Miami-Dade County Wetlands Enforcement Strategy and Processes

Miami-Dade County Wetlands Advisory Task Force

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Enforcement Strategy:

- Compliance with Code requirements for purpose of protection of air, water quality and natural resources
- Progressive enforcement approach with an emphasis on working with landowners or other responsible parties to resolve violations
- Creates a “level” playing field for those that follow the law
- Ensures compliance at permitted sites and prevents impacts to adjacent areas
How Violations are Identified:

- Complaints
- Staff observations during site visits
- New permit application reviews of surrounding properties
- Annual reviews using aerial photos and ground-truthing
Departmental Response:

- Review of all available records (i.e. Department files, historic aerial photos, ground and surface water stages, topographic data, etc.)

- Collection of supporting documentation

- Confirmation of jurisdictional status
Progressive Enforcement Process:

- Identification of non-compliance with Code requirements and working with responsible parties to resolve
- Maintain open communication with responsible parties and their representatives
- Setting of progressive milestones
- Flexibility in offering extensions of time to meet milestones
- Administrative resolution of violations
Progressive Enforcement Process:

- **Field notice or warning**
  - Lists violation
  - Includes orders to cease and desist activities that are in violation of the Code
  - Includes timeframe to correct violation

- **Formal Notice of Violation and Orders for Corrective Action (NOV)**
  - Specifies code reference of violation(s)
  - Specifies and expands options for corrective actions
  - Provides timeframes for compliance
Progressive Enforcement if violation is not resolved:

• **Final Notice Prior To Court Action (FNPTCA)**
  - Notices owner of non-compliance with NOV orders
  - Requires compliance within a certain timeframe
  - Offers opportunity to resolve case administratively

• **Demand Letter**
  - Notices owner of non-compliance with NOV and FNPTCA orders
  - Notices owner of intent to refer case to County Attorney
  - Provides final opportunity to resolve case administratively
Administrative Remedies:

• Meeting with Department staff to discuss case
  o Can review staff findings and supporting data
  o Can be resolved via site restoration or application for permit

• Consent Agreement
  o Mutual, voluntary agreement that provides written assurance of intent of responsible party to correct non-compliance
  o Includes a phased approach with timelines and milestones, which may be extended as necessary if sufficient progress is demonstrated
  o May include settlement costs
Progressive Enforcement if violation is not resolved (cont.):

• In lieu of court action, a case may lead to issuance of a ticket
  o A monetary penalty is assessed pursuant to Chapter 8CC, Miami-Dade County Code – this is the only time the Department has the authority to impose a fine
  o May be administratively appealed through a Hearing Officer, who may uphold or dismiss after hearing evidence from both sides
Progressive Enforcement if violation is not resolved (cont.):

- Referral to County Attorney’s Office (CAO) for court action is only undertaken when all other remedies are exhausted

- Case referral to CAO affords another opportunity to resolve the case administratively through an attorney-issued Demand Letter

- Courts may impose orders and penalties/fines as a means of requiring compliance
Between January 2001 and October 2011, the Department’s enforcement process has resulted in:

- Initiation of 511 Class IV cases, of which 327 have been resolved to closure (64%)
- Restoration of 813 acres of wetlands, removal of 549,645 cubic yards of solid waste and issuance of 53 After-the-Fact Permits (with associated mitigation).
Class IV Wetland Enforcement Cases 2001-2011

- Open Cases
- Closed Cases