking, hauling or transportation of hazardous wastes (as defined in 40 CFR 261 or 10 CSR 25-4.261, or as amended) or prohibited waste as defined by Chapter 37 Article XX to the county WWF for treatment or disposal. [37-739 (c)]</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>5. Disposing hauled waste at a location not designated or approved by the control authority. [37-739(6)(v)]</td>
<td></td>
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</tr>
<tr>
<td>6. Failure to respond or provide an adequate response within 30 days of CA issuance of NOV, or NOSNC. [37-749(b)]</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### 5.3.H. Dilution of Industrial Wastewater Discharge

1. **Industrial wastewater discharge is diluted in lieu of providing adequate pretreatment.** [37-738]
   - **For Nature of Violation 1: (26, 27)**
     - a): NOSNC w/ $2,000 Penalty
     - b): Compliance Meeting
     - c): Consent Order
     - d-1): Show Cause Order
     - d-2): Show Cause Meeting
     - e): Compliance Order
     - f): Cease and Desist Order
     - g): Emergency Suspension
     - h): Termination of Discharge
     - i): Civil Penalties
     - j): Criminal Prosecution
     - k): Performance Bond
     - l): Letter of Credit
     - m): Liability Insurance
     - n): Water Severance
     - o): Imposition of mass based limitations

2. **Failure to notify CA of slug load/spill, or discharge.** [37-743(c), 37-747(f)]

### 5.3.I. Slug load/spill occurrence, prohibited discharge or other discharge not otherwise specified

1. **Causing no harm to the WWF and/or the environment and/or causing interference and/or pass through.** [37-735(a), 37-735(h)]
   - **For Nature of Violation 1:**
     - a): Compliance Request
     - b): Warning Letter
     - c): NOV w/$500 Penalty
     - d): Compliance Meeting

2. **Failure to notify CA of slug load/spill, or discharge.** [37-743(c), 37-747(f)]

   - **For Nature of Violation 2:**
     - a): NOSNC w/ $2,000 Penalty
     - b): Compliance Meeting
     - c): Consent Order
     - d-1): Show Cause Order
     - d-2): Show Cause Meeting
     - e): Compliance Order
     - f): Cease and Desist Order
     - g): Emergency Suspension
     - h): Termination of Discharge
     - i): Civil Penalties
     - j): Criminal Prosecution
     - k): Performance Bond
     - l): Letter of Credit
     - m): Liability Insurance
     - n): Water Severance
<table>
<thead>
<tr>
<th>NONCOMPLIANCE</th>
<th>NATURE OF VIOLATION</th>
<th>ENFORCEMENT ACTION</th>
<th>PERSONNEL</th>
</tr>
</thead>
</table>
| 5.3.1 Slug load/spill occurrence, prohibited discharge or other discharge not otherwise specified, Continued... | 3. Causing harm to the WWF and/or the environment and/or causing interference and/or pass through. [37-735(a)], [37-735(b)], [37-743(c)], [37-747(f)], [37-747(i)] | For Nature of Violation 3<sup>(26, 27)</sup>:  
   a): NOSNC w/ $5,000 Penalty  
   b): Compliance Meeting  
   c): Consent Order  
   d-1): Show Cause Order  
   d-2): Show Cause Meeting  
   e): Compliance Order  
   f): Cease and Desist Order  
   g): Emergency Suspension  
   h): Termination of Discharge  
   i): Civil Penalties  
   j): Criminal Prosecution  
   k): Performance Bond  
   l): Letter of Credit  
   m): Liability Insurance  
   n): Water Severance | For EA:  
   a-b): EC  
   c-e): M  
   f-i): D  
   j-k): A  
   l-n): D |
| 5.3J Failure to mitigate noncompliance or halt production or discharge. | 1. No harm to the WWF and/or the environment and/or causing interference and/or pass through. [37-749(a)] | For Nature of Violation 1:  
   a): NOV w/ $1,000 Penalty  
   b): Compliance Meeting  | For EA:  
   a-b): EC |
| | 2. Failure to respond or provide an adequate response within 30 days of CA issuance of NOV, or NOSNC. [37-749(b)]. | For Nature of Violation 2<sup>(26, 27)</sup>:  
   a): NOSNC w/ $2,000 Penalty  
   b): Compliance Meeting  
   c): Compliance Schedule  
   d): Consent Order  
   e-1): Show Cause Order  
   e-2): Show Cause Meeting  
   f): Compliance Order  
   g): Cease and Desist Order  
   h): Emergency Suspension  
   i): Termination of Discharge  
   j): Civil Penalties  
   k): Criminal Prosecution  
   l): Performance Bond  
   m): Letter of Credit  
   n): Liability Insurance  
   o): Water Severance | For EA:  
   a-b): EC  
   c-f): M  
   g-j): D  
   k-l): A  
   m-o): D |

