

LEE COUNTY ORDINANCE NO. 12-03

AN ORDINANCE RELATING TO INDUSTRIAL PRETREATMENT OF WASTEWATER IN UNINCORPORATED LEE COUNTY PRIOR TO INTRODUCTION INTO PUBLICLY-OWNED WASTEWATER TREATMENT WORKS; REPEALING AND REPLACING IN ITS ENTIRETY LEE COUNTY ORDINANCE NO. 05-26; PROVIDING FOR SHORT TITLE, PURPOSE AND TERRITORIAL SCOPE; PROVIDING FOR DEFINITIONS; PROVIDING FOR PROHIBITED DISCHARGES; PROVIDING FOR REGULATED DISCHARGES; PROVIDING FOR PRETREATMENT OF INDUSTRIAL WASTEWATER; PROVIDING FOR INDUSTRIAL WASTEWATER DISCHARGE PERMITTING; PROVIDING FOR REPORTING REQUIREMENTS AND RETENTION OF RECORDS; PROVIDING FOR SAMPLING REQUIREMENTS; PROVIDING FOR ENTRY, INSPECTION AND MONITORING; PROVIDING FOR ENFORCEMENT RESPONSE; PROVIDING FOR FEES; PROVIDING FOR ENFORCEMENT AND ABATEMENT; PROVIDING FOR REMEDIES AND PENALTIES; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Lee County, Florida is the governing body in and for Lee County, Florida; and

WHEREAS, the Board of County Commissioners of Lee County, Florida is authorized pursuant to Chapter 125, Florida Statutes, to enact Ordinances necessary in the exercise of its powers; and

WHEREAS, the County operates eight (8) Publicly Owned Treatment Works (POTW), which are utilized by the County for the treatment of wastewater collected from residences and businesses located within unincorporated Lee County; and

WHEREAS, Federal and State wastewater treatment regulations require that POTWs meet certain effluent limitations; and in order to meet these limitations it is necessary to enforce certain standards for the pretreatment of industrial waste prior to their introduction into the POTW; and

WHEREAS, to fully comply with all Federal and State requirements for the discharge of effluent from County POTWs, the County now desires to repeal its

existing pretreatment regulations and replace those regulations to establish uniform requirements, provisions and regulations for industrial pretreatment of wastewater.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

SECTION ONE: REPEALER

Lee County Ordinance Number 05-26 is hereby repealed in its entirety and replaced.

SECTION TWO: SHORT TITLE. PURPOSE AND TERRITORIAL SCOPE

- A. This Ordinance will be known and cited as the "Lee County Industrial Pretreatment of Wastewater Ordinance".
- B. The purpose of this Ordinance is to establish uniform requirements for users of all of Lee County's POTWs, and enable the County to comply with all applicable Federal and State laws, including the Clean Water Act (33 USC 1251 et seq.), the General Pretreatment Regulations (Title 40 of the Code of Federal Regulations (CFR) Part 403), and Chapter 62-625 of the Florida Administrative Code. Through a program of inspections and permitting, Lee County Utilities seeks to comply with all applicable State and Federal Laws. As part of the program, the Lee County Utilities Control Authority shall have the power, jurisdiction, and supervision over discharges of wastewater into the POTW, as necessary to adequately enforce and administer all laws and lawful standards to assure the implementation of the following objectives:
 - 1. To prevent the discharge of wastewater into the POTWs, which may interfere with the operations thereof or contaminate the resulting sludge, reclaimed water, or deep injection water;
 - 2. To prevent the introduction of pollutants into any Lee County POTW that may pass through the POTW inadequately treated and into the POTWs receiving waters, injection wells, sludge, or reclaimed water or be otherwise incompatible with the POTW;
 - 3. To protect the life, health, and safety of operating and maintenance personnel and the general public; and to provide for the equitable distribution of costs, including administration, implementation, and enforcement of the industrial pretreatment program established herein, as well as the operation, maintenance, and improvement of the POTWs;
 - 4. To enable Lee County's POTWs to comply with all National Pollution Discharge Elimination System (NPDES) permits, sludge use and disposal requirements, and all other Federal and State laws to which they are subject; and

5. To promote and improve opportunities for the reuse and recycling of reclaimed wastewater and sludge from the POTWs.
- C. The territorial Scope of this Ordinance includes:
1. All areas of unincorporated Lee County in which the wastewater collection system is owned and maintained by Lee County Utilities and discharges into a Lee County Utilities POTW; and
 2. All areas of unincorporated Lee County in which the wastewater collection system is not owned by Lee County Utilities and discharges into a Lee County Utilities POTW.

SECTION THREE: DEFINITIONS

For the purpose of this Ordinance, the following words and phrases are defined and shall have the meaning assigned except in those instances where the context clearly indicates a different meaning. The words "Shall" and "Will" are mandatory and not discretionary. The word "May" is permissive.

- A. Act shall mean the Federal Water Pollution Control Act of 1972, also known as the Clean Water Act, 33 United States Code (U.S.C.) 1251 et seq., as may be amended.
- B. Best Management Practices or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in subsections 62-625.400(1)(a) and (2), F.A.C. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, industrial sludge or waste disposal, or drainage from raw materials storage.
- C. Biochemical Oxygen Demand (BOD-5) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g., mg/L).
- D. Categorical Industrial User means an industrial user subject to categorical pretreatment standards under Rule 62-625.410, F.A.C., including 40 CFR Chapter I, Subchapter N, Parts 405 through 471, as of July 1, 2009, hereby adopted and incorporated by reference.
- E. Categorical Pretreatment Standard shall mean any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. §1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405 - 471.
- F. Chemical Oxygen Demand or COD shall mean a measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

- G. Conventional Pollutant shall mean BOD, COD, Nitrogen phosphorus; suspended solids; pH and fecal coliform bacteria; and any additional pollutant identified in the WWTP National Pollution Discharge Elimination System Permit (NPDES).
- H. Control Authority shall mean Lee County Utilities, a public utility that administers a pretreatment program that has been approved by the Florida Department of Environmental Protection in accordance with the requirements of Rule 62-625.510, F.A.C.
- I. Daily Maximum shall mean the arithmetic average of all effluent samples for a pollutant collected during a calendar day.
- J. Department of Environmental Protection (DEP) shall mean the Florida Department of Environmental Protection or its successor agencies.
- K. Environmental Protection Agency (EPA) shall mean the Federal Environmental Protection Agency of the United States, its Administrator, or other duly authorized representative of said agency.
- L. Existing Source shall mean any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.
- M. Grab Sample shall mean an individual, discrete sample collected at a specific time. A grab sample includes all sub samples or aliquots (e.g., individual containers for specific analytes or analyte groups), sample fractions (e.g., total and filtered samples), and all applicable field quality control samples (e.g., field sample duplicates or split samples) collected at the same locations within a period of time not exceeding 15 minutes.
- N. Holding Tank Waste shall mean any waste from holding tanks such as vessels, chemical toilets, campers, trailers and vacuum-pump tank trucks.
- O. Indirect Discharge shall mean the discharge of non-domestic wastewater into the POTW.
- P. Industrial Pretreatment Superintendent shall mean the person designated by the Lee County Utilities Director to manage the Industrial Pretreatment Program, and who is charged with certain duties and responsibilities established by this Ordinance.
- Q. Industrial User shall mean a source of indirect discharge into the POTW.
- R. Instantaneous Limit shall mean the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any

discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

- S. Interference shall mean the inhibition or disruption of the POTW processes or operations, which contribute to a violation of any requirement of the County's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with Section 405, CWA (33 U.S.C. 1315) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act, 42 USC 6901, et seq. (SWDA), the Clean Air Act, the Toxic Substance Control Act or more stringent state criteria applicable to the method of disposal or use employed by the POTW.
- T. Local Limit shall mean specific discharge limits developed and enforced by the Control Authority upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).
- U. Maximum Allowable Industrial Loading means the total mass of a pollutant that all industrial users and other controlled sources may discharge without causing pass through or interference.
- V. Medical Waste shall mean isolation waste, infectious agents, human blood and blood products, pathological waste, sharps, body parts, contaminated bedding, surgical waste, potentially contaminated laboratory waste, and dialysis waste.
- W. Method Detection Limit or "MDL" means an estimate of the minimum amount of a substance that an analyte process can reliably detect. A MDL is analyte- and matrix-specific and is laboratory dependent.
- X. National Categorical Pretreatment Standard (Pretreatment Standard) shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Clean Water Act.
- Y. New Source shall mean any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of Section 307(c), CWA, which will be applied to such source. This definition shall include all provisions included in the definition in Chapter 62-625.200(9) F.A.C.
- Z. Noncontact Cooling Water shall mean the water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- AA. Notice of Violation (NOV) shall mean a written notice informing a user that a violation of this Ordinance has occurred.
- BB. Notify shall mean contact by telephone, in person or via certified United States Mail, return receipt requested.

