

**SOLID WASTE PROGRAM
SPECIFIC OPERATING AGREEMENT**

BETWEEN THE

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

AND

**FLORIDA DEPARTMENT OF HEALTH,
PALM BEACH COUNTY (FDOH PBC)**

BACKGROUND

- (1) Specific Operating Agreements. On January 2, 1991, the Florida Department of Environmental Regulation (now Department of Environmental Protection - DEP) and the Florida Department of Health, Palm Beach County (FDOH PBC) entered into a Specific Operating Agreement (SOA) that delegated some of the Department's Solid Waste Program responsibilities to the FDOH PBC. The SOA was revised on August 26, 1997, December 13, 2002 and December 10, 2004. A copy of the current SOA is on file at the Florida Department of Health, Palm Beach County, (FDOH PBC) and the Southeast District DEP office in West Palm Beach.
- (2) Special Acts. The FDOH PBC exercises jurisdiction over activities in Palm Beach County pursuant to ordinances, regulations or rules set forth in the Palm Beach County Environmental Control Act, Chapter 77-616, Special Acts, Laws of Florida, as amended, and the Palm Beach County Environmental Control Ordinance 78-5, as amended. Copies of these are available at the offices of the FDOH PBC.
- (3) Objective. FDOH PBC currently has a DEP-approved Solid Waste Program. This Solid Waste SOA supersedes all provisions related to solid waste management in any prior Agreements. The intent of this SOA is to formally establish the basis upon which DEP and Palm Beach County will work together to preserve and enhance the quality of air, water and land resources of Palm Beach County according to the provisions of Chapters 120, except for Sections 120.53 and 120.55, and 403, Florida Statutes (F.S.), and Chapters 62-4, 62-160, 62-301, 62-520, 62-701, 62-709, 62-711 and 62-780, Florida Administrative Code (F.A.C.), which are incorporated herein by reference. Copies are available at the above-mentioned offices. Citations of specific provisions of statutes and rules

shall survive renumbering. This SOA is also intended to constitute DEP's approval of FDOH PBC's solid waste program as adequate to meet the requirements of Chapter 403 and any applicable rules and regulations pursuant thereto, as provided in Section 403.182(1)(a), F.S.

- (4) Delegation. This SOA will define the provisions for delegation of the Solid Waste Program permitting, compliance, and enforcement activities from DEP to the FDOH PBC. The DEP and FDOH PBC hereby enter into this SOA to delineate each agency's responsibility for developing and implementing the program defined here under appropriate State and local statutes, ordinances, and regulations. Nothing here is intended to limit DEP's or FDOH PBC 's independent authority established by law.

For purposes of this SOA, "Division" refers to DEP's Division of Waste Management office located in Tallahassee and "District" refers to DEP's Southeast District office located in West Palm Beach and "DEP Secretary" includes any person, which may include the General Counsel, Director of the Division of Waste Management, or Director of District Management, authorized to act on behalf of the Secretary.

- (5) This agreement is intended to affect only the duties and responsibilities of DEP and FDOH PBC, and is not intended to create any requirements applicable to any other person or agency. It should not be cited as though it is a rule or standard.

PART I

ADMINISTRATION OF THIS SOLID WASTE SPECIFIC OPERATING AGREEMENT

- (1) Commencement. This SOA shall become effective immediately upon signing by both DEP and FDOH PBC. This SOA is entered into by the DEP Secretary and the Director of FDOH PBC, both of whom have the authority to execute this SOA and satisfy its terms and conditions.
- (2) Modification. This SOA may be modified in writing at any time by mutual consent of DEP and FDOH PBC.
- (3) Severability. If any part of this SOA is found invalid or unenforceable by any Court, the remaining parts of this SOA will not be affected if DEP and FDOH PBC agree that the rights and duties of both parties contained in this SOA are not materially prejudiced, and if the intentions of the parties can continue to be effective.

