

**MEMORANDUM OF AGREEMENT BETWEEN**  
**THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**AND**  
**THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION 4**

**I. GENERAL**

This Memorandum of Agreement (hereinafter "Agreement" or MOA) establishes policies, responsibilities, and procedures pursuant to 40 CFR 271.8 for the State of Florida Hazardous Waste program (hereinafter "State Program") authorized under Section 3006 of the Resource Conservation and Recovery Act (hereinafter "RCRA or "the Act") of 1976 (42 USC 6901 et seq.), as amended (Public laws 94-580, 96-482, 98-616), and the United States Environmental Protection Agency (hereinafter EPA) Regional Office for Region 4. This Agreement further sets forth the manner in which the State and EPA will coordinate in the State's administration and enforcement of the State program and, pending State authorization, EPA's administration of the provisions of the Hazardous and Solid Waste Amendments of 1984 (HSWA). For purposes of this document, references to RCRA include HSWA.

This Agreement is entered into by the Secretary of the Florida Department of Environmental Protection (hereinafter "Secretary" or "the State" or "FDEP") and the Regional Administrator, EPA Region 4 (hereinafter "Regional Administrator" or "EPA").

Nothing in this Agreement shall be construed to restrict in any way EPA's authority to fulfill its oversight and enforcement responsibilities under RCRA. Nothing in this Agreement shall be construed to contravene any provision of 40 CFR Part 271.

The parties will review the Agreement jointly at least once a year (and other times as appropriate) during preparation of the annual State Grant work plan or Performance Partnership Grant (hereinafter "Grant"), in connection with grant funding under section 3011 of RCRA. This Agreement may be modified upon the initiative of either party in order to ensure consistency with State program modifications made or for any other purpose mutually agreed upon. Any revisions or modifications to this Agreement must be in writing and must be signed by the Secretary and the Regional Administrator. This Agreement will remain in effect until such time as State program authorization is withdrawn by or is voluntarily transferred to EPA according to the criteria and procedures established in 40 CFR 271.22 and 40 CFR 271.23.

This Agreement is being executed in due to the authorization of the State of Florida for HSWA corrective action. This Agreement shall be signed by the Secretary and the Regional Administrator and shall become effective after being signed by both parties.

## II. POLICY STATEMENT

Each of the parties to this Agreement is responsible for ensuring that its obligations under RCRA are met. Upon granting of final authorization by EPA, the State assumes primary responsibility for implementing the authorized provisions of the RCRA hazardous waste program within its geographic boundaries. The State will conduct its hazardous waste program in a manner equivalent to the EPA program policies and guidance.<sup>1</sup> While EPA retains responsibility for the direct implementation of those provisions of HSWA for which the State is not authorized, it is the intention of EPA and the State to coordinate the implementation of such provisions to the greatest degree possible.

EPA will oversee implementation of the authorized State program in order to ensure full execution of the requirements of RCRA, to promote national consistency in the hazardous waste program, and to allow EPA to report to the President and Congress on the achievements of the hazardous waste program. Oversight will be accomplished by EPA through written reporting requirements, permit overview, compliance and enforcement overview, and annual review of the State's programs.

## III. STATE PROGRAM REVIEW

The Regional Administrator will assess the State administration and enforcement of the hazardous waste program on a continuing basis for equivalence and consistency with RCRA, this Agreement, and all applicable Federal requirements and policies, and for adequacy of enforcement. This assessment will be accomplished by EPA review of information submitted by the State in accordance with this Agreement and the State grant work plan, permit overview, compliance and enforcement overview, and annual review of State program activities. The Regional Administrator may also consider, as part of this regular assessment, written comments about the State's program administration and enforcement that are received from regulated persons, the public, and Federal, State and local agencies. Copies of any such comments received by the Regional Administrator will be provided to the State.

The State agrees to allow EPA access to all files and other information requested by the Regional Administrator or his or her designee and deemed necessary by EPA for reviewing State program administration and enforcement. File reviews may be conducted at any time. Program review meetings between the State and the Regional Administrator or their assignees will be scheduled at reasonable intervals, not less than annually, to review specific operating procedures and schedules, to resolve problems and to discuss mutual program concerns. These meetings will be scheduled at least fifteen days in advance unless mutually agreed to differently. A tentative agenda for the meeting will be prepared by EPA.

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<sup>1</sup> These policies and guidance are listed in Attachment A to this Agreement and include, at a minimum, the RCRA Implementation Plan; the Office of Enforcement and Compliance Assurance MOA guidance; RCRA Civil Penalty Policy dated October 26, 1990; National Criteria for a Quality Hazardous Waste Program; revised Hazardous Civil Enforcement Response Policy (April, 15, 1996); and the EPA Policy on Performance Based Assistance (May 31, 1985).

The State and EPA agree to develop, on an annual basis as a part of the State grant work plan, criteria for priority activities, including activities regarding handlers of hazardous waste. These criteria will be based on guidance issued by EPA in the annual Agency Operating Year Guidance, other guidance documents as may be appropriate, and State specific concerns, and will serve to identify those activities which should receive the highest priority during the grant period.