<sup>26</sup> [CA: CA-2005-4439]  
<sup>27</sup> [CA: CA-2005-4440]
### NONCOMPLIANCE

**5.3J. Failure to mitigate noncompliance or halt production or discharge,**

Continued...

### NATURE OF VIOLATION

3. Harm to the WWF and/or the environment and/or causing interference and/or pass through. [37-749(a)], [37-750(a)], [37-751]

### ENFORCEMENT ACTION

**For Nature of Violation 3**

- a): NOSNC w/ $5,000 Penalty
- b): Compliance Meeting
- c): Compliance Schedule
- d): Consent Order
- e-1): Show Cause Order
- e-2): Show Cause Meeting
- f): Compliance Order
- g): Cease and Desist Order
- h): Emergency Suspension
- i): Termination of Discharge
- j): Civil Penalties
- k): Criminal Prosecution
- l): Performance Bond
- m): Letter of Credit
- n): Liability Insurance
- o): Water Severance

### PERSONNEL

**For EA:**

- a-b): EC
- c-f): M
- g-j): D
- k-l): A
- m-o): D

---

### 5.4 REPORTING VIOLATIONS

#### NONCOMPLIANCE

**5.4.A. Self-Monitoring reports or other enforcement document response received late or not received.**

#### NATURE OF VIOLATION

1. Documents are received late. [37-753(e)], [37-747 (m)]

2. Documents are received later than specified by permit or not received
   [37-753(e)], [37-747 (m)]

3. Non-response to enforcement action (i.e., NOV, NOSNC, Compliance Order, Consent Order, Cease and Desist Order). [37-753(e)], [37-747 (m)]

4. Enforcement action response documents, corrective action documents, or all other compliance-related documents not received on the agreed upon due date. [37-753(e)], [37-747 (m)]

#### ENFORCEMENT ACTION

**For Nature of Violation 1:**

- a): Compliance Request
- b): Warning Letter
- c): Compliance Meeting

**For Nature of Violations 2-4**

- a): NOSNC w/ $500 Penalty
- b): Compliance Meeting
- c): Consent Order
- d-1): Show Cause Order
- d-2): Show Cause Meeting
- e): Compliance Order
- f): Cease and Desist Order
- g): Emergency Suspension
- h): Termination of Discharge
- i): Civil Penalties
- j): Criminal Prosecution
- k): Performance Bond
- l): Letter of Credit
- m): Liability Insurance
- n): Water Severance