- CC. National Pollution Discharge Elimination System Permit (NPDES) shall mean any permit or equivalent document or requirements issued by the Federal or State water pollution control agency to regulate the discharge of pollutants from the POTW pursuant to Section 402, CWA (33 U.S.C. 1342).
- DD. Pass Through shall mean a discharge which exits the WWF into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the WWF's permit (including an increase in the magnitude or duration of a violation).
- EE. Permit shall mean a permit issued to a WWF in accordance with Chapter 62-620, F.A.C.
- FF. Person shall mean individuals, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations and all other groups or combinations. This definition shall include all Federal, State, and local governmental entities.
- GG. pH shall mean a quantitative expression for acidity or alkalinity of an aqueous solution expressed in standard units.
- HH. Pollutant shall mean dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical waste, biological materials, radioactive waste, wrecked or discarded equipment, heat, rock, sand, municipal, agricultural, and industrial waste and certain characteristics of wastewater (e.g., pH, temperature, total suspended solids, turbidity, color, toxicity, or odor).
- II. Premises shall mean a parcel of real estate or portion thereof including any improvements thereon which is determined by the Control Authority to be a single user for the purposes of receiving, using and paying for sewer services.
- JJ. Pretreatment shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a WWF. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by subsection 62-625.410(5), F.A.C.
- KK. Pretreatment Requirements shall mean any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.
- LL. Pretreatment Review Committee shall mean a panel made up of the following individuals whose main function is to review user appeals relating to IWDP

issues: Chief Building Inspector or designee, Utilities Director or designee, Pretreatment Superintendent or designee, and County Attorney or designee.

- MM. Pretreatment Standard shall mean any regulation containing pollutant discharge limits promulgated by the EPA under Sections 307(b) and (c) of the CWA or by the DEP under Chapter 403, F.S., which applies to industrial users. This term includes prohibitive discharge limits established in Rule 62-625.400, F.A.C.
- NN. Process Wastewater shall mean any water, which, during manufacturing or processing, comes into direct contact with, or results from the production of, or use of any raw material, intermediate product, finished product, by product, or waste product.
- OO. Prohibited Discharges shall mean the absolute prohibitions against the discharge of certain substances as set forth in Section Four of this Ordinance.
- PP. Publicly Owned Treatment Works (POTW) shall mean a treatment works, hereinafter referred to as a Wastewater Facility (WWF), as defined by Section 212, CWA, (33 U.S.C. 1292) which is owned by the County.
- QQ. Reclaimed Water System shall mean the reclaimed water infrastructure components including any pipes, tanks and other apparatus used to collect, store, distribute or supply reclaimed water to its destination. A Reclaimed Water System is part of the WWF.
- RR. Responsible Corporate Officer shall mean: (a) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (b) The manager of one or more manufacturing, production, or operating facilities, provided the manager: 1. Is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations; 2. Is authorized to initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; 3. Can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; 4. Has been assigned or delegated the authority to sign documents in accordance with corporate procedures.
- SS. Septic Tank Waste shall mean any domestic sewage from holding tanks, including, but not limited to, vessels, chemical toilets, campers, trailers, and septic tanks.
- TT. Sewage shall mean human excrement and gray water (household showers, dishwashing operations, etc.).
- UU. Significant Industrial User (SIU) shall mean any industrial user of the WWF that qualifies as either of the following:

1. Categorical Industrial Users; or
2. Any other industrial user that discharges an average of 25,000 gallons per day or more of process wastewater to the WWF (excluding domestic wastewater, noncontact cooling and boiler blowdown wastewater); contributes a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the treatment plant; or is designated as such by the Control Authority on the basis that the industrial user has a reasonable potential for adversely affecting the WWF's operation or for violating any pretreatment standard or requirement in accordance with paragraph 62-625.500(2)(e), F.A.C.

Regardless of the above, upon finding that an industrial user meeting the criteria in subsections 1. and 2. has no reasonable potential for adversely affecting the WWF operation or for violating any pretreatment standard or requirement, the Control Authority may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with Rule 62-625.500(2)(e), F.A.C., determine that such industrial user is not a Significant Industrial User.

VV. Significant Noncompliance (SNC) shall mean an industrial user that is in noncompliance due to meeting 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 of the measurements taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard 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 of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC = 1.4 for BOD TSS, Total Oil and Grease, and 1.2 for all other pollutants except pH);
3. Any other violation of a pretreatment standard or requirement (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Control Authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of WWF personnel or the general public);
4. Any discharge that has resulted in the Control Authority's exercise of its emergency authority to halt or prevent such a discharge;
5. Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

6. Failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
7. Failure to accurately report noncompliance; and
8. Any other violation or group of violations including a violation of best management practices, which the Control Authority determines will adversely affect the operation or implementation of the pretreatment program, except when the Department is acting as the Control Authority.

WW. Slug Discharge shall mean any discharge of a non-routine, episodic nature, which has a reasonable potential to cause interference or pass through, or in any other way violate the WWF's regulations, local limits or permit conditions.

XX. Storm Water shall mean any flow occurring during or following any form of natural precipitation and resulting from such precipitation.

YY. Superintendent shall mean the person designated by the County to supervise the operations of the WWFs, and who is charged with certain duties and responsibilities by this Ordinance.

ZZ. Suspended Solids shall mean the total suspended matter that floats on the surface of, or is suspended in water, wastewater or other liquids and which is removable by laboratory filtering.

AAA. Toxic Pollutant shall mean any pollutant or combination of pollutants listed as toxic in regulations promulgated by the approval authority of the EPA under provisions of CWA 307(a) or other acts.

BBB. User shall mean any person, firm, corporation or governmental entity that discharges, causes or permits the indirect discharge of wastewater into the WWF.

CCC. Utilities Director shall mean the person designated by the County to administer the activities of the Utilities Division, supervise the operation of the WWF, maintain records of such operation, prepare operating budgets and make recommendations to the Board of County Commissioners concerning activities within his or her responsibility and authority.

DDD. Wastewater shall mean the liquid and water containing industrial or domestic waste from dwellings, commercial buildings, industrial facilities, institutions and any other source, whether treated or untreated which is contributed to or permitted to enter the WWF.

EEE. Wastewater Facility (WWF) shall mean any facility which discharges waste into waters of the State or which can reasonably be expected to be a source of water pollution and includes any or all of the following: the collection and transmission

system, the wastewater treatment works, the reuse or disposal system, and the residuals management facility.

SECTION FOUR: PROHIBITED DISCHARGES

- A. **General Prohibited Discharges.** No user shall discharge, permit the discharge, cause the discharge, or contribute to the discharge of any pollutant or wastewater that will interfere with the operation or performance of the WWF or otherwise pass through the WWF. These general prohibitions apply to users of the WWF whether or not the user is subject to National Categorical Pretreatment Standards or any other National, State or Local pretreatment standards or requirements.
- B. **Specific Prohibited Discharges.** No person shall discharge or cause to be discharged materials, waters or waste if it appears likely, in the opinion of the Control Authority, that such waste can harm either the sewers, sewer system or equipment, sewage treatment process or equipment, or have adverse affect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. The Control Authority shall, in forming an opinion as to the acceptability of these waste, give consideration to such factors as the quantities of subject waste in relation to flows and velocities in the sewers, materials of construction of sewers, nature of sewage treatment, process capacity of the WWF, degree of treatability of waste in the WWF and other pertinent factors. Specific substances prohibited are as follows:
1. Pollutants which by reason of their nature or quantity are or may be sufficient either alone or by interaction with other substances to create a fire or explosive hazard in the WWF or be injurious in any other way to the WWF or the employees of the WWF. This includes, but is not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21.
 2. Hazardous materials at concentrations which may constitute a serious health hazard to humans, animals, plants or are sufficient to prevent entry into the WWF or its appurtenances for maintenance, inspection and repair.
 3. Any substance, acid, or alkaline that has corrosive properties capable of causing damage or hazard to structures, equipment, or personnel of the treatment works. Any water or waste, having a pH lower than 6.0 or higher than 9.5. Waters or waste containing strong acid waste or concentrated plating solutions, whether neutralized or not, are prohibited.
 4. Solids or viscous substances, which may cause obstruction to the flow in a sewer or other interference with the operation of the WWF. Solid or viscous substances including, but not limited to, whole garbage or food waste with particles greater than one half inch (½") in any direction, paper dishes, cups, milk containers, etc., either whole or ground by garbage

grinders, animal guts or tissue, paunch manure, bones, hair, hides or fleshing, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing waste.