#### **IV. INFORMATION SHARING**

##### **A. General**

This Section covers information sharing on miscellaneous elements of the RCRA program, including notification, Resource Conservation and Recovery Information System (RCRIS) data, etc. Specific information sharing requirements for the other major program elements are covered in their respective Sections: V. Permit Issuance, VI. Permit Administration, and VII. Compliance Monitoring and Enforcement. Detailed tables describing the flow of documents between the State and EPA for Sections V., VI., and VII. of the MOA will be negotiated annually as part of the State's Grant.

Information related to Sections V. and VI., Permitting, shall be sent by the State to: Narindar M. Kumar, Chief, RCRA Programs Branch, EPA Region 4, 61 Forsyth Street SW, Atlanta, GA 30303-3104. EPA shall send permit related information to: Satish Kastury, Program Administrator, Hazardous Waste Regulation Section, Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. Information related to Section VII., Compliance Monitoring and Enforcement, shall be sent to: Jewell Grubbs, Chief, RCRA Enforcement and Compliance Branch, EPA Region 4, 61 Forsyth St., Atlanta, GA 30303. EPA shall send enforcement related information to: Satish Kastury, Program Administrator, Hazardous Waste Regulation Section, Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

1. EPA will keep the State informed of the content and meaning of Federal statutes, regulations, guidelines, standards, policy decisions, directives, and any other factors that affect the State program. EPA will also provide general technical guidance to the State. EPA will share with the State any reports developed by EPA from the data submitted through State reporting requirements.
2. EPA will make available to the State other relevant information as requested which the State needs to implement its approved program. Information provided to the State will be subject to the terms of 40 CFR Part 2.
3. The State agrees to inform the Regional Administrator of any proposed program changes which would affect the State's ability to implement the authorized program with as much advance notice as possible. Program changes of concern include modification of the State's legal authorities (i.e., statutes, regulations and judicial or legislative actions affecting those authorities), modifications of Memoranda of Agreement or Understanding with other agencies, and modifications of resource levels (i.e., available or budgeted personnel and funds). The State recognizes that program revisions must be made in accordance with the provisions of 40

CFR 271.21, and that until approved by EPA, revisions are not authorized as RCRA Subtitle C requirements. EPA agrees to support the State with timely review of proposed State legislation that might have a significant potential to affect the authorized hazardous waste program.

4. The State agrees to provide any pertinent information requested by the Regional Administrator or his or her designee within a mutually agreed upon time frame, as necessary for EPA to carry out its oversight responsibilities.
5. The State agrees to submit the following reports and documents to the Regional Administrator or his or her designee within the specified time periods: a) Comprehensive End-of-Year Report by November 15; b) additional reports and documents as specified by the State's approved grant work plan or in this MOA.
6. EPA agrees to adhere to the schedules in the State's grant work plan and the schedules specified by the Grant, including the Document Flow Tables in this agreement.

#### **B. Site Visits**

EPA is responsible for maintaining reliable national data on hazardous waste management. This data is used to report to the President and Congress on the achievements of the hazardous waste program and to support EPA's regulatory development efforts. Whenever EPA determines that it needs to obtain certain information, EPA will first seek to gain this information from the States. The State of Florida agrees to supply the Regional Administrator with this information if readily available and as resources allow. If the State is unable to provide the information or if it is necessary to supplement the State information, EPA may conduct a special survey or perform information collection site visits after notifying the State (normally with at least seven days advance notice) and inviting the State to participate in the site visit. EPA will share with the State any reports developed by EPA as a result of such information collection.

#### **C. Emergency Situations**

Upon receipt of any information that the handling, storage, treatment, transportation, or disposal of hazardous waste is endangering human health or the environment, the party in receipt of such information shall immediately notify by telephone the other party to this Agreement of the existence of such situation. The State shall call EPA's Emergency Response and Removal Branch at:

U.S. Environmental Protection Agency  
Chief, Emergency Response and Removal Branch  
Waste Management Division  
61 Forsyth Street SW  
Atlanta, Georgia 30303-3104  
Phone: 404-562-8705 - Business Hours (On Scene Coordinator)  
Phone: 404-562-8700 - 24 hour spill reporting

EPA shall call :

Division of Law Enforcement  
Chief, Bureau of Emergency Response  
3900 Commonwealth Blvd., MS 659  
Tallahassee, Florida 32399-3000  
Phone: 850-488-2974 - Business Hours (Emergency Response Center)  
Phone 850-413-9911 - 24 hour spill reporting

#### **D. Confidentiality**

1. Any information obtained or used in the administration of the State program shall be available to EPA upon request without restriction. If the information has been submitted to the State under a claim of confidentiality, the State must submit that claim to EPA when providing information. Any information obtained from the State and subject to a claim of confidentiality will be treated in accordance with the regulations in 40 CFR Part 2, Public Information.
2. EPA agrees to furnish to the State information in its files which is not submitted under a claim of confidentiality and which the State needs to implement its program. EPA will release confidential information only to the State with confidentiality provisions equivalent to 40 CFR Part 2. Subject to the conditions in 40 CFR Part 2, EPA will furnish to the State information submitted to EPA under a claim of confidentiality which the State needs to implement its program. All information EPA agrees to transfer to the State will be transferred in accordance with the requirements of 40 CFR Part 2. EPA will notify affected facilities when such information is sent to the State. The State will handle such information consistent with its authorized program.