#### PERSONNEL

**For EA:**

- a-b): EC
- b-c): EC
- c-e): M
- f-i): D
- j-k): A
- l-n): D

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<table>
<thead>
<tr>
<th>NONCOMPLIANCE</th>
<th>NATURE OF VIOLATION</th>
<th>ENFORCEMENT ACTION</th>
<th>PERSONNEL</th>
</tr>
</thead>
</table>
| 5.4.B. Self Monitoring Reports are not properly documented                     | 1. Failure to submit all the required documents with Self-Monitoring Report (SMR), sample Chain of Custody, report of laboratory analyses, etc. [37-747(d)] | For Nature of Violation 1:  
   a): Compliance Request  
   b): Warning Letter  
   c): NOV w/ $250 Penalty  
   d): Compliance Meeting  
| For EA:                                                                       | a): I, EC  
   b-d): EC                                                                 |                                                      |           |
|                                                                                | 5.4.C. Failure to report correctly                                                   | For Nature of Violations 1-4:  
   a): Compliance Request  
   b): Warning Letter  
   c): NOV w/ $250 Penalty  
   d): Compliance Meeting  
| For EA:                                                                       | a) I, EC  
   b-d): EC                                                                 |                                                      |           |
|                                                                                | 5.4.D. Notification of parameter violation                                            | For Nature of Violation 5:  
   a): Compliance Request  
   b): Warning Letter  
   c): NOV w/ $250 Penalty  
   d): Compliance Meeting  
   e): Compliance Schedule  
| For EA:                                                                       | a): I, EC  
   b-d): EC                                                                 |                                                      |           |
|                                                                                | 5.4.E. Reporting false information                                                   | For Nature of Violation 1 (26, 27):  
   a): NOSNC w/$2,000 Penalty  
   b): Compliance Meeting  
   c): Consent Order  
   d-1): Show Cause Order  
   d-2): Show Cause Meeting  
   e): Compliance Order  
| For EA:                                                                       | a-b): EC  
   c-e): M                                                                 |                                                      |           |
<table>
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<tr>
<th>NONCOMPLIANCE</th>
<th>NATURE OF VIOLATION</th>
<th>ENFORCEMENT ACTION</th>
<th>PERSONNEL</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.4.E. Reporting false information, Continued....</td>
<td>1. Reports were falsified in lieu of compliance., Continued... [37-736(h)(10)], [37-753(h)]</td>
<td><strong>Nature of Violation 1</strong> <em>(26, 27)</em>:</td>
<td>For EA:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>f): Cease and Desist Order 10</td>
<td>f-i): D</td>
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<tr>
<td></td>
<td></td>
<td>g): Emergency Suspension 11</td>
<td>j-k): A</td>
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<td></td>
<td></td>
<td>h): Termination of Discharge 12</td>
<td>l-n): D</td>
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<td></td>
<td></td>
<td>i): Civil Penalties 13</td>
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<td></td>
<td></td>
<td>j): Criminal Prosecution 14</td>
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<td></td>
<td></td>
<td>k): Performance Bond 15</td>
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<td></td>
<td></td>
<td>l): Letter of Credit 16</td>
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<td></td>
<td></td>
<td>m): Liability Insurance 17</td>
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<td></td>
<td>n): Water Severance 18</td>
<td></td>
</tr>
<tr>
<td>5.4.F. Hauled wastewater Reporting violation</td>
<td>1. Improper identification of waste on waste manifest form. [37-739]</td>
<td><strong>For Nature of Violation 1:</strong></td>
<td>For EA:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>a): Compliance Request 1</td>
<td>a): I, EC</td>
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<tr>
<td></td>
<td></td>
<td>b): Warning letter 2</td>
<td>b-c): EC</td>
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<td></td>
<td></td>
<td>c): NOSNC w/$1,000 Penalty 3</td>
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<td><strong>For Nature of Violations 2-3</strong> <em>(26, 27)</em>:</td>
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<tr>
<td></td>
<td></td>
<td>a): NOSNC w/$2,000 Penalty 3</td>
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<td></td>
<td></td>
<td>b): Compliance Meeting 4</td>
<td></td>
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<td></td>
<td></td>
<td>c): Consent Order 8</td>
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<td>d-1): Show Cause Order 7</td>
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<td>d-2): Show Cause Meeting 6</td>
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<td>e): Compliance Order 9</td>
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<td>f): Cease and Desist Order 10</td>
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<td>g): Emergency Suspension 11</td>
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<td>h): Termination of Discharge 12</td>
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<td>i): Civil Penalties 13</td>
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<td>j): Criminal Prosecution 14</td>
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<td>k): Performance Bond 15</td>
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<td>l): Letter of Credit 16</td>
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<td>m): Liability Insurance 17</td>
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<td>n): Water Severance 18</td>
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<td></td>
<td></td>
<td>o): Rescind Authority to Discharge to the Orange County Wastewater System 20</td>
<td></td>
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<td></td>
<td></td>
<td>p): Revocation of Waste Hauler Operating Permit 21</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>q): Rescind authority for waste transporter/hauler to service, etc., grease traps, grease interceptors, oil and water separators, sand traps or pump stations in Orange County 22</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>r): Revocation of Industrial Wastewater Discharge Permit 23</td>
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</tr>
</tbody>
</table>
## 5.5 MISCELLANEOUS VIOLATIONS