- (4) Approval of FDOH PBC County Rules. FDOH PBC hereby certifies that FDOH PBC's existing rules pertaining to its solid waste program, County Ordinance 78-5 of the Palm Beach County Code, are compatible with, and in some instances are stricter or more extensive than and not in conflict with Chapter 403, F.S., and rules issued thereunder. The DEP has determined that such stricter or more extensive rules shall be enforced by DEP if it elects to exercise its jurisdiction over solid waste management within the territory of FDOH PBC. This determination is not applicable to any rules not identified herein. This determination does not apply to any facilities excepted from this delegation as listed in paragraph (2)(a) of Part III. FDOH PBC certifies the existing Remedies and Adjudicatory Procedures in County Ordinance 78-5 are adequate to enforce those rules of the Palm Beach County Code that are stricter and more extensive than the DEP Solid Waste Law and Rules. However, FDOH PBC will use DEP remedies for all other enforcement actions.
- (5) Future County Rules. To clarify the intent of DEP and FDOH PBC regarding the effect of Section 403.182(7), F.S., it is agreed by DEP and FDOH PBC that if FDOH PBC amends any existing ordinances or rules pertaining to solid waste management, or adopts any new rules, DEP will not enforce such amended or new rules unless and until DEP has determined that such rules are compatible with, or stricter or more extensive than and not in conflict with those imposed by Chapter 403, F.S., and rules adopted thereunder. Prior to making such a determination, DEP is not obligated to enforce such rules if it asserts its jurisdiction. This determination does not apply to any facilities excepted from this delegation as listed in paragraph (1)(a) of Part III.
- (6) Termination. FDOH PBC or DEP may terminate this SOA without cause by providing written notice to the other party at least 90 days prior to the effective date of such termination.
- (7) Applicability. The permitting provisions of this agreement only apply to DEP-delegated permits and do not affect any FDOH PBC permits issued in accordance with County rules and not covered by this agreement.

PART II

SOLID WASTE PROGRAM MANAGEMENT

- (1) Adequate Staff. FDOH PBC will provide adequate and appropriate administrative, technical and legal staff, financial, computer, and other resources to effectively and efficiently carry out the solid waste program in a manner to prevent and control pollution and provide for enforcement of its requirements by appropriate administrative and judicial processes. FDOH PBC shall maintain an

adequate solid waste permitting, monitoring, compliance and enforcement staff to satisfy the requirements of this SOA as modified from time to time. FDOH PBC will designate staff members that will carry out the duties of the Solid Waste Program, identify their areas of responsibility, and estimate the proportion of time each staff member will perform duties related to the program. This may be done using the organizational chart (**Attachment 2**), which shall be periodically updated or supplemented by FDOH PBC as necessary when there are changes of key personnel or organizational structure. An organizational chart and an alphabetical directory of FDOH PBC and DEP District personnel shall be exchanged by FDOH PBC and DEP upon request.

- (2) **Plans.** FDOH PBC shall prepare an annual work plan describing staffing (Full Time Equivalents) and equipment committed to the delegated solid waste program. The work plan must include updated lists of delegated and non-delegated facilities, and the types and frequencies of activities to be performed to meet the minimum solid waste level of service (e.g., required number of inspections per facility per year). (Updates to the list of non-delegated facilities will be provided to the local program by the District as needed.) DEP District Program staff and FDOH PBC shall coordinate and annually exchange their respective work plans, and shall exchange data concerning all activities involving the preparation, review, and implementation of solid waste programs for those functions specified in the applicable DEP rules concerning local solid waste programs.
- (3) **Training.** FDOH PBC will ensure that its employees have the requisite entry-level training and the subsequent training needed to allow its employees to properly accomplish their work assignments. FDOH PBC staff shall have the FDOH PBC same minimum qualifications as the respective DEP District Program staff, and FDOH PBC staff turnover shall be minimized. FDOH PBC staff will attend DEP-sponsored Solid Waste Workshops. FDOH PBC staff will participate in DEP monthly Solid Waste teleconferences. DEP shall provide notification of teleconferences.

In addition, FDOH PBC is encouraged to send members of its solid waste program staff to individual training courses, and to allow participation in other DEP solid waste training activities, as time and resources allow.

- (4) **Policy Coordination.** FDOH PBC and DEP will coordinate their activities regarding operations and enforcement issues.
- (5) **Program Reports.** DEP will send FDOH PBC a copy of any report submitted by DEP to the EPA or to another agency on behalf of FDOH PBC.