#### **E. Delisting**

Until the State is authorized by EPA for the delisting provision of HSWA (found at 40 CFR 260.22), the State shall forward a copy of all delisting petitions to EPA within 15 days of receipt. If the State has adopted regulations, which allow delisting under the State regulations, the State and EPA agree to jointly process the petition.

#### **F. Notification**

EPA and the State have jointly decided that the State will assign all EPA I.D. numbers and enter all notification data into RCRIS. If the applicant sends a notification form (8700-12 or equivalent) directly to EPA, EPA will forward the form to the State for the assignment of an I.D. number within 30 days of receipt. If the State receives a notification form from EPA or from the applicant, the State will assign an I.D. number to the applicant and inform the applicant of its number.

#### **G. Variances and Waivers**

The State will obtain concurrence from the Regional Administrator on all variances which might make the State program less stringent than the federal program. EPA agrees to evaluate these

requests for concurrence within forty-five (45) days of receipt. All public notices of intent to issue variances or waivers should be sent to EPA within fourteen (14) days of issuance. The State will transmit a copy of all variance or waiver approvals to EPA within ten (10) days of issuance.

#### H. RCRA Data Management

1. The State agrees to enter or translate data into the national RCRA data management system, RCRAInfo, including non-notifiers.
2. The State is responsible for the correctness of the data it enters. The State will timely correct any State data errors revealed by RCRAInfo edit reports. EPA is responsible for the correctness of the data it enters, and will timely correct any data errors that EPA has created.
3. For data entered directly into RCRAInfo, the State agrees to enter the previous month's activities by the 20<sup>th</sup> of every month. (See #9 for the schedule for translating from State databases).
4. The State will run data assessment reports specified by EPA when available on the Region 4 portion of the RCRAInfo Reports Sharing menu at least once a quarter and make indicated corrections promptly.
5. The State will collect Biennial Reporting data and provide the data to EPA for loading into the national Biennial Report part of RCRAInfo according to the schedule promulgated by EPA Headquarters, and the schedule in the Grant.
6. EPA will be responsible for maintenance and clean-up of all EPA data which it entered in the RCRA Info corrective action module prior to the State's authorization for HSWA corrective action.
7. EPA will assist the State in RCRA Info consulting and training as resources allow.
8. EPA will help the State maximize usefulness of RCRAInfo and BRS data by enhancing existing reports or writing new report programs to fit specifications of the State as EPA resources allow. These reports will be available on the Region 4 portion of the RCRAInfo shared reports menu. EPA will also assist the State in resolving Biennial Report data quality problems according to the schedule promulgated by EPA Headquarters.
9. Translating into RCRAInfo. If the State translates all or any part of its RCRAInfo data from a State database, the following requirements apply:
  - The State is solely responsible for meeting specifications for flat files issued by the Office of Solid Waste, EPA Headquarters. These specifications are available on the EPA Headquarters web site, [www.epa.gov/oswfiles](http://www.epa.gov/oswfiles), in the Translator Guide document.
  - The State will extract data from its State database for loading into RCRAInfo and transmit its flat files to EPA at least monthly, by the 13<sup>th</sup> of each month, to allow time for loading data into RCRAInfo and resolving any data errors revealed by the load process by the 20<sup>th</sup> of the month.

-The State will transmit its flat files to EPA according to a procedure agreed to by the State and EPA.

-EPA will promptly load the State's extracted data into RCRAInfo and provide the State with any error lists produced by the load process. The State, with guidance from EPA, will resolve those errors promptly.

#### **I. Beginning of Year Plan**

The State agrees to submit annually to EPA the applicable Beginning of Year Plan (BYP) tables and lists as required by the National RCRA Implementation Plan (RIP).

#### **J. Legal and Operating Status Codes**

The State agrees that its project managers will review and update quarterly the legal and operating status codes for all unit groups at all TSDFs, and will ensure that any changes have been entered into RCRIS in a timely manner.

### **V. PERMIT ISSUANCE**

#### **A. EPA Permitting**

Upon authorization of the State program, EPA will suspend issuance of Federal permits for hazardous waste treatment, storage, and disposal facilities for which the State is receiving authorization. If EPA promulgates standards for additional regulations mandated by HSWA that are not covered by the State's authorized program, EPA will issue and enforce RCRA permits in the State for these new regulations until the State receives final authorization for equivalent and consistent State standards. If EPA promulgates new standards requiring a permit modification, then EPA may, pursuant to 40 CFR 270.42(b)(6)(vii), extend the time period for final approval or denial of a modification request until such time that the State receives authorization for the new standards. At the time the State program is approved in the new areas, EPA will suspend issuance of Federal permits in the State. EPA will also transfer any pending permit applications or pertinent file information to the State within thirty days of the approval of the State program in conformance with the conditions of this Agreement.