<table>
<thead>
<tr>
<th>NONCOMPLIANCE</th>
<th>NATURE OF VIOLATION</th>
<th>ENFORCEMENT ACTION</th>
<th>PERSONNEL</th>
</tr>
</thead>
</table>
| 5.5.A. Miscellaneous Violations, including:  
  - Facility inspection,  
  - Vandalism,  
  - Denied access  
  - Bypass  | 1. Inadequate record keeping or copies of records are denied.  
[37-743], [37-744], [37-746],  
[37-747], [37-747(n)]  | **For Nature of Violations 1-2:**  
a): Compliance Request  
b): Field Notice of Violation  
c): NOV w/$500 Penalty  
d): Compliance Meeting |  
**For EA:**  
a-b): I, EC  
c-d): EC |
| 2. Failure to report changes in discharge. [37-747(e)] |  |  |  |
| 3. Facility Access is denied. [37-747(n)], [37-748(a)] |  |  |  |
| 4. Access to facility records is denied. [37-747(n)], [37-748(a)] |  |  |  |
| 5. Sample Collection is denied. [37-748(a)] |  |  |  |
| 6. CA Sampling Equipment found tampered or damaged, while monitoring the user. [37-748(a)] |  |  |  |
| 7. Detection of unauthorized bypass. |  |  |  |