5. Wastewater containing pollutants, including oxygen-demanding pollutants, in sufficient quantity, either singly or by interaction with other pollutants, to interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the WWF, or to exceed the limitations set forth in a Categorical Pretreatment Standard.
6. Water or waste containing substances, which are not amenable to treatment, more specifically defined as:
 - a. Substances that may cause the WWF or any other product of the WWF, to be unsuitable for reuse or to interfere with reuse process. Any substance, which will cause the WWF to violate the NPDES and/or DEP permits or the receiving water quality standards or creating an adverse affect rendering the effluent unsuitable for reclamation; and
 - b. In no case shall a substance discharged to the WWF cause the WWF to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405, CWA; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, CWA, Toxic Substance Control Act or state criteria applicable to sludge management method.
7. Any wastewater having a temperature which will inhibit or otherwise affect biological activity in the WWF resulting in interference; but in any case, wastewater with a temperature at the introduction into the WWF which exceeds 104°F (40°C).
8. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil, in amounts that cause pass through or interference. Vehicle maintenance centers (recreational or otherwise) body shops, machine shops or any properties that store, and/or use petroleum-based products, shall be required to install and properly maintain oil/water separators on the premises. These oil/water separators shall be of sufficient size and maintained to such a level that effluent wastewater will not contain >25mg/L petroleum products.

9. Pollutants which may result in the presence of toxic gases, vapors, or fumes within the WWF, including the collection system and lift stations, in a quantity sufficient to cause acute worker health or safety concerns or problems.
10. No vacuum truck or other liquid waste transport trucks shall discharge trucked or hauled pollutants (including Industrial Waste), directly or indirectly, into the WWF unless such person shall first have applied for and received written permission from the Control Authority.
11. No other holding tank waste, including portable toilet waste, may be discharged into the WWF unless the person has received permission and has been issued a modified Industrial Wastewater Discharge Permit, permission must be secured for each separate discharge. The permit shall state the specific location of discharge, the time of day the discharge is to occur, the volume of the discharge and shall limit the wastewater constituents and characteristics of the discharge. Such user shall pay any applicable charges or fees and shall comply with the conditions of the permit issued by the Control Authority. Provided, however, no permit will be required to discharge domestic waste from a recreational vehicle holding tank provided such discharge is made into an approved facility designed to receive such waste.
12. Storm water, roof runoff surface water, ground water, subsurface drainage, yard drainage, unpolluted industrial process waters, or any other unpolluted water, except as specifically authorized by the Control Authority. Air conditioner condensate, single pass cooling water, and blow-down or bleed-off from cooling towers and other evaporative coolers may be accepted into the WWF at the discretion of the Control Authority.
13. Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of one-hundred (100) mg/L either soluble or containing substances which may solidify or become viscous at temperatures between thirty-two degrees (32°) and one hundred forty degrees (140°) Fahrenheit, 0°C and 60°C. Refer to the Grease Management Ordinance for further information.
14. Any semi-liquid waste or sludge with a solid concentration in excess of 2500 (mg/L); residues left after treatment of petroleum oils; any semisolid waste from a chemical process; mud from a drill hole in boring; sediment in a steam boiler; a precipitate from oils, such as the products from crankcase oils in engines or any liquid slurry of very fine solids with slime or mud-like appearance.
15. Any waters, or waste containing odor-producing substances are prohibited. Any water or waste that contains phenols in excess of 0.2

mg/L by weight is prohibited. Wastewater being discharged into the WWF shall have a minimum dissolved oxygen concentration of 3.0 mg/L.

16. Any materials which exert or cause excessive discoloration such as, but not limited to, dye waste and vegetable tanning solutions, which are not removable by existing wastewater treatment plant processes or any pollutant, including abnormal BOD, COD, suspended solids, phosphorus or nitrogen in such quantities as to cause interference in the WWF.
17. Medical Waste shall not be discharged into the WWF, except with specific written permission of the Control Authority.

SECTION FIVE: REGULATED DISCHARGES

- A. **National Categorical Pretreatment Standards.** Certain industrial users are now or hereafter shall become subject to National Categorical Pretreatment Standards promulgated by the EPA specifying quantities or concentrations of pollutants or pollutant properties, which may be discharged into the WWF. All industrial users subject to a national pretreatment standard shall comply with all requirements of such standard and shall also comply with any additional or more stringent limitations contained herein. Compliance with the national pretreatment standards for existing sources subject to such standards or for existing sources which hereafter become subject to such standards shall be within three (3) years following promulgation of the standards, unless shorter compliance time is specified in the standard. Compliance with national pretreatment standards for new sources shall be required upon promulgation of the standard, except where expressly authorized by an applicable national pretreatment standard. No industrial user shall increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitution for adequate treatment to achieve compliance with such standard.
- B. **State Requirements and Limitations.** State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements or those contained in this Ordinance. The Control Authority reserves the right to establish by regulation more stringent limitations or requirements from dischargers to the WWF, if deemed necessary to comply with the objectives set forth herein.
- C. **Local Limits.** The Control Authority shall establish and enforce local limits in accordance with Rule 62-625.500(2) F.A.C. No person shall discharge sewage or wastewater in excess of the Control Authority's local limits approved by DEP. These pollutant limits are established to protect against pass through and interference. All local limits will be applied at the end of the pipe, where connection to the WWF is made. The Control Authority's local limits may be adjusted to allow sample points prior to the end of pipe with the use of the flow weighted average formula. All concentrations for metallic substances are for total metals unless indicated otherwise. The Control Authority may impose mass limitations in addition

to, or in place of, the concentration based limitations. The Control Authority reserves the right to establish, by Ordinance or by Industrial Wastewater Discharge Permit (IWDP), more stringent standards or requirements on discharges to the WWF including limits on substances for which no local limit has been established, as necessary to protect against pass through and interference. If an IWDP is used to establish a more stringent requirement, the IWDP must contain documentation of how equivalent limits were determined.

Local limits shall be reviewed, at a minimum, every five years and may be revised at any time, as necessary to protect the WWF from interference or pass through. The Control Authority must re-evaluate local limits within 180 days of WWF permit issuance. A Plan of Study shall be submitted to DEP prior to beginning sampling necessary to determine local limits. Any revision to the Control Authority's local limits shall be submitted for approval by DEP. Upon DEP approval, the revised local limits shall be enforceable under the conditions of this Ordinance. Copies of the most recently approved local limits shall be made available upon request through the office of the Utilities Director.

The Control Authority may grant an exemption for a discharge limitation or prohibition based on sound technical judgment provided that all of the following conditions are met:

1. The IWDP of the user provides a special permit condition, allowing a higher interim concentration level in conjunction with a requirement that the user construct a pretreatment facility or institute changes in operation and maintenance procedure to reduce the concentration of pollutants to levels not exceeding the Local Limits within a fixed period of time. Dilution of waste in an effort to reduce concentrations is prohibited.
 2. The exemption does not create any upset, interference or pass-through of the WWF.
 3. The exemption is for a limited predetermined duration.
 4. The exemption does not allow the user to exceed any state or federal discharge limitations.
 5. The exemption must be provided in writing to the user prior to discharge.
- D. The Control Authority may also develop best management practices (BMPs) to assist with the implementation of the general and specific prohibitions above. Such BMPs shall be considered enforceable local limits and pretreatment standards for the purposes of this Ordinance.

SECTION SIX: PRETREATMENT OF INDUSTRIAL WASTEWATER

- A. **General.** If any waters or waste are discharged or proposed to be discharged to the WWF, which waters contain prohibited substances or possess the

characteristics enumerated above and which, in the judgment of the Control Authority, may have a deleterious effect upon the WWF, processes, equipment or receiving waters or which otherwise create a hazard to life or constitute a public nuisance, the Control Authority may:

1. Reject the waste specified in this Ordinance.
2. Require pretreatment to an acceptable condition for discharge to the WWF.
 - a. A user shall design, construct, operate and maintain such wastewater pretreatment facility whenever necessary to reduce or modify the user wastewater constituency to achieve compliance with the limitations in wastewater strength set forth by this Ordinance to meet applicable pretreatment standards or to meet any other wastewater condition or limitation contained in the IWDP. New sources shall install, have in operating condition and shall start up all pollution control equipment required to meet applicable pretreatment standards before beginning the discharge.
 - b. Plans, specifications and operating procedures for such wastewater pretreatment facilities shall be prepared and signed by a professional engineer registered in the State and shall be submitted to the Control Authority for review in accordance with accepted engineering practices. The Control Authority shall review said plans within sixty (60) days and make appropriate comments to the user. Prior to beginning construction of said pretreatment facility, the user shall secure building, plumbing or other permits that may be required by the County. The user shall construct said pretreatment facility within the time provided in the user IWDP. Following completion of construction the user shall provide the Control Authority with "as built" drawings to be retained by the Control Authority. Subsequent alterations or additions to such pretreatment or flow control facilities shall not be made without prior notice to and approval from the Control Authority.
3. Require control over the quantities and rates of discharge to an acceptable condition. Whenever deemed necessary, the Control Authority may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the WWF and determine the user's compliance with the requirements of this Ordinance. The Control Authority may require any person discharging into the WWF to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An IWDP may be issued solely for flow equalization.