The State and EPA have agreed to a joint permitting process (see section V.D. of this Agreement) for the joint processing and enforcement of permits for those provisions of RCRA for which the State does not have authorization. As the State receives authorization for additional provisions of RCRA, EPA will suspend issuance of Federal permits in the State for those provisions.

## **B. EPA Overview of State Permits**

EPA's overview function will focus primarily on those facilities identified by the State and EPA in the State's Multi-Year Permit Strategy, annual State Grant Work Plan and the State's Program Description. The State and EPA will usually reach concurrence on permit conditions prior to issuance of the draft permit or approval of proposed permit modifications. EPA may comment in writing on any draft permit or proposed permit modification, within 30 (thirty) days of its receipt, whether or not EPA commented on the permit application. Where EPA indicates in a comment that issuance, modification, reissuance, termination or denial of the permit would be inconsistent with the approved State program, EPA shall include in the comment:

- a. a statement of the reasons for the comment (including the section of the State law or regulations that supports the comment), and
- b. the actions that should be taken by the State in order to address the comment (including the conditions which the permit would include if it were issued by EPA).

EPA shall send a copy of its written comments to the permit applicant. EPA shall withdraw such comments when satisfied that the State has met or refuted its concerns and shall also provide the permit applicant with a copy of such withdrawal.

Under section 3008(a)(3) of RCRA, EPA may terminate a State-issued permit in accordance with the procedures of 40 CFR Part 124, Subpart E, or bring an enforcement action in accordance with the procedures of 40 CFR Part 22 in the case of a violation of a State program requirement. In exercising these authorities, EPA will observe the conditions established in 40 CFR 271.19(e) and any other applicable authorities.

## **C. State Permitting**

The State is responsible for expeditiously drafting, circulating for public review and comment, issuing, modifying, reissuing and terminating RCRA permits for those hazardous waste treatment, storage and disposal facilities subject to the authorized provisions of the State's program and shall do so in a manner consistent with RCRA as amended by HSWA, this Agreement, all applicable Federal requirements, and the State's Program Description. The State agrees to issue, modify and reissue all permits subject to the authorized portions of the State's program in accordance with Chapters 403 and 120, Florida Statutes and Chapter 62-4, 62-730, and 62-737, Florida Administrative Code and to include as permit conditions all applicable provisions of Chapter 62-730 and 62-737, Florida Administrative Code. This agreement also applies to permits issued after final authorization but for which the processing may have begun before final authorization.

The State agrees to consider all comments EPA makes on permit applications and draft permits. The State will satisfy or refute EPA's concerns on a particular permit application, proposed permit modification, or draft permit in writing before issuing the permit or making the modification.



## **D. Joint Permitting Process**

Pursuant to section 3006(g)(1), and in accordance with RCRA, as amended, EPA has the authority to issue or deny permits or those portions of permits to facilities in Florida for the requirements and prohibitions in or stemming from RCRA, until the State's program is amended to reflect those requirements and prohibitions and authorization is received for the applicable portion or portions of the program.

EPA and Florida hereby establish this joint permitting process for the issuance of RCRA permits in Florida. This joint permitting process is established in accordance with section 3006(c)(3) of RCRA. The administrative details of the joint permitting process shall be incorporated into the annual State grant work plan. The duties and responsibilities of EPA and the State for joint permitting, including work sharing agreements, shall also be specified in the annual State grant work plan.

The details of the joint permitting process, as contained in the State Grant Work Plan, shall be reviewed and revised as often as necessary, but no less often than annually to assure its continued appropriateness.

Upon authorization of the State for any of the provisions of RCRA, the specifics of the joint permitting process as set forth in the annual State grant work plan shall be amended to reflect the authorization. Amendment of this Memorandum of Agreement or the execution of a new Memorandum of Agreement may be required for authorization of any of the provisions of HSWA.

## **VI. PERMIT ADMINISTRATION**

### **A. EPA**

EPA will administer the RCRA permits or portions of permits it has issued to facilities in the State until they expire or are terminated. However, EPA may, on a case by case basis, and with the concurrence of the State, transfer the administration of an EPA issued HSWA Permit to the State. The transfer of responsibility would be accomplished by a letter from EPA to the State and to the facility giving the effective date of the action and describing how the usual administrative procedures would be changed by the transfer of responsibility. Even though the State would administer EPA's HSWA Permit, EPA will retain oversight responsibility to ensure that the permittee fulfills its permit obligations pending state issuance of its own HSWA Permit and termination of the EPA HSWA Permit. EPA's oversight responsibility includes the ability to modify the permit to reflect changes in law for which the State has not yet obtained authorization. EPA will be responsible for enforcing the terms and conditions of the Federal permits while they remain in force.