- (6) Evaluations and Audits. DEP will periodically conduct both program performance evaluations and financial audits of FDOH PBC 's implementation of the delegated programs or activities.
 - (a) Purpose of Evaluations. The purpose of the performance evaluations is to determine if permit application reviews, monitoring programs, compliance efforts, and enforcement actions are being effectively conducted in accordance with state requirements and DEP rules and policies, and that appropriate records are being maintained for all delegated state permitting actions taken, and monitoring programs, enforcement actions, and other responsibilities assumed by FDOH PBC. Records shall be maintained by FDOH PBC for at least three years or the life of the project, whichever is longer. FDOH PBC will otherwise comply with the requirements of Chapter 119, F.S.
 - (b) Purpose of Audits. Purpose of financial audits is to determine if state funds received by FDOH PBC for its solid waste program have been properly accounted for and distributed, and that appropriate records of all monetary transactions are on file. Financial records shall be maintained for at least three years. FDOH PBC will otherwise comply with requirements of Chapter 119, F.S.
 - (c) Coordination. In instances when FDOH PBC is subject to audit by a federal agency as well as the DEP, every effort will be made to fully coordinate the audits. FDOH PBC will have adequate time to complete any DEP pre-audit surveys and to comment on draft DEP audit findings. Draft DEP audit findings will be provided to FDOH PBC Solid Waste Staff for review before releasing for general distribution.

PART III

AGENCY RESPONSIBILITIES

- (1) Delegation of District-level Solid Waste Permitting. FDOH PBC will receive, process, and act on applications for state solid waste permits for which DEP has delegated Palm Beach County district-level solid waste permit issuance authority to FDOH PBC in accordance with the following general procedures and specific conditions.
 - (a) Effective Date and Limitations. DEP delegates to FDOH PBC the authority and FDOH PBC assumes the responsibility to receive, process and take final agency action on solid waste permits within Palm Beach County that otherwise would be administered by DEP's Southeast District

office, except for the following permits or categories of solid waste facilities:

1. Waste-to-energy facilities;
2. Solid waste combustor ash residue landfills;
3. Class I Landfills;
4. County-owned or operated facilities whose owner or operator would be represented by county legal staff (in enforcement or permitting action), and facilities owned or operated by county commissioners and health department facilities; and
5. Other facilities with unique situations or conditions if DEP has notified FDOH PBC that it intends to exercise its authority over such facilities.

Attachment 1 contains a summary of which agency provides the lead or support role for various kinds of solid waste facilities. Generally, FDOH PBC provides the lead role for delegated facilities, and DEP provides the lead role for facilities excepted from this delegation.

- (b) **Revocation.** In the event that the DEP Secretary determines that FDOH PBC has failed to comply with the conditions of this delegation or any relevant part of this SOA, FDOH PBC will have a reasonable period, not to exceed 90 days from receipt of notification referencing this section, to take corrective measures. If, in the judgment of the DEP Secretary, FDOH PBC fails to take appropriate corrective measures within the time allowed, the DEP Secretary may revoke the delegation. At that time, the DEP will immediately assume the responsibility for processing all permit applications affected by the revocation.

- (c) **Specific Condition of Delegation.** In addition to the other provisions of this SOA regarding solid waste permitting, FDOH PBC shall comply with the following specific requirements as a condition of maintaining this delegation:
 1. The review of the permit applications and the drafting of the specific permit conditions shall be done under the supervision of a professional engineer or professional geologist licensed by the State of Florida, as appropriate. The supervising professional shall

provide professional certification of all technical evaluations of permit applications to the extent required by Florida law.

2. In its exercise of DEP-delegated Solid Waste permitting authority, FDOH PBC shall comply with the applicable permitting requirements of Chapters 403 and 120, except for Sections 120.53 through 120.55, F.S., and Chapters 62-4, 62-160, 62-301, 62-520, 62-701, 62-709, 62-711 and 62-780, F.A.C.
3. FDOH PBC shall follow the applicable written permitting procedures issued by DEP's Secretary and his/her legal and program directors.
4. FDOH PBC is authorized to make determinations of whether a facility is exempt under DEP's permitting and solid waste rules. FDOH PBC is not authorized to issue a variance from DEP rules under Sections 120.542 or 403.201, F.S., or to approve alternate procedures under Rule 62-701.310, F.A.C.
5. FDOH PBC shall use permitting forms adopted by DEP. The local solid waste program may affix its name and logo on the forms. The local program may request additional information required by local ordinance or rule. The local program may develop unified forms that contain all information required by the DEP and FDOH PBC, and may use those forms in lieu of forms adopted by DEP, upon approval of the DEP.

FDOH PBC shall issue permits using the format used by the DEP. DEP will provide FDOH PBC with current model forms in use by the DEP. The local program may develop an alternate permit format compatible with the DEP format, and may use that format upon approval of the DEP.