4. Require payment to cover the added cost of handling and treating the waste not covered by existing taxes or sewer charges.
 5. Require extensive laboratory analysis to establish the type and concentration of potential contaminants.
- B. The Control Authority shall have the authority to halt or eliminate, immediately and effectively, any actual or threatening discharge to the WWF, which presents or may present an imminent or substantial endangerment to the health of persons, the environment or cause interference with the operation of the WWF. When requested by the Pretreatment Coordinator or other designee, a user must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The Pretreatment Coordinator is authorized to prepare a form for this purpose and may periodically require users to update this information. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter. All users whose discharge may render them a SIU or whose discharge otherwise may be reasonably expected to have a deleterious impact on the WWF, as determined by the Control Authority, shall be required to apply for and obtain an IWDP.
- C. **Accidental Discharge/Slug Discharge Control Plans.** The Control Authority shall evaluate, within one (1) year, whether each new SIU needs an accidental discharge/slug discharge control plan. The SIU must notify the Control Authority if there is a change, after this initial evaluation, which may affect the potential for slug discharge. The Control Authority may require any user to develop, submit for approval, and implement such a plan. Alternatively, the Control Authority may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:
1. Description of discharge practices, including non-routine batch discharges;
 2. Description of stored chemicals;
 3. Procedures for immediately notifying the Control Authority of any accidental or slug discharge, as required by this Ordinance; and
 4. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

SECTION SEVEN: INDUSTRIAL WASTEWATER DISCHARGE PERMIT (IWDP)

- A. **Time Line For IWDP Applications.** Users required to obtain an IWDP shall apply in advance as follows:
1. New source industries, including sources that become Categorical Industrial Users subsequent to the promulgation of an applicable categorical standard shall apply for and obtain an IWDP at least ninety (90) days prior to connecting to or contributing to the WWF.
 2. Existing users who become a SIU subsequent to the promulgation of an applicable standard shall apply to the Control Authority for an IWDP at least ninety (90) days before the effective date of such applicable categorical standard.
 3. Existing users who wish to add or change a process or operation which may make them a SIU shall request a category determination from the Control Authority at least thirty (30) days prior to implementing the change and may be required to obtain an IWDP.
 4. Through the ongoing industrial waste survey, which is an integral part of the pretreatment program, any existing un-permitted industrial or commercial user may be identified at any time by the Control Authority as a SIU and,
 - a. Be required to complete an application for an IWDP within sixty (60) days of received notice;
 - b. Be subject to the County pretreatment program; and,
 - c. Be required to obtain an IWDP.
 5. Temporary industrial users desiring to discharge pretreated groundwater or other process wastewater to the WWF, for a limited period of time, for a specific project, such as, but not limited to, dewatering of soil around underground storage tanks, underground storage tank replacement, decontamination of groundwater, soil, etc., shall apply for and obtain a temporary IWDP at least thirty (30) days prior to discharge to the WWF. These permits shall be issued or denied at the sole discretion of the Control Authority. The temporary user shall be required to disconnect all equipment, plumbing and sewer connection fixtures at the end of the permit period and return County fixtures to their original condition.
- B. **IWDP Application.** Any user required to obtain an IWDP shall submit to the Control Authority a completed application for an IWDP together with the required fee. The application shall include all information necessary to constitute a baseline monitoring report as outlined in 40 C.F.R. 403.12(b). The user shall submit the prescribed evaluation and application forms containing, in units and

terms appropriate for evaluation, all of the following information, as appropriate. New sources shall give estimates of the information requested.

1. Name, address, telephone number and location, (if different from the address of applicant), owner of the premises from which industrial waste are intended to be discharged, name of the operator of the facility, and the name of responsible corporate officer duly authorized to act on behalf of the company;
2. A list of any environmental control permits held by or for the facility;
3. A description of the nature, average rate of production and *Standard Industrial Classification* number of the operation(s) carried out by such industrial user. This description should include site plans, floor plans, mechanical and plumbing plans with sufficient detail to show all sewers, sewer connections and appurtenances on the premise of the user by size, location and elevation;
4. A report of all industrial process waste flows produced before and after pretreatment, if any, at said premises, including estimated time and duration of discharge, average daily and thirty (30) minute peak wastewater flow rates and daily, monthly and seasonal variations, if any, in gallons per day to the WWF from each of the following:
 - a. Regulated process streams, especially those to which Categorical Pretreatment Standards Apply.
 - b. Other streams as necessary to allow use of the combined waste stream formula of 40 C.F.R. 403.6(e).

The Control Authority may allow for verifiable estimates of these flows when justified by cost or feasibility considerations.

5. An identification as to the presence or absence of known or suspected pollutants in the discharge from each regulated process of the industrial user for the pollutants limited by County, state or national pretreatment standards.
6. The user shall take a sample of each regulated process flow and a sample of all other non-domestic wastewater flows within their facility. Each sample shall be representative of daily operations and shall be taken according to 40 C.F.R. 403.12(b)(5)(iii) through (v). All samples shall be analyzed by a laboratory certified by Department of Health for environmental analysis, for all parameters limited by appropriate County, state or national pretreatment standards or as required by the Control Authority. Gold (Au) analyses shall be performed in accordance with procedures established by EPA pursuant to Section 304(g), CWA and contained in 40 C.F.R., Part 136, as amended. A copy of the contracting laboratory report of all analytical results shall be submitted to the Control

Authority. Analytical results shall be reported as daily maximum or average concentrations or mass as required by the applicable standard or by the Control Authority. If an equivalent concentration limit has been calculated in accordance with any established pretreatment standard, this adjusted concentration limit shall also be submitted. Where compliance with a BMP or pollution prevention alternative is required, the user shall submit documentation as required to determine compliance.

7. A statement signed by a responsible corporate officer of the industrial user indicating the time, date and place of sampling and certifying that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the WWF.
8. A statement reviewed by a responsible corporate officer of the industrial user and certified by a professional engineer licensed in the state indicating whether pretreatment standards are being or will be met on a consistent basis and if not, whether additional operation and maintenance procedures or additional pretreatment is required for the user to meet the pretreatment standards and requirements. The requirement for this statement may be waived at the discretion of the Control Authority for non-categorical users.
9. If additional pretreatment, operation and maintenance will be required to meet the pretreatment standards, then the application shall contain the shortest compliance schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:
 - a. Increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.) shall be established;
 - b. No increment referred to in subsection 9.a. shall exceed nine (9) months; and
 - c. Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Control Authority including whether or not compliance with the increment of progress to be met was achieved on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the user to return the activities to the schedule established.

10. Each product produced by type, amount, processor processes and rate of production.
11. Type and amount of raw materials processed (average and maximum per day).
12. Number and type of employees, hours of plant operation and proposed or actual hours of operation for pretreatment systems.
13. Any other information determined by the Control Authority to be necessary to evaluate the IWDP application.
14. Signed Certification Statement.

C. **Incomplete Applications.** The Control Authority will act only on completed applications. Persons submitting incomplete applications shall be notified by the Control Authority within sixty (60) days that the application is deficient, the nature of such deficiency and shall be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within the thirty (30) days the Control Authority shall deny the IWDP and notify the applicant in writing of such action.

D. **Evaluation of Applications.** Upon receipt of a complete application, the Control Authority shall review and evaluate all data furnished by the user and shall deny or issue the IWDP with appropriate conditions and requirements.

E. **IWDP Requirements and Restrictions.** Issuance of an IWDP shall not relieve the user from complying with all other applicable state, federal and local laws and regulations. IWDP shall be expressly subject to all provisions of this Ordinance and all other applicable laws, regulations and user charges and fees established by the County. The permittee shall be responsible for all costs associated with satisfying IWDP conditions, requirements, and restrictions. The permittee will be inspected and the wastewater discharge sampled by the Control Authority at least once per year. The requirements and restrictions in IWDP may include, but shall not be limited to the following:

1. Limits on the characteristics, average and maximum allowable concentration of wastewater constituents, including applicable Best Management Practices;
2. Calculated limits on the mean and maximum mass emission rates or production based mass limitations or other appropriate limits on wastewater constituents;
3. Limits on the average and maximum rate and time of discharge or requirements for flow regulations and equalization;
4. Installation and maintenance by the user of suitable inspection and sampling facilities;

5. Pretreatment of wastewater prior to discharge to the WWF;
6. Compliance schedules and compliance report requirements including submission dates;
7. Specifications for monitoring programs which may include an identification of pollutants (or best management practice), sampling location (or locations, if more than one process stream is involved), frequency and method of sampling, flow metering, number, types and standards for analytical tests reporting schedule;
8. Submission and certification statement of technical reports and periodic compliance reports to include information concerning volume, rate of flow, constituent concentrations, peak flow rates, production details, hours of operation, number of employees or other information;
9. Maintaining and retaining records relating to wastewater discharge, as specified by the County and affording County access thereto;
10. Notification to the County of any new introduction of wastewater constituents or any substantial planned change in production rate of twenty percent (20%) or more in volume or character of the wastewater constituents being discharged to the WWF;
11. Notification to the County of slug or accidental discharges, including requirements to control Slug Discharge, if determined to be necessary, and requirements to report a change that may affect the potential for a slug discharge;
12. The installation of facilities or procedures to prevent and control accidental discharge and spills on the premises of the user;
13. Provisions concerning observed concentration violations of any of the analytical data contained in periodic compliance reports;
14. Provisions concerning the frequency of submission of certification statements for particular conditions of categorical regulations (e.g., control of Total Toxic Organic (TTO));
15. The unit charge or schedule of user charges and fees for wastewater to be discharged to a WWF;
16. Issuance, effective, and expiration dates;
17. A statement that the wastewater discharge permit is nontransferable without prior notification to and approval by the Control Authority and provisions for furnishing the new owner operator with a copy of the existing wastewater discharge permit; and

18. Other conditions as deemed appropriate by the Control Authority to ensure compliance with this Ordinance or other applicable laws or regulations.