### **B. State**

The State agrees to review all hazardous waste permits which were issued under State law prior to the effective date of this Agreement in accordance with 40 CFR 271.13(d), and to modify, or revoke and reissue, such permits as necessary to require compliance with the amended State Program. The State shall notify EPA of any permits not equivalent to federal permit requirements,

including any permits that have been issued but are pending administrative or judicial appeal. Except for these non-equivalent permits, once EPA has determined that the State has fulfilled the requirements of 40 CFR 271.13(d), EPA will terminate the applicable Federal permit, or Federal portion of the permit, pursuant to the procedures in 40 CFR 124.5(d), notify the State that the permit is terminated or EPA will allow the permit to expire, and no longer administer those permits or portions of permits for which the State is authorized.

Where the State permit is not equivalent to federal permit requirements, the State may modify, or revoke and reissue, its permit as necessary to require compliance with its authorized program in a manner consistent with RCRA as amended by HSWA. If the State does not modify, or revoke and reissue, a permit equivalent to the federal permit, EPA will administer and enforce its permit until it expires or is terminated.

Upon the effective date of an equivalent State permit, EPA will terminate the federal permit pursuant to 40 CFR 271.8(b)(6) and 124.5 (d) or allow the federal permit to expire. EPA will notify the permittee by certified mail of its intent to terminate the federal permit, and give the permittee 30 days in which to agree or object to termination of the permit.

The State agrees to resolve all State permit appeals in a manner consistent with its authorized RCRA program.

### **C. Corrective Action**

The State will conduct the RCRA Corrective Action Program in a manner that promotes rapid achievement of cleanups while protecting human health and the environment. Specifically, the State will, to the extent practicable:

- embrace flexible, practical, results-based approaches that focus on control of human exposure and contaminated groundwater migration in the short term, with final cleanup being the long term goal.
- provide ready public access to information and meaningful opportunities for public involvement in the cleanup process.
- foster a culture of innovation, creativity, communication and technical expertise, focused on accelerating cleanups and meeting program goals.
- carefully consider key program guidance (and any updates) in conducting the RCRA Corrective Action Program.

## VII. COMPLIANCE MONITORING AND ENFORCEMENT

### A. EPA

Nothing in this Agreement shall restrict EPA's right to inspect any hazardous waste generator, transporter or facility or bring enforcement action against any person believed to be in violation of the State or Federal hazardous waste program or believed to have a release of hazardous waste or constituent. Before conducting an inspection of a generator, transporter or facility, the Regional Administrator will normally give the State at least seven days notice of the intent to inspect in accordance with 40 CFR 271.8(b)(3)(I), and will invite the State to participate in the inspection. In case of an imminent hazard to human health and the environment, the Regional Administrator may shorten or waive the notice period.

The frequency of EPA oversight and training inspections will be specified in the annual State grant work plan. EPA will negotiate on an annual basis with the State the number or percentage of the State's compliance inspections on which EPA will accompany the State.

EPA may take enforcement action against any person determined to be in violation of RCRA in accordance with section 3008(a)(2). EPA will take enforcement action upon determining that the State has not taken timely or appropriate enforcement action or upon request by the State. Prior to issuing a compliance order under section 3008(a) EPA will give notice to the State. EPA also retains its rights to issue orders and bring actions under sections 3008(h), 3013 and 7003 of RCRA and any other applicable Federal statute.

After giving notice to the State; EPA may take action under section 3008 of RCRA against a holder of a State-issued permit on the grounds that the permittee is not complying with a condition of that permit. In addition, EPA may take action under section 3008 of RCRA against a holder of a State-issued permit on the grounds that the permittee is not complying with a condition that the Regional Administrator, in commenting on that permit application or draft permit, stated was necessary to implement approved State program requirements, whether or not that condition was included in the final permit.

### B. State

The State agrees to carry out a timely and effective program for monitoring compliance by generators, transporters, and facilities with applicable program requirements (see 40 CFR 271.15). As part of this program, the State will conduct inspections to assess compliance with generator and transporter standards (including manifest requirements), facility standards, permit requirements, compliance schedules, and all other program requirements. Compliance monitoring activities and priorities will be specified in the Office of Enforcement and Compliance Assurance's bi-annual MOA guidance and the annual State grant work plan and shall be consistent with all applicable Federal requirements and with the State's Program Description. State specific activities and priorities for compliance monitoring will also be included in the annual State grant work plan.

The State agrees to take timely and appropriate enforcement action as defined in the 1996 Hazardous Waste Enforcement Response Policy against all persons in violation of generator and transporter standards (including manifest requirements), facility standards, permit requirements,

compliance schedules, and all other program requirements, including violations detected by State or Federal compliance inspections. The State will maintain procedures for receiving and ensuring proper consideration of information about violations submitted by the public.

## **VIII. AVAILABILITY OF INFORMATION**

### **A. General**

Section 3006(f) of RCRA requires an authorized state to provide for the public availability of information obtained by the State regarding facilities and sites for treatment, storage and disposal of hazardous waste. Such information must be available to the public in substantially the same manner as, and to the same degree as, that available under federal law.