## 5.6 OIL AND GREASE MANAGEMENT PROGRAM VIOLATIONS

<table>
<thead>
<tr>
<th>NONCOMPLIANCE</th>
<th>NATURE OF VIOLATION</th>
<th>ENFORCEMENT ACTION</th>
<th>PERSONNEL</th>
</tr>
</thead>
</table>
| 5.6.A. Maintenance logs, records, waste manifests are not current or available | 1. Inadequate record keeping or copies of records are denied.  
[37-754(i)] | **For Nature of Violations 1:**  
a): Compliance Request  
b): Field Notice of Violation  
c): NOV w/ $125 Penalty |  
**For EA:**  
a-b): I, EC  
c): EC  
<p>|</p>
<table>
<thead>
<tr>
<th>NONCOMPLIANCE</th>
<th>NATURE OF VIOLATION</th>
<th>ENFORCEMENT ACTION</th>
<th>PERSONNEL</th>
</tr>
</thead>
</table>
| 5.6.A. Maintenance logs, records, waste manifests are not current or available, Continued... | 2. Failure to submit required waste manifest to the CA within 30 days of the pump out event. [37-754(i)] | **For Nature of Violations 2-3:**  
a): Compliance Request¹  
b): Field Notice of Violation ¹⁹  
c): NOV w/$125 Penalty ³  
**For Nature of Violations 4-6:**  
a): Compliance Request¹  
b): Field Notice of Violation ¹⁹  
c): NOV w/$250 Penalty ³  
**For Nature of Violations 7-8(²⁷)**  
a): Compliance Request¹  
b): Field Notice of Violation ¹⁹  
c): NOV w/$500 Penalty ³  
d): Compliance Meeting ⁴  
e): Consent Order ⁸  
f-1): Show Cause Order ⁷  
f-2): Show Cause Meeting ⁶  
g): Compliance Order ⁹  
h): Cease and Desist Order ¹⁰  
i): Emergency Suspension ¹¹  
j): Termination of Discharge ¹²  
k): Civil Penalties ¹³  
l): Criminal Prosecution ¹⁴  
m): Performance Bond ¹⁵  
n): Letter of Credit ¹⁶  
o): Liability Insurance ¹⁷  
p): Water Severance ¹⁸  
q): Rescind Authority to Discharge to the Orange County Wastewater System ²⁰  
r): Revocation of Waste Hauler Operating Permit ²¹  | For EA:  
a-b): I, EC  
c): EC  
For EA:  
a): I, EC  
b-c): EC  
For EA:  
a-b): I, EC  
c): EC  
d-f): M  
g-k): D  
l-m): A  
n-r): D |
<p>| 5.6.B. Waste manifest reporting | 3. Failure to provide safe or easy access to inspection devices or sample points. [37-754(c)] |  |  |
| 5.6.C. Program Survey Submittal | 4. Failure to complete program survey. [37-754(i)] |  |  |
| 5.6.D. Discharge without prior authorization | 5. Discharge fats oils or grease to the County without prior approval or program registration. [37-754(h)] |  |  |
| 5.6.E. Inadequate access | 6. Failure to provide emergency notification signage on private lift station facilities. [37-754(c)] |  |  |
| 5.6.F. Inadequate Emergency Contact Signage | 7. Failure to properly maintain and/or remove wastes from private wastewater collection systems, required traps, interceptors or separators, perform repairs, or maintain device integrity to design specifications. [37-754(c)], [37-754(d)], [37-754(g)], [37-754(i)] |  |  |
| 5.6.G. Trap/Interceptor not cleaned or maintained | 8. Failure to provide for all required collection system equipment, trap, interceptor or separator facilities, equipment and/or inspection/sampling access points. [37-754(d)] |  |  |
| 5.6.H. Inadequate private collection system, trap, interceptor, or separator equipment, or design |  |  |  |
| 5.6.I. Private lift station operation and maintenance deficiency |  |  |  |
| 5.6.J. No grease trap, grease interceptor or oil separator |  |  |  |
| 5.6.K. Bypass treatment or discharge of wastes without sufficient treatment |  |  |  |
| 5.6.L. Pass Through of grease or oils |  |  |  |</p>
<table>
<thead>
<tr>
<th>NONCOMPLIANCE</th>
<th>NATURE OF VIOLATION</th>
<th>ENFORCEMENT ACTION</th>
<th>PERSONNEL</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.6.A-5.6.L</td>
<td>9. Failure to maintain a contract for the operation, maintenance and repair of private lift stations, or providing a contractor with insufficient experience or emergency response coverage, or failure to provide County prior notice of changes to contractor status. [37-754(c)]</td>
<td>For Nature of Violations 9-14 (27)</td>
<td>For EA:</td>
</tr>
<tr>
<td></td>
<td>10. Failure to provide required grease trap, grease interceptor or oil/water separator. [37-754(c)]</td>
<td>a): Compliance Request</td>
<td>a-c): EC</td>
</tr>
<tr>
<td></td>
<td>11. Bypassing treatment devices, failure to discharge greasy or oily wastewater and/or solids to required grease trap, grease interceptor or oil/water separator devices, flushing traps, interceptors or separators, or decanting/returning grease, oils, wastewater or solids back to the trap, interceptor or oil/water separator or to the wastewater system without treatment from a county-approved treatment device. [37-754(c)]</td>
<td>b): Field Notice of Violation</td>
<td>d-g): M</td>
</tr>
<tr>
<td></td>
<td>12. Causing the pass through of fats, oil or grease to the County. [37-754(c)]</td>
<td>c): NOV w/$1,000 Penalty</td>
<td>h-l): D</td>
</tr>
<tr>
<td></td>
<td>13. Use of or discharge of unauthorized or prohibited additives such as commercial bacteria, emulsifiers, enzymes. [37-754(g)]</td>
<td>d): Rescind product approval</td>
<td>m-n): A</td>
</tr>
<tr>
<td></td>
<td>14. Failure to respond or provide an adequate response within 30 days of CA issuance of NOV, or NOSNC or required compliance due date. [37-749(b)].</td>
<td>e): Compliance Meeting</td>
<td>o-t): D</td>
</tr>
<tr>
<td>5.6.M.</td>
<td>5.6.M. Discharge of unauthorized Additives</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>5.6.N. Program Noncompliance Not otherwise specified</td>
<td></td>
<td></td>
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<tr>
<td>5.6.O.</td>
<td>5.6.O. Continued Noncompliance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>NONCOMPLIANCE</td>
<td>NATURE OF VIOLATION</td>
<td>ENFORCEMENT ACTION</td>