6. FDOH PBC shall have access to DEP's computer information systems used for the Solid Waste Program, including WACS, SWIFT, CRA, OCULUS and PA, and shall accurately and in a timely manner enter all permit-related data as permit applications are processed and as permits are issued or denied. For purposes of PA, a timely manner is within one working day. FDOH PBC shall not have access to confidential information maintained in DEP computer information systems.

7. FDOH PBC shall ensure that water quality data from permitted facilities is submitted in electronic format to DEP using ADaPT software.
8. FDOH PBC shall have the legal resources to defend FDOH PBC's permitting decisions in Administrative Hearings under Chapter 120, F.S. To the extent that DEP's technical or rule interpretation or guidance is at issue, DEP will assist FDOH PBC in such proceedings.
9. FDOH PBC shall have full authority to make determinations regarding the correct DEP permit fees on permits for which they have delegation. All determinations will be made pursuant to Section 403.087, F.S., and Rules 62-4.050 and 62-701.315, F.A.C., and to any written guidance as issued by the DEP's Secretary or his/her legal and program directors.
10. FDOH PBC will coordinate reviews with and seek comments from DEP's permitting section when reviewing permit applications for solid waste management facilities.

(d) Distribution of Permit Fees.

1. FDOH PBC may maintain its own permit application fee schedule pursuant to its own rules and enabling legislation to the extent allowed by law. In any event, FDOH PBC shall require permit applicants to remit at least the application fee required by the DEP's current fee schedule. However, to further good government FDOH PBC will begin charging a single fee for delegated permits on the effective date of the delegation.
2. DEP and FDOH PBC agree that FDOH PBC should receive specific financial compensation from DEP to cover the reasonable cost of acting on applications for state solid waste permits. Therefore, DEP shall allow the FDOH PBC to keep 80% of the fees authorized under Section 403.087, F.S., and Rules 62-4.050 and 62-701.315, F.A.C., for delegated permits. The remaining 20% of these fees shall be remitted to the DEP no later than twenty days following the end of each quarter (fees are due by April 20, July 20, November 20, and January 20 of each year). Fees shall be remitted in accordance with the procedures specified in **Attachment 3**, in the form of a single check with sufficient records to verify its accuracy.

This agreement does not affect the ability of FDOH PBC to charge local fees when needed to support the costs of the program.

(e) **Permitting Reporting Requirements.** FDOH PBC will report its state solid waste permitting activities to DEP by use of the following DEP reporting systems at the frequencies shown:

1. Update WACS and PA for sources permitted by FDOH PBC. All such permit data will be entered into WACS and PA prior to permit issuance and uploaded into OCULUS.
2. Update PA for all applications received, and all permits processed, issued or denied by FDOH PBC. All such information will be entered into PA within two working days of any solid waste permit action and uploaded into OCULUS.

(f) **Exchange of Information.** All permits and supporting material in the possession of FDOH PBC shall be made available to DEP upon request or as otherwise specified in this SOA.

(2) **Application Review Procedures.**

(a) **Delegated Permits**

1. **DEP Procedures.**

- a. When DEP receives a permit application for a solid waste facility within Palm Beach County for which permit issuance authority has been delegated, DEP will arrange for a transfer of the application and the associated fees to FDOH PBC. Because the permit application timeclock starts when DEP receives the application and the correct fee, DEP will arrange for a transfer of the application and fee within two working days.
- b. For delegated facilities required to provide financial assurance, DEP's Solid Waste Section in Tallahassee will perform all permit and compliance reviews of financial assurance documentation, and provide written approval of the financial assurance mechanism to FDOH PBC and the applicant. Within 20 days of receipt of a permit application requiring financial assurance, DEP will provide FDOH PBC with any needed requests for additional information. DEP will also provide financial assurance specific conditions in a

timely manner for inclusion in solid waste permits issued by FDOH PBC, and shall defend any challenges to those permit conditions if necessary.