### **B. Requests for Information**

1. Pursuant to the Federal Freedom of Information Act (FOIA), 5 U.S.C. 552(a)(2), the State agrees to make certain materials routinely available without a formal FOIA request. Examples of these materials are final opinions or orders in case adjudication, State regulations, statements of State agency policy, and administrative staff manuals affecting the public. In addition, records prepared for routine public distribution will also be made available. Examples of such records are press releases, copies of speeches, pamphlets, and educational materials.
2. The State agency agrees to make reasonable efforts to assist a requestor in identifying records being sought, and to help the requestor formulate his or her request.
3. If a request for information is denied, the State agrees to provide the requestor the basis for the denial and to notify the requestor of any State judicial, administrative procedures, or statutes of limitation.
4. The State agrees to make the fullest possible disclosure of records to the public, subject to any of the exemptions under the Federal FOIA recognized by the State.
5. A reduction or waiver of fees will be considered in connection with each request from a representative of the press or other communication medium, or from a public interest group. The State agrees to reduce or waive the fee if it determines that a reduction or waiver of the fee is in the public interest because furnishing the information can be considered as primarily benefitting the general public.


### **C. Confidentiality of Business Information**

If a claim of confidentiality is asserted and cannot be resolved in the time period provided for an agency response to a request, the State agrees to notify the requestor of the confidentiality claim within the maximum 20 calendar-day time limit provided for an agency response. In addition, the requestor will be told that the request was initially denied in order to resolve the business confidentiality claim.

**D. Oversight**

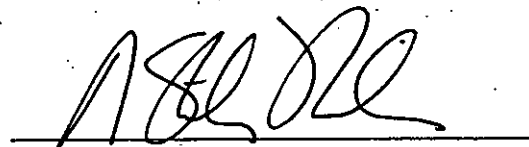
1. The State agrees to keep a log of denials of requests for information (or a file containing copies of denial letters sent to requesters) which will be made available to EPA during the State review.
2. The State agrees to keep EPA fully informed of any proposed modifications to its basic statutory or regulatory authority, its forms, procedures, or priorities, as applied to section 3006(f).

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION

  
Secretary

Date: 8/10/01

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY - REGION 4

  
Regional Administrator

Date: 7/19/2001

**BASE PERMITTING DOCUMENT FLOW  
BETWEEN EPA AND FDEP**

Item	Item Description	State Action.	EPA Action.
1	New and revised Part A application	Send copy to EPA with monthly submittals.	Review and become familiar with document
2	a) Land disposal facility (LDF) Operating Permit Part Bs, and subsequent revisions b) Combustion Operating Permit Part Bs, including trial burn plans, and subsequent revisions, and risk assessment protocols and risk assessments c) Storage and Treatment Permit Part Bs when they may contain units that are subject to Subpart CC until the state is authorized. d) All correspondence for Incinerators, BIFs Subpart X facilities, and OB/OD (open burning/open detonation) facilities, Part Bs, risk assessment protocols, and risk assessments e) Subpart CC permit applications after authorized	Send copy to EPA with monthly submittals.	Review and become familiar with documents. Comment as appropriate at State request.
3	Copies of warning letter and first Notice of Deficiency (NOD) for all treatment, storage and disposal facilities (TSDFs)	Send copy to EPA with monthly submittals.	Review for HSWA applicability, e.g. CC.
4	Copies of 2nd and subsequent NODs/Order for facilities in item 2.	Send draft 30 days prior to issuance if comments requested; final when issued.	Comments, if any, w/in 30 days of receipt.
5	Completeness determinations for all TSDFs	Notify EPA 30 days prior to issuance.	Monitor progress. Comments, if any, due within 30 days of receipt.
6	Draft permits and draft modifications for TSDFs in item 2, with a copy of the Intent to Issue or Intent to Deny .	Send to EPA at the same time sent to permittee for comments; at least 30 days before start of public comment period.	Comment to State w/in 30 days of receipt.
7	Draft permits and draft modifications for all other TSDFs, with a copy of the Intent to Issue or Intent to Deny.	Send copy to EPA with monthly submittals.	Review and comment to State/facility if cursory review indicates problems.
8	Final permits and final modifications for TSDFs including response to comments.	Send copy to EPA with monthly submittals.	Review if EPA commented on draft.

9	Emergency Permits	Notify EPA by telephone ASAP, then send copy of permit with monthly submittals.	Monitor situation.
10	a) Clean Closure Plans for LDFs b) Closure Plans for Tank Units	Send copy to EPA with monthly submittals.	Become familiar with plans, particularly clean closure submittals.
11	Closure Plan NODs for item 10 facilities	Send copy to EPA with monthly submittals.	Review and provide comments to State, if requested.
12	Closure Plan public notices, approval letters and certification of closure acceptance letters for all TSDFs	Send copy to EPA with monthly submittals.	Comment during public comment period.
13	Closure equivalency petitions and all associated documents	Send copy to EPA with monthly submittals.	Review and provide comments to State during comment period.
14	Other documents at State's request Other documents at EPA's request	Per State schedule Per EPA schedule	Assist State to maximum extent possible and vice versa.