<td>PERSONNEL</td>
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<td>-------------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------------</td>
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</tr>
<tr>
<td>5.5.A. Failure to submit paperwork in a timely manner.</td>
<td>1. Failure to comply with Best Management Practices Program (BMPP) requirements,</td>
<td>For Nature of Violation 1:</td>
<td>For EA:</td>
</tr>
<tr>
<td></td>
<td>and causing no harm to the WWF and/or the environment and/or causing interference</td>
<td>a): Compliance Request&lt;sup&gt;1&lt;/sup&gt;</td>
<td>a-b): I, EC</td>
</tr>
<tr>
<td></td>
<td>and/or pass through. [37-744(f)], [37-746], [37-747], [37-749], [37-750], [37-751]</td>
<td>b): Field Notice of Violation&lt;sup&gt;19&lt;/sup&gt;</td>
<td>e-c): EC</td>
</tr>
<tr>
<td>5.7.B. Develop/implement BMPP</td>
<td>2. Failure to comply with permit-required BMPP requirements, or implement or change</td>
<td>c): NOV w/$500 Penalty&lt;sup&gt;3&lt;/sup&gt;</td>
<td>d): M</td>
</tr>
<tr>
<td></td>
<td>the BMPP as needed to comply with a pretreatment standard, local limits or</td>
<td>d): Compliance Meeting&lt;sup&gt;4&lt;/sup&gt;</td>
<td></td>
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<td></td>
<td>pretreatment requirement, and causing no harm to the WWF and/or the environment</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>and/or causing interference and/or pass through. [37-744(f)], [37-746], [37-747],</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>[37-749], [37-750], [37-751]</td>
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<td>5.7.C. Install BMPP pretreatment facilities or equipment</td>
<td>3. Failure to comply with BMPP requirements, causing harm to the WWF and/or the</td>
<td>For Nature of Violation 2:</td>
<td>For EA:</td>
</tr>
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<td>environment and/or causing interference and/or pass through. [37-744(f)], [37-746],</td>
<td>a): Compliance Request&lt;sup&gt;1&lt;/sup&gt;</td>
<td>a-b): I, EC</td>
</tr>
<tr>
<td></td>
<td>[37-747], [37-749], [37-750], [37-751]</td>
<td>b): Field Notice of Violation&lt;sup&gt;19&lt;/sup&gt;</td>
<td>c): EC</td>
</tr>
<tr>
<td>5.7.D. Maintain pretreatment</td>
<td>4. Refusal to comply with BMP Program requirements, or permit-required BMP Program</td>
<td>c): NOV w/ $1,000 Penalty&lt;sup&gt;3&lt;/sup&gt;</td>
<td>d): M</td>
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<td>requirements, or implement or change the BMPP as needed to comply with a pretreat-</td>
<td>d): Compliance Meeting&lt;sup&gt;4&lt;/sup&gt;</td>
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<td>ment standard, local limits or pretreatment requirement. [37-746], [37-747],</td>
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<td>[37-749], [37-750], [37-751]</td>
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<td>5.7.G. Failure to provide required information or submit required reports</td>
<td>5. Refusal to comply with BMP Program requirements, or permit-required BMP Program</td>
<td>For Nature of Violations 3-4&lt;sup&gt;26&lt;/sup&gt;</td>
<td>For EA:</td>
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<td>requirements, or implement or change the BMPP as needed to comply with a pretreat-</td>
<td>a): NOSNC w/$2,000 Penalty&lt;sup&gt;3&lt;/sup&gt;</td>
<td>a-b): EC</td>
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<td>ment standard, local limits or pretreatment requirement. [37-746], [37-747],</td>
<td>b): Compliance Meeting&lt;sup&gt;4&lt;/sup&gt;</td>
<td>c): EC</td>
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<td></td>
<td>[37-749], [37-750], [37-751]</td>
<td>c): Consent Schedule&lt;sup&gt;5&lt;/sup&gt;</td>
<td>d): M</td>
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<tr>
<td></td>
<td>d): Consent Order&lt;sup&gt;8&lt;/sup&gt;</td>
<td>d-1): Show Cause Order&lt;sup&gt;7&lt;/sup&gt;</td>
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<td>d-2): Show Cause Meeting&lt;sup&gt;6&lt;/sup&gt;</td>
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<td>e): Consent Order&lt;sup&gt;8&lt;/sup&gt;</td>
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<td>f): Compliance Order&lt;sup&gt;9&lt;/sup&gt;</td>
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<td>g): Cease and Desist Order&lt;sup&gt;10&lt;/sup&gt;</td>
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<td>h): Emergency Suspension&lt;sup&gt;11&lt;/sup&gt;</td>
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<td>i): Termination of Discharge&lt;sup&gt;12&lt;/sup&gt;</td>
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<td>j): Civil Penalties&lt;sup&gt;13&lt;/sup&gt;</td>
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<td>k): Criminal Prosecution&lt;sup&gt;14&lt;/sup&gt;</td>
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<td>l): Performance Bond&lt;sup&gt;15&lt;/sup&gt;</td>
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<td>m): Letter of Credit&lt;sup&gt;16&lt;/sup&gt;</td>
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<td>n): Liability Insurance&lt;sup&gt;17&lt;/sup&gt;</td>
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<td>o): Water Severance&lt;sup&gt;18&lt;/sup&gt;</td>
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<td>p): Rescind Authority to Discharge to the Orange County Wastewater System&lt;sup&gt;20&lt;/sup&gt;</td>
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<td>q): Revocation of Industrial Wastewater Discharge Permit&lt;sup&gt;23&lt;/sup&gt;</td>
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</table>
*Enforcement Action Key:*