F. **IWDP Modifications.** The terms, conditions or requirements of any IWDP are subject to modification and change by the Control Authority during the term of the IWDP for good cause.

1. Good cause may include, but is not limited to, the following reasons:
 - a. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
 - b. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the IWDP issuance;
 - c. A change in the WWF that requires either a temporary or permanent reduction or elimination of an authorized discharge;
 - d. Information indicating that the permitted discharge posed a threat to the WWF, personnel, receiving waters, or sludge;
 - e. Violation of any terms or conditions of the IWDP;
 - f. Misrepresentation or failure to disclose all relevant facts in the IWDP application or in any required reporting;
 - g. Revision of or a grant of variance from categorical Pretreatment Standards pursuant to 40 CFR 403.13;
 - h. To correct typographical or other errors in the IWDP; or
 - i. To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Section Seven, E.17. of this Ordinance.
2. IWDP holders shall be notified of any proposed changes in their respective IWDP by the Control Authority at least sixty (60) days prior to the effective date change and shall be allowed to make comment relating to any of the proposed changes within thirty (30) days after notification of such proposed change by the County. Any change or new condition in an IWDP shall include a provision for a reasonable time schedule for compliance.
3. IWDP holders may petition the County for modification of their IWDP based on changed conditions. The petition must be filed with the Control Authority not more than two (2) business days after the user has

reasonable basis to know that conditions will significantly change within the next calendar month. Such petition shall not relieve the IWDP holder of compliance with any existing IWDP conditions. The Control Authority shall review such petitions with such supporting data as deemed necessary and take appropriate action. If the Control Authority denies the petition, the IWDP holder may appeal the decision through the Pretreatment Review Committee. If substantial changes are involved, the Control Authority may require the user to submit a new application for an IWDP.

4. Within nine (9) months of the promulgation of a new pretreatment standard, the IWDP shall be revised to require compliance within the time frame prescribed by such standard. Where a user, subject to a new pretreatment standard, has not previously submitted an application for an IWDP, as required by Section Seven, the user shall apply for an IWDP within ninety (90) days after the promulgation of an applicable pretreatment standard. In addition, the user with an existing IWDP shall submit to the Control Authority within ninety (90) days after promulgation of an applicable pretreatment standard information required by Section Seven B. of this Ordinance.
- G. **Duration and Renewal of IWDP.** An IWDP shall be issued for a specified period of time, up to but not to exceed three (3) years. To renew an IWDP, a user shall submit a completed renewal application form as prescribed by the County together with a renewal fee to the Control Authority not more than ninety (90) days nor less than thirty (30) days prior to the expiration of the current IWDP. Conditions governing the issuance of a renewal IWDP shall be the same as those governing the issuance of a new IWDP. A temporary IWDP may be issued for a specified period of time, not to exceed one (1) year and shall not be renewable.
- H. **IWDP Not Transferable.** An IWDP shall not be assigned, transferred or sold unless approved in advance and in writing by the Control Authority. Any attempted assignment, transfer or sale shall render the IWDP void and of no effect.
- I. **Civil and Criminal Penalties.** Each IWDP shall contain a section describing potential civil and criminal penalties associated with noncompliance.
- J. **Applicant's Right To Object.** Upon denial or receipt of the IWDP, the applicant shall have thirty (30) days to file in writing objections to the denial or any term or condition of the IWDP. If the applicant files no objections within this time, the IWDP is deemed to be accepted.
- K. **Appeal.** Should an applicant decide to file a written objection, an appeal will proceed as follows:

1. Written Objections: The Utilities Director shall submit to the Pretreatment Review Committee the proposed IWDP conditions and the applicant's written objection thereto at a meeting of the Committee. The Pretreatment Review Committee shall schedule a hearing within ninety (90) days following the submission by the Utilities Director of the proposed IWDP and written objections, unless such time be extended for just cause shown to resolve any disputed matters relevant to such IWDP. The Utilities Director shall notify the applicant of the date, time, place and purpose of the hearing scheduled before the Committee. The Committee shall establish such special IWDP conditions as it deems advisable to insure compliance by the applicant with this Ordinance, applicable law or regulation and an IWDP will be issued to the applicant accordingly.
2. Special Agreement Variance: The Pretreatment Review Committee may grant a variance from the permitting requirements for those industrial users with which the County executes an agreement providing for the County to construct and operate, at the cost of the industrial user, a pretreatment facility which is capable of achieving compliance with the limitations in wastewater set forth in Section Five, above, the National Categorical Pretreatment Standards and applicable state treatment requirements. The County may agree to share the costs of operation and construction of the pretreatment facility if it receives, in its opinion, benefits to the WWF. Notwithstanding anything to the contrary contained in this section, no industrial user shall add into the WWF any toxic pollutant as set forth in 40 C.F.R. 122 Appendix D, Tables II and III.

SECTION EIGHT: REPORTING REQUIREMENTS AND RETENTION OF RECORDS

- A. **Baseline Monitoring Report (BMR).** A completed application for an IWDP shall contain more information than is required from a user for a BMR as defined in Chapter 62-625.600(1)(a)-(g), F.A.C. The completed application shall be used by the Control Authority as the equivalent of a BMR.
- B. **Ninety (90) Day Compliance Report.** If the application for an IWDP (or BMR) contains a compliance schedule as provided for in Section Seven B.9., within ninety (90) days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the WWF, any user subject to pretreatment standards and requirements shall submit to the Control Authority a report containing the information described in Section Seven B. 4.-8. herein.
- C. **Periodic Compliance Reports.** Permitted users shall submit periodic compliance reports to the Control Authority in accordance with the terms of their IWDP. All compliance reporting shall be in accordance with the following:

1. Copies of all approved periodic compliance forms attached to the IWDP (or alternative forms approved by the Control Authority) shall be completed and submitted to the Control Authority. A copy of the analytical results received from the contracting laboratory shall be attached to the report.
2. The reports will be submitted during the specific months in which periodic compliance reporting is required by the IWDP of each user. This frequency shall equal or exceed State requirements of Chapter 62.625.600(4), F.A.C. At the discretion of the Control Authority, as applicable, and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the months may be altered during which the above reports are to be submitted.
3. Periodic compliance reports shall be submitted to the Control Authority within forty-five (45) days following each sampling event required by the IWDP. Reports submitted after the required date may result in initiation of demand monitoring by the Control Authority at the expense of the IWDP holder.
4. Industrial users shall complete each periodic compliance report utilizing data obtained through appropriate sampling and analysis performed during the period covered by the report, and representative of conditions occurring during the reporting period. The results of any additional discharge monitoring, whether or not required by the IWDP, shall be included in the report provided that the tests procedures approved by the DEP are used. In cases where the IWDP requires compliance with best management practices, the user must submit documentation required to determine the compliance status of the Industrial User.
5. The Control Authority shall approve and include in the IWDP the location(s) at which the industrial user shall collect samples required for periodic compliance reports. Monitoring locations may be changed only after prior written permission by the Control Authority.
6. All analyses shall be performed by a laboratory certified by the Department of Health for environmental analysis in accordance with procedures established by the EPA under the provisions of Section 304(h), CWA (33 U.S.C. 1314(h)) and contained in 40 C.F.R. Part 136, as of July 1, 2009, and amendments thereto. Sampling shall be performed in accordance with the techniques approved by the DEP or the Control Authority and outlined in Section Nine. Where 40 C.F.R. Part 136 does not include a sampling or analytical technique for the pollutant in question or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed using validated analytical methods or any

other sampling and analytical procedures approved in writing by the EPA, DEP, or the Control Authority.

7. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of the user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
8. The permittee shall submit the following certification statement, signed by a responsible corporate officer of the industrial user or his designee as provided for in paragraph D. of this Section. The exact wording of this statement shall be as follows:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who managed the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for a knowing violation."