**CORRECTIVE ACTION DOCUMENT FLOW  
BETWEEN EPA AND FDEP**

Item	Item Description	State Action	EPA Action
1.	Visual Site Inspection notification letters sent to facilities	Send copy to EPA.	Review letter or supply standard letter for state use. Accompany State, if appropriate.
2	Draft RCRA Facility Assessment (RFA) Reports generated by State	Send to EPA in draft form when sent to facility for comment.	Comments to State w/in 30 days of receipt, or tell State will not review.
3	Final RFA Reports sent to facilities	Send copy to EPA with monthly submittals.	Review if EPA commented on draft.
4	Final Environmental Indicator (EI) evaluations and National Corrective Action Priority System (NCAPS) worksheets	Send to EPA with monthly submittals.	Review if EPA commented on draft.
5	Stabilization Evaluation Questionnaires (Government Performance and Results Act (GPRA) Universe)	Send copy to EPA with monthly submittals.	Comments, if any, to FDEP w/in 30 days of receipt.
6	All work plans and reports that address investigation and corrective action requirements for SWMUs (solid waste management units) at facilities with high NCAPS ranking.	Send copy to EPA with monthly submittals unless comments requested on expedited schedule.	Become familiar with documents.
7	Responses to Notices of Technical Inadequacy (NOTIs), NODs, NOV's and Orders on Corrective Action Documents in item 6	Send copy to EPA.	EPA review, if requested.
8	Remedy Selection Documents (Permit modifications, Orders, Statements of Basis (SOBs), etc.)	Send copy to EPA 30 days before issuance of draft. Send copy of final to EPA upon issuance.	Review and comment w/in 30 days of receipt of draft; review final for conformity to EPA comments.
9	All HSWA Corrective Action Correspondence when the correspondence is sent to the facility, this includes preliminary draft, draft and final HSWA permits, draft and final Statements of Basis and draft and final Public Notices	Send to EPA when sent to facility.	Comment to FDEP per schedule with FDEP facility coordinator.
10	All BYP and GPRA related materials requested by EPA Headquarters	Send to EPA on an agreed upon date before EPA HQ report is due.	Send copy to FDEP.



**ENFORCEMENT AND COMPLIANCE DOCUMENT FLOW  
BETWEEN EPA AND FDEP**

Item	Item Description	State Action	EPA Action
1	List of all facilities / TSDFs / significant generators that State will inspect each quarter/year	Send list to EPA prior to start of quarter / year.	Review list and notify State which facilities EPA will inspect.
2A	State draft inspection reports for joint EPA/State inspections prior to finalization	Send to EPA for review.	Comment to State w/in 15 days of receipt.
2B	EPA draft report for joint EPA/State inspections; EPA final inspection report for independent inspections	Review draft EPA joint inspection report and provide comments to EPA.	Final reports to be sent to facility with cc to State w/in 45 days after inspect.
3	For all inspections of Significant Non-Compliers (SNCs), copies of inspection reports, and any follow-up reports, warning letters, NOVs, and administrative orders, etc.	Send to EPA upon issuance / specified time frame.	Monitor State Action for timeliness and appropriate action.
4	All enforcement referrals from district offices to central office	Send copy to EPA.	Same as above.
5	Notice of Intent to receive hazardous waste from a foreign source pursuant to 40 CFR 265.12	Send copy to EPA upon receipt / within 5 days of receipt.	Region review and take action as necessary.
6	Notification of State that EPA will take enforcement action	Receive notification and take appropriate response, if required.	Notification prior to issuing 3008(a) Order by telephone and /or writing within a specified time frame.
7	Notification of EPA of any determination that a CERCLA (Comprehensive Environmental Response, Cleanup and Liability Act) off-site facility is a SNC or may be posing significant threat to public health, welfare or the environment or otherwise affect the satisfactory operation of the facility.	State notifies EPA within 5 days of determination.	EPA reviews per off-site rule, consults with State, and takes appropriate action.
8	For all TSDFs receiving CERCLA off site waste, Inspection Reports, NOVs, Orders, Civil and or Criminal actions and corrective action requirements when significant RCRA violations occur and a formal enforcement response is initiated.	State will send within 15 days of issuance.	EPA reviews per off-site rule, consults with State, and takes appropriate action.

9	Draft and final delisting decisions, where State is authorized for delisting	Send draft to EPA 30 days before public notice. Send final decision to EPA 15 days before mailing to applicant.	EPA review and provide comments to State within 30 days of receipt of draft decision. EPA notify State before State mails final decision to applicant if EPA finds serious technical deficiencies.
10	Citizen concerns referred to State by EPA	State investigate and report results to EPA w/in 45 days of referral from EPA.	EPA refer to State.
11	Consent Orders related to enforcement actions taken by the State	Send to EPA at the same time as sent to the facility.	Region review and take action as necessary.