1. **Compliance Request:** Internal policy, not shown in Code. Courtesy for customer. Not final and not appealable.

2. **Warning Letter:** See generally 37-749(a)(1). May be final determination, where notice thereon so indicates. If final, then appealable to hearing examiner.

3. **NOV/ NOSNC:** See 37-703(definitions) w/ or w/o Penalty §§37-749(a)(1), with penalty: 37-749(b) ($1000); 37-749(g)(1) and (6). Final Determination for appeal, in all cases.

4. **Compliance Meeting:** Not defined in §749: Courtesy for customer; utilities requests it. Not final. Purpose is for development of Consent Agreement.

5. **Compliance Schedule:** See 37-703 (definitions) and 37-737(a)(1), 37-739(v)(6)(j), 37-746(b)(5), 37-746(h)(15), 37-747(a)(2)(h), 37-747(b), 37-754(i)(6)(i)(g). Is final, enforceable and appealable, unless agreed to in writing and signed by the user/respondent. May be used for the development of Consent Agreement.

6. **Show Cause Meeting:** Provided for in 37-703 (under “administrative order”). See also 37-749(d).

7. **Show Cause Order:** Defined in 37-703 (under “administrative order”). See also 37-749(d)(1) “The director may order a user who has violated . . . , to appear before the director and show cause why the proposed enforcement action should not be taken. This order is a final determination.

8. **Consent Order:** Defined in 37-703 and see 37-749(c): Final resolution, and enforceable, not appealable if signed by respondent. If refused by respondent, must be appealed within specific time.

9. **Compliance Order:** Defined in 37-703, and see 37-749(e): Final determination for appeal in all cases, unless otherwise specified.

10. **Cease and Desist Order:** Defined in 37-703 (definitions), 37-749(f): Final determination for appeal in all cases, unless otherwise specified.