2. FDOH PBC Procedures.

- a. FDOH PBC will ascertain whether the fees remitted are correct, and retain those for which permit delegation has been granted by DEP. Pursuant to Rule 62-4.050(5)(c), F.A.C., when the FDOH PBC receives the proper fee made out to the FDOH PBC, the permit processing time requirements of Sections 120.60(2) and 403.0876, F.S., shall begin. If FDOH PBC receives a check for a permit application fee made out to DEP, it shall promptly return the check and notify the applicant that it must resubmit the check made out to FDOH PBC; however, the permit processing time requirements shall begin upon receipt of the original check.
- b. If the amount of submitted fee for such an application is not correct, FDOH PBC will promptly notify the applicant, and resolve the matter in accordance with DEP's permit fee rules (which may involve returning the application and any fee submitted to the applicant for correction and reapplication).
- c. When FDOH PBC determines that a fee is correct for an application that FDOH PBC is to process, FDOH PBC will promptly process the check.
- d. Within seven days of receiving the application, FDOH PBC will provide DEP with one electronic copy of the state solid waste permit application as received for insertion into OCULUS. For delegated facilities required to provide financial assurance, FDOH PBC shall also provide DEP's Solid Waste Section in Tallahassee with one electronic copy of the application and original financial documents within seven working days. FDOH PBC will review closure cost estimates and annual updates for compliance with DEP's rules within 30 days of receipt, and will forward its determination of adequacy to DEP's Solid Waste Section in Tallahassee.
- e. A copy of all correspondence related to a permit application will be kept on file by FDOH PBC. FDOH PBC will mail to

DEP an electronic copy of its proposed agency action on such permit application at the same time that FDOH PBC mails its intent to issue (or deny) to the applicant.

- f. FDOH PBC will review each application for completeness within 30 days of receipt by either FDOH PBC or DEP. If the application is determined to be incomplete, a letter of incompleteness will be sent by certified mail, return receipt requested, or via electronic mail to the applicant by FDOH PBC identifying and requesting the needed additional information. FDOH PBC will include all comments or questions provided by DEP in FDOH PBC's request for additional information.
 - g. When the application is determined to be complete, FDOH PBC will process the application as expeditiously as possible, and take final agency action on behalf of DEP on the complete application in accordance with the procedures and time frames that would apply to DEP, if DEP were taking final action on the application. FDOH PBC will provide DEP with a complete copy of each state solid waste permit issued and each solid waste permit denial issued.
3. Administrative Hearings and Final Agency Actions. All delegated solid waste permits received, processed, and acted upon by FDOH PBC on behalf of DEP will be accomplished in accordance with the appropriate state laws and DEP rules. Each permit issued or denied by FDOH PBC shall include a Notice of Rights informing affected persons that any petition, or request for an extension of time to file a petition, must be submitted to FDOH PBC and must conform with the requirements of Rule 62-110.106, F.A.C.
- a. Administrative Challenges to Permits. All delegated solid waste permitting decisions made by FDOH PBC shall be subject to the provisions of the Florida Administrative Procedure Act, Chapter 120, F.S., as if these decisions had been made by DEP. Each timely petition for formal administrative hearing on a delegated permit application received by FDOH PBC shall be evaluated for compliance with Chapter 120 and Rules 28-106 and 62-110.106, F.A.C. If FDOH PBC determines that a petition has met these requirements, it shall send a copy of the petition and any other relevant documents to the DEP Agency Clerk in the Office of General Counsel at Marjory Stoneman Douglas

Building, 3900 Commonwealth Blvd., Tallahassee, Florida 32399-3000, with a request to refer the petition to the Division of Administrative Hearings (DOAH) for the assignment of an Administrative Law Judge. This provision is intended to ensure that any costs imposed by DOAH for conducting a hearing, including any future budgetary provisions, are borne by DEP. DEP shall have the right, if it so chooses, to intervene in the DOAH proceeding. For all hearings challenging agency action on delegated solid waste permits, FDOH PBC shall be responsible for preparation for the hearings, appearance at the hearings, and the preparation and submittal of the proposed recommended orders to the assigned act. Prior to all final hearings, the FDOH PBC attorney shall consult with DEP attorneys regarding issues related to the case to ensure DEP concerns are addressed. All recommended orders resulting from such DOAH proceedings shall be referred to the DEP Secretary for final agency action. Exceptions and responses to exceptions shall be filed with the DEP's Office of General Counsel within the times set forth in the applicable DEP rules. Appeals of final orders entered following an administrative hearing shall be the responsibility of DEP. FDOH PBC may join the appeal as a party.

b. Interpretation of Rules. Legal interpretation of DEP rules shall be made by DEP. Legal interpretation of County rules shall be made by the FDOH PBC Attorney. If, in the course of processing solid waste permitting applications, the interpretation of a DEP rule becomes an issue, the FDOH PBC permit processor shall consult with DEP to determine the appropriate regulatory interpretation. If DEP is enforcing County rules, then DEP shall consult with FDOH PBC (who will consult with FDOH PBC Attorney as needed) concerning the appropriate regulatory interpretation. In the event that there is litigation concerning the interpretation of DEP's rules, then DEP shall provide testimony concerning the interpretation of those rules. To the extent that litigation involves interpretation of County rules, the County shall provide testimony concerning the interpretation of those rules.