## ATTACHMENT A

**Top-Ten EPA Office of Solid Waste References for RCRA Corrective Action**

This list represents EPA's "top-ten" recent and/or commonly used guidance documents that individuals should be aware of and turn to for guidance on implementing RCRA corrective action. This list is not all-inclusive; there are other EPA guidance documents that may be appropriate at a specific facility. Program implementers should recognize that guidance documents do not substitute for EPA's statutes or regulation; thus guidance may not apply to a particular situation based upon the circumstance. In the future, EPA may change existing guidance and develop new guidance as appropriate. These top-ten items are listed in reverse chronological order. A more comprehensive list of corrective action related guidance is available at <http://www.epa.gov/epaoswer/hazwaste/ca/resource/guidance.htm>

EPA, 2000. Institutional Controls: A Site Manager's Guide to Identifying, Evaluating and Selecting Institutional Controls at Superfund and RCRA Corrective Action Cleanups. OSWER Policy Directive 9355.0-74-FS-P. Available at <http://www.epa.gov/epaoswer/hazwaste/ca/resource/guidance/ics/icfactfinal.pdf>.

EPA, 1999. Corrective for Solid Waste Management Units at Hazardous Waste Management Facilities (64 FR 54604, October 7) - [partial withdrawal of proposed Subpart S regulations]. Available at [http://www.epa.gov/epaoswer/hazwaste/ca/resource/guidance/gen\\_ca/withdrwl.htm](http://www.epa.gov/epaoswer/hazwaste/ca/resource/guidance/gen_ca/withdrwl.htm)

EPA, 1999. RCRA Cleanup Reforms (EPA530-F-99-018; July 1999). For more information, refer to <http://www.epa.gov/epaoswer/osw/factsheet1.pdf>.

EPA, 1999. Use of Monitored Natural Attenuation at Superfund, RCRA Corrective Action and Underground Storage Tank Sites (April 21). OSWER Policy Directive 9200.4-17P. Available at <http://www.epa.gov/swrust1/directiv/d9200417.htm>.

EPA, 1999. Interim Final Guidance for RCRA Corrective Action Environmental Indicators (February 5). Available at [www.epa.gov/epaoswer/osw/ei\\_guida.pdf](http://www.epa.gov/epaoswer/osw/ei_guida.pdf).

EPA, 1998. Management of Remediation Waste Under RCRA (EPA530-F-98-026). Available at [http://www.epa.gov/epaoswer/hazwaste/ca/resource/guidance/remwaste/pspd\\_mem.pdf](http://www.epa.gov/epaoswer/hazwaste/ca/resource/guidance/remwaste/pspd_mem.pdf)

EPA, 1997. The Role of Comprehensive State Groundwater Protection Programs (CSGWPPS) is OSWER Remediation Programs. OSWER Directive 9283.1-09. Available at <http://www.epa.gov/superfund/resources/csgwpp/role.pdf>.

EPA, 1996. Memorandum from Steven A. Herman and Elliott P. Laws to RCRA/CERCLA Senior Policy Managers titled, "Coordination between RCRA Corrective Action and Closure and CERCLA Site Activities" (September 24). Available at [http://www.epa.gov/epaoswer/hazwaste/ca/resource/guidance/gen\\_ca/coordmem.pdf](http://www.epa.gov/epaoswer/hazwaste/ca/resource/guidance/gen_ca/coordmem.pdf).

EPA, 1996. Advance Notice of Proposed Rulemaking (61 FR 19432, May 1). Available at <http://www.epa.gov/docs/fedrgstr/EPA-WASTE/1996/May/Day-01/pr-547.pdf>.

EPA, 1994. RCRA Corrective Action Plan. OSWER Directive 9902.3-2A. Available at [http://www.epa.gov/epaoswer/hazwaste/ca/resource/guidance/gen\\_ca/rcracap.pdf](http://www.epa.gov/epaoswer/hazwaste/ca/resource/guidance/gen_ca/rcracap.pdf).

**ATTACHMENT B**

The following list of guidance documents and other references is not all-inclusive, but represents a collection of information useful for the implementation of a RCRA hazardous waste program. These documents are listed without dates, therefore, you should refer to the most recent version of that document.

Hazardous Waste Enforcement Response Policy (ERP). Available at <http://www.epa.gov/oeca/ore/rcra/cmp/031596.pdf>.

OECA Memorandum of Agreement (MOA). Available at <http://www.epa.gov/oeca/polguid/9899moaguide.pdf>.

CERCLA Offsite Policy. No website available. May refer to 40 C.F.R. 300.400. The Rule with the preamble was published on September 22, 1993, (58 FR 49200-49218).

RCRA Civil Penalty Policy. Available at <http://www.epa.gov/oeca/ore/rcra/cmp/100090.pdf>.

Voluntary Self-Policing and Self-Disclosure Interim Policy (Audit Policy). Available at <http://www.epa.gov/oeca/auditpol.html>.

Small Business Compliance Policy. Available at <http://www.epa.gov/oeca/smbusi.html> or <http://www.epa.gov/oeca/sbcp2000.pdf>.

Supplemental Environmental Project (SEP) Policy. Available at <http://www.epa.gov/oeca/sep/sepfinal.html>.