11. **Emergency Suspension:** See 37-749(h): Final determination for appeal in all cases, unless otherwise specified.

12. **Termination of Discharge:** See 37-749(i): Final determination for appeal in all cases, unless otherwise specified.

13. **Civil Penalties:** See 37-749(g) or 37-750(b): Final determination for appeal in all cases, unless otherwise specified.

14. **Criminal Prosecution:** 37-750(c

15. **Performance Bond:** See 37-751(a): Final determination for appeal in all cases, unless otherwise specified, or agreed to in writing by respondent.

16. **Letter of Credit (LOC):** Final determination for appeal where not agreed to in writing by respondent. Not in County Code. However, LOC may be required where special circumstances exist requiring an immediate source of revenue for cleanup, repair, collection of a fine suspended so long as respondent continues to correct violation, or suspended so long as respondent stays in compliance.

17. **Liability Insurance:** See 37-751(b): Final determination for appeal in all cases, unless otherwise specified.

18. **Water Severance:** See 37-749(c) Final determination for appeal in all cases, unless otherwise specified.
19 **Field Notice of Violation (FNOV):** A field (issued) notice of violation (FNOV) is a notice of violation issued by the field staff for a user’s noncompliance with the provisions of the Oil and Grease Management Program, Hauled Wastewater Program and non-permitted users not operating under a Best Management Plan (BMP), as defined by Orange County Code Chapter 37 Article XX, Sec 37-754 and Sec 37-744. If compliance has not been achieved, escalating enforcement will be taken. See 37-703(definitions); See §§37-749(a)(1): With penalty: See also 37-749(b) ($1000); and 37-749(g)(1) and (6). Unless special language is placed in the notices indicating otherwise, FNOVs are considered a Final Determination for appeal, in all cases.

20 **Rescind Authority to Discharge to the Orange County Wastewater System:** See 37-739(h), 37-739(v), 37-746(h), 37-749(h), 37-749(i), 37-754(i)(6): Is a final determination for appeal in all cases, unless otherwise specified.

21 **Revocation of Waste Hauler Operating Permit 37-749(v)(6):** Final determination for appeal in all cases, unless otherwise specified.

22 **Rescind authority for waste transporter/hauler to service, etc., grease traps, grease interceptors, oil and water separators, sand traps or pump stations in Orange County:** See 37-739(j); Final determination for appeal in all cases, unless otherwise specified.

23 **Revocation of Industrial Wastewater Discharge Permit:** 37-739(h), 37745(a), 37-746(h); Final determination for appeal in all cases, unless otherwise specified.

24 **Revocation Product Approval.** See 37-754(g)(7); Final determination for appeal in all cases, unless otherwise specified.

25 **The Imposition of Mass Based Limits.** See 37-737(i). Final determination for appeal in all cases, unless otherwise specified.

26 Violation will place the user in SNC; in addition to the penalty imposed (per violation per day) and the publication of the user violation in a local newspaper, the user will be subject to any of the enforcement action identified above, as deemed appropriate by the CA, with escalating enforcement action to follow for continued noncompliance.

27 Violation will also subject the user to additional penalties as compensation for all penalties assessed to the County by the FDEP or EPA resulting from the users discharge, and/or fees related to cost recovery for damage to county property or equipment, or additional maintenance required by the county to remove wastes, or harm to county personnel caused by the user’s discharge to the WWF.

28 Violation will also subject the user to additional penalties as compensation for damage to county property resulting from tampering or harming County equipment.
Penalties for violations of pretreatment limits (i.e., federal categorical standards, local limits or Industrial Wastewater Discharge Permit limits) in excess of six (6) times the pretreatment limit shall be calculated by utilizing the following formula:

\[
Y = \left[ \frac{100}{\text{Pretreatment Limit}} \times (X) \right] - (100)
\]

Where:

\( Y \) = Penalty in dollars,

\( X \) = Reported concentration level, expressed in same units as the Pretreatment Limit (Federal Categorical Standard, Local Limit, or Industrial Wastewater Discharge Permit Limit).