(b) Non Delegated Permits. FDOH PBC will be given the opportunity to comment on the processing of applications for state solid waste permits

pertaining to facilities referenced in paragraph (1)(a) of this Part except for facilities owned or operated by the county.

1. DEP's Application Review Procedures. When DEP receives a solid waste permit application for a facility on which DEP is to take final agency action, DEP will (within three working days) forward one copy to FDOH PBC for review and comment DEP will provide FDOH PBC with sufficient opportunity to comment on the completeness of each such permit application, as well as to recommend issuance or denial. All incompleteness letters, intents to issue or deny, and any permits issued will be prepared and signed by DEP staff, and a copy of each will be sent to FDOH PBC at the time the original is issued.
 2. FDOH PBC's Application Review Procedures.
 - a. When FDOH PBC receives an application for a non-delegated state solid waste permit for which DEP is to take final agency action, FDOH PBC will return the application and associated fees to the applicant within three working days of receipt, with instructions to resubmit the application to DEP, or, at the applicant's request, FDOH PBC will forward the application and the associated fees to DEP with the specific understanding that the permit application timeclock will not start until DEP receives the application and fees.
 - b. Within 10 days of receipt of a copy of the application, FDOH PBC may review the application for completeness and notify DEP of any information that FDOH PBC would like to see addressed.
 3. Conflict Resolution. Although DEP has the responsibility for decisions on final agency action for all applications for non-delegated state solid waste permits, and for all delegated permits for which a state administrative hearing is held, an effort will be made to reach an acceptable agreement if a conflict arises between FDOH PBC and DEP with respect to permit issuance or denial.
- (3) Solid Waste Management Facility Compliance and Enforcement. DEP has adopted compliance assistance policies that are intended to provide opportunities for facilities with minor violations that do not result in any actual environmental harm to come into compliance without the need for formal enforcement activity. DEP acknowledges that that FDOH PBC also provides

compliance assistance opportunities built into its compliance effort. DEP and FDOH PBC agree, to the extent practical, they will provide compliance and assistance opportunities in a manner consistent with the State of Florida's compliance assistance memorandum dated November 16, 2011, **Attachment 4**. DEP and FDOH PBC shall conduct solid waste compliance and enforcement activities as follows:

- (a) **FDOH PBC's Authority.** Pursuant to the Palm Beach County Environmental Control Hearing Board's independent authority to regulate solid waste within the county, FDOH PBC (acting on behalf of the Board) may inspect the same facilities that DEP conducts compliance inspections for, and may conduct inspections of any solid waste facility more frequently than DEP. FDOH PBC may also conduct solid waste compliance inspections for DEP on a facility-by-facility basis when requested to do so by DEP. Consistent with the Board's authority and Section 403.182(9), F.S., nothing in this SOA prevents FDOH PBC from enforcing its own rules, regulations, or Orders. DEP remedies remain available to the FDOH PBC as an alternative to its own procedures.
- (b) **Inspections by DEP.** Pursuant to Section 403.182(6), F.S., DEP may inspect any solid waste facility or initiate enforcement against any entity in Palm Beach County. Unless circumstances make notice inappropriate, in the sole opinion of DEP, DEP will provide prior notification to FDOH PBC.
- (c) **FDOH PBC Enforcement Actions.** Enforcement of Solid Waste violations by FDOH PBC will be in accordance with the Special Acts. FDOH PBC may initiate solid waste enforcement actions to correct detected violations pursuant to its authority, or for DEP for those facilities delegated to FDOH PBC by DEP, or upon request.
- (d) **Exchange of Information.** All complaints, results of inspections, results of laboratory analyses and other such material in the possession of FDOH PBC shall be made available to DEP upon request or as otherwise specified in this SOA.
- (e) **Concurrent Action.** It is agreed that FDOH PBC will assume the enforcement lead for violations of state and local solid waste regulations within Palm Beach County for delegated facilities. FDOH PBC will routinely discuss its enforcement actions with DEP. If discussions with FDOH PBC reflect that FDOH PBC is resolving the violation in a timely and appropriate manner as prescribed by DEP, DEP will continue to defer enforcement to FDOH PBC. If FDOH PBC is unable to resolve the violation in a timely or appropriate manner as prescribed by DEP, DEP