9. If sampling, performed by an industrial user for a periodic compliance report, indicates a violation as defined herein, the user shall submit the report and shall notify the Control Authority within twenty-four (24) hours after becoming aware of the violation. The permittee shall repeat the sampling and analysis within thirty (30) days after becoming aware of the violation. If the Control Authority performed the sampling in lieu of the user, the Control Authority will perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat sampling and analysis. These results shall be submitted to the Control Authority within forty-five (45) days following the sampling events.
10. All categorical and significant non-categorical industrial users shall notify the Control Authority and WWF immediately of all discharges that could cause problems to the WWF including any slug discharges and prohibited discharges, as defined by Chapter 62-625.400(2), F.A.C. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge. Users shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

11. The industrial user shall notify the Control Authority and DEP's hazardous waste and pretreatment authorities in writing of any discharge into the WWF of a substance, which, if otherwise disposed of, would be hazardous waste under Chapter 62-730, F.A.C. Such notification must include the name of the hazardous waste, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than 100 kilograms of such waste per calendar month to the WWF, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: an identification of the hazardous constituents contained in the waste; an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month; and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. Industrial users who commence discharging after the effective date of this Ordinance shall provide the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under this subsection needs to be submitted only once for each hazardous waste discharged. Notifications of changed discharges must be submitted. The notification requirement in this subsection does not apply to pollutants already reported under the self-monitoring requirements above.
 12. Discharges are exempt from the requirements of subsection 10 above during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous waste, unless the waste is acute hazardous waste as specified in Chapter 62-730, F.A.C. Discharge of more than fifteen (15) kilograms of non-acute hazardous waste in a calendar month, or of any quantity of acute hazardous waste as specified in Chapter 62-730, F.A.C., requires a one-time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.
 13. In the case of any new DEP regulations identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the Control Authority and the DEP's hazardous waste and pretreatment authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
 14. In the case of any notification made under this subsection, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous waste generated to the degree it has determined to be economically practical.
- D. **Authorization of User's Representative.** A responsible corporate officer of an industrial user may designate his signatory rights to another individual or position which has responsibility for the overall operation of the facility or overall

responsibility for environmental matters for the user, if the responsible corporate officer of the industrial user submits a copy of the approved authorization form attached to the IWDP to the Control Authority. Should authorization no longer be current because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the user, an authorization form for the new representative or position must be submitted to the Control Authority.

E. **Maintenance of Records.** Any user subject to the reporting requirements established in this Section shall maintain records of all information resulting from any monitoring activities. Such records shall include for all samples:

1. The date, exact place, method and time of sampling, the names of the persons taking the samples, and the chain of custody of the samples.
2. The dates analyses were performed.
3. Who performed the analyses.
4. The analytical techniques or methods used.
5. The results of such analyses.

F. **Retention of Records.** Any user subject to the reporting requirements established in this Section shall be required to retain for a minimum of three (3) years records of all submitted periodic compliance reports and any other such monitoring activities and/or analytical data pertaining to these reports (whether or not such monitoring activities are required by this Section) and shall make such records available for inspection and copying by the Control Authority, state or EPA. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or when requested by the Control Authority, the state or EPA upon reasonable notice to the permittee.

G. **Confidentiality.** Information and data on a user obtained from reports, questionnaires, IWDP applications, permits and monitoring programs or from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the Control Authority that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets (Chapter 62-625.800, F.A.C.). When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other

effluent data, as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

- H. **Reports from Un-permitted Users.** All users not required to obtain a wastewater discharge permit shall provide appropriate reports as the Control Authority may require of the user. Those portions of any document, which might disclose trade secrets or secret processes, shall not, to the extent allowable by law, be made available to the public pursuant to Section 308(b), CWA.

SECTION NINE: SAMPLING REQUIREMENTS

- A. Wherever sampling is required by the terms of this Section or IWDP, such sampling shall be outlined in Chapter 62-625.600(1)(e), F.A.C.
- B. All activities related to sampling and analysis shall comply with Chapter 62-625.600(1)(e),(6)(d)and (e) and Chapter 62-160, F.A.C.
- C. Sampling activities shall be performed according to procedures specified in "The Department of Environmental Protection Standard Operating Procedures for Field Activities", DEP-SOP-001/01, March 31, 2008, hereby adopted and incorporated by reference. A copy of this document is available for inspection at the Department's district offices and 2600 Blair Stone Road, MS 3540, Tallahassee, Florida 32399-2400 and is also available on the Department's internet site.
- D. Analytical tests shall be performed in accordance with applicable test procedures identified in 40 CFR Part 136, as of July 1, 2009, hereby adopted and incorporated by reference. If a test for a specific component is not listed in 40 CFR Part 136, or if the test procedure has been determined to be inappropriate for the analyte in question (e.g., insufficient sensitivity) the laboratory, with the approval of the industrial user and Control Authority, shall identify and propose a method for use in accordance with Rules 62-160.300 and 62-160.330, F.A.C.
- E. If a sampling procedure is not available or none of the approved procedures are appropriate for collecting the samples, the sampling organization, with the approval of the industrial user and Control Authority, shall identify and propose a method for use in accordance with Rule 62-160.220, F.A.C.
- F. A minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organics. For all other pollutants, twenty-four (24) hour composite samples must be obtained through flow proportional composite sampling techniques where feasible. The Control Authority may waive flow proportional composite sampling for any industrial user that demonstrates that flow proportional composite sampling is infeasible. Samples must then be obtained through time proportional composite sampling techniques or through the minimum of four (4) grab samples where the user

demonstrates that this will provide a representative sample of the effluent being discharged. All samples must meet applicable Chapter 62-160, F.A.C. analytical standards, as well as Chapter 62-625, F.A.C. sample collection and handling standards.

SECTION TEN: ENTRY, INSPECTION AND MONITORING

- A. **Entry.** All users of the WWF, including but not limited to those holding IWDPs, shall allow the Control Authority, and other duly authorized employees of the County bearing proper credentials and identifications, access at all reasonable times to all parts of the premises for the purpose of inspection, observations, records examination, measurement, sampling and testing in accordance with the provisions of this Ordinance. The refusal of any user to permit the Control Authority entry to or upon the premises of the user for the purposes of inspection, sampling effluents or inspecting and copying records or performing such other duties as shall be required by this Ordinance shall constitute a significant violation of a condition of the user IWDP and the terms of this Ordinance. The Control Authority employee, or authorized County employee, may seek a warrant or use such other legal procedures as shall be advisable and reasonably necessary to discharge his or her duties.
- B. **Inspection.** The Control Authority may inspect the facilities of any user, including but not limited to those holding IWDPs, to ascertain compliance with this Ordinance and all other requirements. During an inspection, the Control Authority may inquire as to the type of industrial processes used to determine the kind and source of discharge to the sewers or receiving waters or facilities for wastewater treatment. Records or information obtained by these inspections shall, in the same case of effluent data, be related to any applicable effluent limitations, toxic, pretreatment or IWDP condition and shall be available to the public. The Control Authority shall re-inspect any user who received deficiency notices after the original inspection. In the event that the user has returned to compliance with all of the deficiencies, there shall be no charge for the re-inspection. In the event of continuing non-compliance, successive re-inspections will be scheduled and appropriate fees shall be charged to the user concerned for the first and all successive re-inspections.
- C. **Scheduled Monitoring.** The Control Authority shall schedule an industrial discharge inspection and monitoring program for users holding IWDP once per year. This program shall consist of periodic determinations of the user wastewater discharge characteristics through the analysis of wastewater samples collected and analyzed by a State certified environmental laboratory(ies) using approved EPA methods.
- D. **Demand Monitoring.** Demand monitoring, inspection or surveillance of a user, whether the user holds an IWDP or not, may be instituted by the Control Authority when:

1. A permittee reports a violation in a periodic compliance report;
2. A periodic compliance report is not submitted by a permittee within the required time limit; or
3. Any other circumstances which, in the opinion of the Control Authority, warrants such demand monitoring.

Demand monitoring may continue until the violation or inconsistency has been corrected or the periodic compliance monitoring has been reported correctly. The cost of all demand monitoring, inspection and surveillance shall be paid by the user in accordance with Section Twelve B.2. herein.

- E. **Monitoring Operations.** The Control Authority shall have the right to setup on the property of the user, whether or not the user holds an IWDP, such devices as are reasonably necessary to conduct sampling inspection, compliance or demand monitoring and/or metering operations.
- F. **Monitoring Facilities.** The Control Authority may require, as part of the IWDP, any user to install and maintain, at the user's expense, a suitable control manhole together with necessary approved meters, flow apparatus and other appurtenances in the building sewer and/or internal drainage systems to facilitate observation, sampling and measurement of the waste stream(s). All devices used to measure wastewater flow and quality shall be calibrated as required by the manufacturer specifications to ensure their accuracy. Calibration logs shall be kept for all such equipment. All monitoring facility(ies) shall be accessible, safely located and constructed in accordance with plans reviewed and accepted by the Control Authority. The monitoring facility(ies) shall be situated on the premises of the user unless the use of an existing monitoring facility on County property is acceptable to the Control Authority.
- G. **Liability.** While performing the necessary work on private property referred to in this Ordinance, the Control Authority or duly authorized employees of the County shall observe all safety rules applicable to the premises established by the company, and the company, to the extent allowed by law, shall be held harmless for injury and death to the County employee(s), for intentional and/or negligent acts solely caused by the County employee(s), and the County shall indemnify the company against loss or damage to property by County employees and against liability claims and demands for personal injury and property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions and provided that nothing contained herein shall obligate the County to incur liability or pay claims in excess of the amounts and except as set forth in Chapter 768, Florida Statutes, or successor statute as may be applicable.