will advise FDOH PBC of its intent to proceed with its own action. If DEP takes enforcement action against a facility delegated to FDOH PBC by DEP, it shall enforce any county regulations that are stricter or more stringent than DEP rules, in accordance with Section 403.182(6), F.S. FDOH PBC will continue to provide the necessary support for DEP's action as requested. A joint or consolidated enforcement action will be considered as an alternative to a unilateral DEP action, where feasible. If enforcement actions are initiated by DEP and FDOH PBC against the same source for the same violations, then the actions should be combined as a joint or consolidated enforcement action where possible. The FDOH PBC retains the right to resume an independent enforcement action should DEP fail to resolve the violation.

- (f) Enforcement Guidelines. DEP's penalty assessment guidelines will be followed by FDOH PBC. These guidelines will serve as the basis of FDOH PBC enforcement actions with respect to local, state, and federal solid waste requirements. FDOH PBC will maintain all penalty calculations for each enforcement action in the appropriate enforcement file, and will provide information regarding those calculations to DEP upon request. Should DEP determine that inconsistencies exist, FDOH PBC will review its guidelines and work with DEP to correct those inconsistencies.

Alternatively, where DEP and FDOH PBC agree it is appropriate, the FDOH PBC may elect to pursue enforcement action through its board, as allowed by Florida Law in Palm Beach County. Where such action is taken, the FDOH PBC shall maintain a record in the appropriate enforcement file of the penalty assessed by the board and other conditions set by the board to achieve compliance or resolve the action.

- (g) Coordination. Nothing in this agreement shall prohibit either DEP or FDOH PBC from taking enforcement action for violations of their respective rules. However, FDOH PBC must coordinate with DEP on any action it intends to pursue under Section 403.161, F.S., when such action is initiated against a delegated facility for violations of DEP rules or statutes.
- (h) Compliance and Enforcement Reporting Requirements. FDOH PBC shall report its state solid waste compliance and enforcement activities to DEP using SWIFT. FDOH PBC shall follow DEP policies and guidance documents in determining which activities should be entered into SWIFT. Activities entered into SWIFT shall be synchronized within five working days of each activity.

- (4) Solid Waste Management Facility Compliance Monitoring Procedures. Compliance monitoring shall be done according to procedures established by applicable state statutes, rules, and guidelines at frequencies required therein or as specified in the appropriate facility permit. Associated quality assurance/quality control techniques shall be followed. Inspection frequency shall be consistent with the Department's Level of Service Goals for Solid Waste Facilities.
- (5) Complaints. FDOH PBC will receive, respond to, and investigate all complaints from DEP and from citizens relating to solid waste management within the county. Complaints will be investigated in a timely fashion and shall be entered into WACS and SWIFT or FDOH PBC database. Records will be kept of all complaints.
 - (a) Referral of Complaints from DEP to FDOH PBC. DEP will refer any complaints that it receives about solid waste situations within the county to FDOH PBC for investigation, except complaints concerning non-delegated facilities. However, DEP reserves the right to investigate any complaints at its own discretion, and will provide notice to the FDOH PBC unless circumstances make notice inappropriate, in the sole opinion of DEP (e.g., complaints involving sources for which DEP has a special interest).
 - (b) Response by FDOH PBC. If a violation of a local, state or federal solid waste standard, rule, or permit condition is determined to have occurred, FDOH PBC will notify the responsible person, attempt to bring about compliance, and inform the complainant of the action taken. FDOH PBC may take enforcement action in accordance with this SOA.

PART IV

MISCELLANEOUS PROVISIONS

- (1) General Information Requests. FDOH PBC will answer telephone inquiries and written requests from individual citizens, the news media, and other organizations for general information about solid waste or about specific program activities or solid waste situations. As time and resources allow, FDOH PBC employees will speak to schools, civic groups, and other interested organizations when requested to do so. Inquiries about DEP solid waste rules that require interpretation and guidance will be referred to DEP for reply.
- (2) Solid Waste Program Computer Information Systems. FDOH PBC will access DEP's computer information systems and assure sufficient availability of on-line

time to accomplish the various updates required under this SOA. FDOH PBC will also designate an individual to serve as the agency's computer information system contact. FDOH PBC will be responsible for maintaining users' manuals, distributing information on revisions to all users in the agency, and notifying the computer information system coordinator in DEP of any systems-related problems or training needs that exist within the agency.