SECTION ELEVEN: ENFORCEMENT RESPONSE

- A. **Evaluation:** Whenever the Control Authority determines or has reasonable cause to believe that a discharge of wastewater has occurred in violation of ANY of the provisions of this Ordinance, an IWDP, or any other applicable law or regulation, the Control Authority shall evaluate the violation as prescribed below:
1. If the Control Authority determines the violation does not constitute Significant Noncompliance (SNC) and is minor in nature, the Control Authority shall immediately telephone the user and attempt to resolve the issue. If the violation is not corrected within five (5) working days from the date of the telephone call, the Control Authority shall issue the user a Notice of Violation (NOV), as provided for in subsection 2 below.
 2. If the Control Authority determines the violation does not constitute SNC, but is of a serious nature, the Control Authority shall issue the user a Notice of Violation (NOV) stating the nature of the violations. Upon issuance of a NOV:
 - a. Failure of the user to respond within ten (10) working days of the date of the NOV shall cause the Control Authority to immediately issue a Notice of SNC as prescribed in subsection 3. below.
 - b. If the user responds with an acceptable explanation for the violation or makes good a deficiency within the prescribed time, enforcement ceases at the discretion of the Control Authority.
 - c. The user may request a thirty (30) day short-term compliance schedule by outlining what steps will be taken to gain compliance. The Control Authority shall evaluate this request, modify it as deemed necessary and at the Control Authority's discretion, issue a Short Term User Compliance Schedule. If, during the thirty (30) day schedule, the user responds that further pretreatment is required to correct the discharge problem, the Control Authority shall issue a Notice of SNC as prescribed in subsection 3. below. If, after thirty (30) days the Control Authority determines the user to be in compliance, further enforcement ceases. If, after thirty (30) days, the Control Authority determines that compliance has not been achieved or no response has been received from the user, then a Notice of SNC shall be issued as prescribed in subsection 3. below.
 - d. The user may respond that pretreatment is required to correct the discharge problem. In this case, the Control Authority shall issue a Notice of SNC as prescribed in subsection 3. below.
 3. If the Control Authority determines the violation is SNC the Control Authority shall issue the user a Notice of SNC stating the nature of the

violation(s) and include the user in the EPA required annual listing of users in significant noncompliance with pretreatment standards in the local newspaper with the largest circulation. In response to this notice:

- a. If the user fails to respond within ten (10) working days of the date of the notice, the Control Authority shall fine the user in the amount of Five Hundred Dollars (\$500.00) and issue a Final Schedule of Compliance.
- b. The user may outline the necessary modifications required to gain compliance and request the Control Authority to issue an enforceable First Schedule of Compliance.
- c. If the user responds that it has not determined whether treatment is needed, the Control Authority shall issue an enforceable First Schedule of Compliance.
 - i. Once an industrial user has received an enforceable First Schedule of Compliance:
 - a) If the user is out of compliance after completion of the compliance schedule, the Control Authority shall fine the user in the amount of Five Hundred Dollars (\$500.00) and issue a Final Schedule of Compliance; or
 - b) If the user is in compliance after completion of the compliance schedule, enforcement actions cease.
 - ii. Once a user has received a fine of Five Hundred Dollars (\$500.00) and a Final Schedule of Compliance:
 - a) Failure of the user to respond within ten (10) working days of the date of the notice shall cause the Control Authority to revoke the IWDP, terminate the user's sewer service and impose a fine in a sum not to exceed One Thousand Dollars (\$1,000.00) per day for every violation;
 - b) If the user is not in compliance after completion of the compliance schedule, the Control Authority shall revoke the IWDP, terminate the user's sewer service and impose a fine in a sum not to exceed One Thousand Dollars (\$1,000.00) per day for every violation; or
 - c) If the user is in compliance after completion of the compliance schedule, the enforcement actions cease.

- B. **Violation Notices.** Failure of the Control Authority or its designee to provide any of the notices of violation referred to in subsection A. above shall not in any way relieve the user from any consequences of a wrongful or illegal discharge. All notices of violation shall be issued to users by certified mail, return receipt requested or in person with signature of receipt required.
- C. **Standard Procedures.** Standard enforcement response procedures will be as set forth in the Control Authority's Program Implementation Procedures and Enforcement Response Plan (PIP-ERP). Copies of the current PIP-ERP shall be made available upon request through the office of the Utilities Director.
- D. **Consent Orders.** The Control Authority may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to this Ordinance and shall be judicially enforceable.
- E. **Show Cause Hearing.** The Control Authority may order a user that has violated, or continues to violate, any provision of this Ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the Control Authority and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least seven (7) days prior to the hearing. Such notice may be served on any Responsible Corporate Officer of the user as defined in Section Two RR. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.
- F. **Cease and Desist Orders.** When the Control Authority finds that a user has violated, or continues to violate, any provision of this Ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the user's past violations are likely to recur, the Control Authority may issue an order to the user directing it to cease and desist all such violations and directing the user to:
1. Immediately comply with all requirements; and
 2. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

SECTION TWELVE: FEES

- A. The applicable charges or fees shall be set forth to provide for the recovery of costs from users of the WWF for the implementation of the provision established herein.
- B. The charges and fees include:
 - 1. Reimbursement of costs of setting up and operating the County pretreatment program;
 - 2. Monitoring, laboratory analyses, inspections and surveillance procedures;
 - 3. Reviewing accidental discharge procedures and construction;
 - 4. Permit applications;
 - 5. Filing appeals; and
 - 6. Other fees, as the County may deem necessary, to carry out the requirements contained herein.
- C. The fees relate solely to the matters covered herein and are separate from all other fees charged by the County.

SECTION THIRTEEN: ENFORCEMENT AND ABATEMENT

- A. **Malicious Mischief.** No person shall maliciously, willfully, or deliberately break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment, which is part of the WWF or Utilities Division. Any person violating this provision shall be subject to immediate arrest under charge of destruction of public property.
- B. **Public Nuisance.** Discharge of wastewater in any manner in violation of this Ordinance or any condition of an IWDP is hereby declared a public nuisance and shall be corrected or abated as provided herein.
- C. **Conciliation Meetings.** At any point before or during the enforcement action, the Control Authority may, but shall not be required to, invite representatives of the user to a conciliation meeting to discuss the violations and methods of correcting the cause of the violation. Such additional meetings as the Control Authority deems advisable may be held to resolve the problem. If the user and Control Authority can agree to appropriate remedial and preventive measures, they shall commit such agreement to writing with provisions for a reasonable compliance schedule and the same shall be incorporated as a supplemental condition of the user IWDP. If an agreement is not reached through the conciliation process, the Control Authority shall continue with the enforcement policy as outlined in Section Eleven above and

take such other actions as deemed advisable to insure user compliance with this Ordinance or other law or regulation.

- D. **Revocation of IWDP.** Any IWDP issued under the provisions of this Ordinance is subject to be modified, suspended or revoked in whole or in part for cause shown including, but not limited to any one of the following:
1. Violation of any terms or conditions of the IWDP or other applicable law or regulation;
 2. Obtaining an IWDP by misrepresentation or failure to disclose, fully, all relevant facts;
 3. A change in any permitted user operating condition that requires either a temporary or permanent reduction or elimination of the permitted discharge; or
 4. When necessary to protect the public health, safety and welfare in accordance with the terms set forth in subsection I. of this Section.
- E. **Citation to County Court.** The Control Authority may cite the user to County Court for violation of any provision of this Ordinance. A violation of any condition of the user IWDP shall be deemed to be a violation of this Ordinance.
- F. **Injunctive Relief.** Upon approval of the County Attorney, the Control Authority shall, in the name of the County, file in Circuit Court of the County or such other court as may have jurisdiction, a suit seeking the issuance of an injunction, damages or other appropriate relief to enforce the provisions of this Ordinance or other applicable law or regulation. Suit may be brought to recover any and all damages suffered by the County as a result of any action or inaction of any user or other person who cause or suffers damage to occur to the WWF or for any other expense, loss or damage of any kind or nature suffered by the County.
- G. **Assessment of Damages to Users.** When the discharge of waste causes an obstruction, damage or any other impairment to the facilities or any expense of whatever character or nature to the County, the Control Authority shall assess the expenses incurred by the County to clear the obstruction, repair damage to the facility and any other expenses or damage of any kind or nature suffered by the County. The Control Authority shall file a claim with the user or any other person causing or suffering said damages to occur seeking reimbursement for any and all expenses or damages suffered by the County. If the claim is ignored or denied, the Control Authority shall notify the County Attorney to take such measures as shall be appropriate to recover for any expense or other damages suffered by the County.
- H. **Criminal Prosecution.** A user who willfully or negligently violates any provision of this Ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall, upon

conviction, be guilty of a misdemeanor, punishable by a fine of at least One Thousand Dollars (\$1,000.00) per violation, per day or imprisonment for not more than six (6) months, or both.

1. A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least One Thousand Dollars (\$1,000.00) or be subject to imprisonment for not more than six (6) months, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.
2. A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this Ordinance, individual wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Ordinance shall, upon conviction, be punished by a fine of at least One Thousand Dollars (\$1,000.00) per violation, per day or imprisonment for not more than six months, or both.
3. In the event of a second conviction, a user shall be punished by a fine of at least One Thousand Dollars (\$1,000.00) per violation, per day or imprisonment for not more than six (6) months, or both.

I. **Emergency Termination of Service.** In the event of an actual or threatened discharge to the WWF of any pollutant which in the opinion of the Utilities Director presents or may present an imminent and substantial endangerment to the health and welfare of persons or cause interference with the WWF, the Utilities Director or in his or her absence their designee, shall immediately notify the Public Works Director and County Manager of the nature of the emergency. The Utilities Director shall also attempt to notify the industrial user or other person causing the emergency and request their assistance in abating it. Following consultation with the aforementioned officials of the County, or in their absence their designee, the Utilities Director shall temporarily terminate the service of such user or users as necessary to abate the condition when such action appears reasonably necessary. The Utilities Director shall restore such service as soon as the emergency situation has been abated or corrected.

J. **Public Notification.** The Control Authority shall annually publish in the largest newspaper of general circulation within the county, that meets the requirements of Sections 50.011 and 50.013, F.S., a list of the industrial users identified as being in significant noncompliance of pretreatment requirements or standards, as defined in the EPA Pretreatment Compliance Monitoring and Enforcement Guide, published on July 26, 1986, at least once during the twelve (12) previous

months. The notification shall summarize any enforcement actions taken against the SIU(s) during the same twelve (12) months.

K. Affirmative Defenses.

1. An industrial user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions established in (Section Four A.) and the specific prohibitions in (Section Four B.) of this Ordinance where the industrial user can demonstrate that:
 - a. It did not know or have any reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass through or interference; and
 - b. Either of the following:
 - i. A Local Limit designed to prevent pass through or interference was developed in accordance with F.A.C. 62-625.400(3) for each pollutant in the industrial user's discharge that caused pass through or interference, and the industrial user was in compliance with each such Local Limit directly prior to and during the pass through or interference; or
 - ii. If a Local Limit designed to prevent pass through or interference has not been developed in accordance with F.A.C. 62625.400(3) for the pollutants that caused the pass through or interference, and the industrial user's discharge directly prior to and during the pass through or interference did not change substantially in nature or constituents from the industrial user's discharge activity when the WWF was regularly in compliance with the WWF's permit requirements and applicable requirements for domestic wastewater residuals.
2. An industrial user shall have an affirmative defense in any action brought against it alleging an upset where:
 - a. An upset does not constitute noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation; or
 - b. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements below are met. An industrial user shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- i. An upset occurred and the industrial user can identify the cause of the upset;
 - ii. The industrial user's facility was, at the time of the upset, being properly operated; and
 - iii. The industrial user has orally submitted the following information to the Control Authority within twenty-four (24) hours of becoming aware of the upset, with a written submission to be provided within five (5) days:
 - a) A description of the discharge and cause of noncompliance;
 - b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - c) Steps being taken or planned to reduce, eliminate and prevent recurrence of the noncompliance.
 - c. In the case of an upset the industrial user shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.
3. An industrial user shall have an affirmative defense in any action brought against it alleging a bypass where:
- a. The bypass does not violate applicable pretreatment standards or requirements. An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of (b) and (c) below.
 - b. Notice.
 - i. If an industrial user knows in advance of the need for a bypass, it shall submit a notice to the Control Authority at least ten (10) days before the date of the bypass. If the industrial user does not know of the need for a bypass ten (10) days prior to the bypass then the industrial user shall notify the Control Authority immediately upon knowledge of the need for the bypass.

- ii.* An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the Control Authority within twenty-four (24) hours from the time the industrial user becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the industrial user becomes aware of the bypass. The written submission shall contain:
 - a) A description of the bypass and its cause;
 - b) The duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and
 - c) Steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass.
- c. Prohibition of bypass.
 - i.* Bypass is prohibited, and the Control Authority shall take enforcement action against an industrial user for a bypass, unless:
 - a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - b) There were no technically feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
 - c) The industrial user submitted notices as required under (b) above.
 - ii.* The Control Authority shall, except when the Department acts as the Control Authority, approve an anticipated bypass, after considering its adverse effects, if the Control Authority determines that it will meet the three (3) conditions listed in (*i*) above. If the Department is acting as the Control Authority, then the industrial user shall notify the WWF of the anticipated bypass.

SECTION FOURTEEN: REMEDIES AND PENALTIES

- A. **Violations.** Any person who is found to have violated, or continues to violate, any provisions of this Ordinance, any condition of IWDP issued hereunder, any order issued under this Ordinance or any Pretreatment Standard or Requirement shall be subject to:
1. **Civil Penalties.** Violators will be subject to civil penalties and fines of at least One Thousand Dollars (\$1,000.00) for each offense. Each separate violation shall constitute a separate offense and each day of violation shall constitute a separate violation. In addition to the penalties provided herein, the County may recover reasonable attorney fees, court costs, court reporter fees and other expenses of litigation by appropriate suit at law against the person found to have violated this Ordinance or the orders, rules, regulations and IWDP issued hereunder. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires. In the event of a second conviction, a user shall be punished by a fine of at least One Thousand Dollars (\$1,000.00) per violation, per day.
 2. **Criminal Penalties.** Violators will be subject to criminal prosecution for subject to criminal penalties, as follows:
 - a. A user who willfully or negligently violates any provision of this Ordinance, an IWDP, or order issued hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of at least One Thousand Dollars (\$1,000.00) per violation, per day.
 - b. A user who willfully or negligently introduces any substance into the POTW that causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least One Thousand Dollars (\$1,000.00). This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.
- B. **Falsifying Information.** Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or document filed or required to be maintained, pursuant to this Ordinance, or IWDP, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Ordinance, shall be subject to a penalty in an amount of at least One Thousand Dollars (\$1,000.00). Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.

SECTION FIFTEEN: CONFLICT

Whenever the requirements or provisions of this Ordinance are in conflict with the provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

SECTION SIXTEEN: SEVERABILITY

The provisions of this Ordinance are severable and if any section, subsection, paragraph, clause or provision of this Ordinance is invalidated or held unconstitutional by any court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this Ordinance, and those provisions shall continue in full force and effect. The Board of County Commissioners further declares that this Ordinance would have been adopted if such unconstitutional provision was not included.

**SECTION SEVENTEEN: CODIFICATION, INCLUSION IN CODE AND
SCRIVENER'S ERRORS**

It is the intention of the Board of County Commissioners that the provisions of this Ordinance will become and be made a part of the Lee County Code; and that sections of this Ordinance may be renumbered or re-lettered and that the word "Ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intention; and regardless of whether such inclusion in the code is accomplished, sections of this Ordinance may be renumbered or re-lettered and typographical errors which do not affect the intent may be authorized by the County Manager, or the County Manager's designee, without need of public hearing, by filing a corrected or re-codified copy of same with the Clerk of Circuit Court.

SECTION EIGHTEEN: EFFECTIVE DATE

This Ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State. The Ordinance will not be filed with the Office of the Secretary of the Florida Department of State until final approval has been issued by the Florida DEP.

Commissioner Hall made a motion to adopt the foregoing ordinance, seconded by Commissioner Mann. The vote was as follows:

JOHN E. MANNING	<u>AYE</u>
BRIAN BIGELOW	<u>ABSENT</u>
RAY JUDAH	<u>AYE</u>
TAMMARA HALL	<u>AYE</u>
FRANK MANN	<u>AYE</u>

DULY PASSED AND ADOPTED THIS 14TH day of February, 2012.

ATTEST: CHARLIE GREEN
CLERK OF COURTS

BY: Marcia Wilson
Deputy Clerk



BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: J. Manning
Chair

APPROVED AS TO FORM:

BY: Gregory S. Hager
Office of the County Attorney



FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

February 22, 2012

Honorable Charlie Green
Clerk of the Circuit Courts
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Attention: Ms. Marcia Wilson, Deputy Clerk

Dear Mr. Green:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated February 16, 2012 and certified copies of Lee County Ordinance Nos. 12-02 and 12-03, which were filed in this office on February 17, 2012.

Sincerely,

Liz Cloud
Program Administrator

LC/srd

RECEIVED
MINUTES OFFICE
2012 MAR -1 PM 2:44