- (3) Interpretation of Laws, Ordinances, Rules and Regulations. The governmental agency responsible for promulgating the original law, ordinance, rule or regulation will be the primary interpretative authority.
 - (a) DEP Rules. DEP will interpret the basic permitting rules and the solid waste and related administrative rules adopted in Title 62, F.A.C., but will defer to the United States Environmental Protection Agency for interpretations of federal rules adopted verbatim or by reference.
 - (b) County Rules. The FDOH PBC Attorney will interpret rules locally adopted, other than DEP rules adopted verbatim by reference. If the FDOH PBC intends to apply a DEP rule in a more stringent way than intended by DEP, the FDOH PBC must adopt the subject rule along with its intended interpretation as a local rule. After such adoption, the rule must be submitted to DEP, as set forth in Section 5 of Part I above.
 - (c) Requests for Interpretations. All requests for interpretation will be answered as expeditiously as possible by the originating agency. Requests for an interpretation of a DEP rule or related procedural or administrative rule are to be referred to DEP in writing. Requests for an interpretation of any local rule or ordinance are to be referred to FDOH PBC (who will consult with the FDOH PBC Attorney as needed) in writing.
- (4) Natural Disasters. DEP and FDOH PBC agree to coordinate and cooperate with each other and with other agencies as appropriate to respond to natural disasters. In the event that DEP issues an Emergency Order for management of disaster debris, FDOH PBC will issue the necessary authorizations for debris staging areas and will conduct inspections of such staging areas. DEP will take the lead in any enforcement actions taken against staging areas operated by Palm Beach County or its agencies.
- (5) Inquiries. Inquiries from the Governor's Office, Cabinet, and members of the Legislature regarding FDOH PBC delegated facilities shall be forwarded, as applicable, to the FDOH PBC Director. FDOH PBC shall respond to any inquiries from the Governor's Office, Cabinet, and members of the Legislature

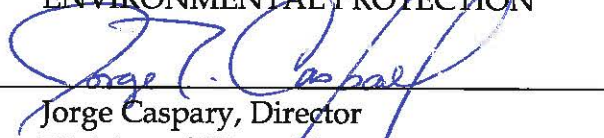
within seven days, and shall provide copies of the responses to the District and Division.

- (6) Whenever DEP or FDOH PBC are required to provide or mail copies of documents to each other, each agency shall provide such documents by electronic mail whenever possible and practical. Whenever FDOH PBC is required to provide or mail copies of documents to other parties, FDOH PBC may do so via electronic mail provided the recipient agrees to receive the document by electronic mail and provided FDOH PBC has a procedure to verify receipt of the document.
- (7) Effective Date and Modification Dates. Subsequent approvals of modifications to this SOA shall not change the effective date.

FLORIDA DEPARTMENT OF HEALTH
PALM BEACH COUNTY (FDOH PBC)

STATE OF FLORIDA
DEPARTMENT OF
ENVIRONMENTAL PROTECTION

BY 
Alina Alonzo, MD, Director

BY 
Jorge Caspary, Director
Division of Waste Management

DATE: 3/4/13

DATE: 3/12/2013

LIST OF ATTACHMENTS

1. Lead and Support Agency Assignments
2. FDOH PBC Organizational Charts
3. Procedures for Submitting Fees
4. DEP Compliance Assistance Memorandum

Attachment 1

LEAD AND SUPPORT AGENCY ASSIGNMENTS For Permitting, Compliance and Enforcement Activities

Program or Program Element Assignment	Agency	
	FDOH PBC	DEP
Solid Waste Program		
1. Class I Landfills, WTEs, Ash Landfills, County Owned or Operated Facilities ¹ , and any other SWMF not delegated	Support	Lead
2. Compost Facilities		Lead Support
3. Waste Processing Facilities	Lead	Support
4. Off-Site Disposal and/or Recycling of Construction and Demolition Debris	Lead	Support
5. Waste Tire Collection Centers and Processing Facilities		Lead Support
6. Variances, Alternate Procedure	Support	Lead
7. Non-County Owned Class III Landfills	Lead	Support
8. Long Term Care at Non-County Owned Class I, II and III Landfills	Lead	Support
9. Ground Water Monitoring Only Plans at Non-County Owned Closed Landfills	Lead	Support
10. Compliance and Enforcement for Yard		

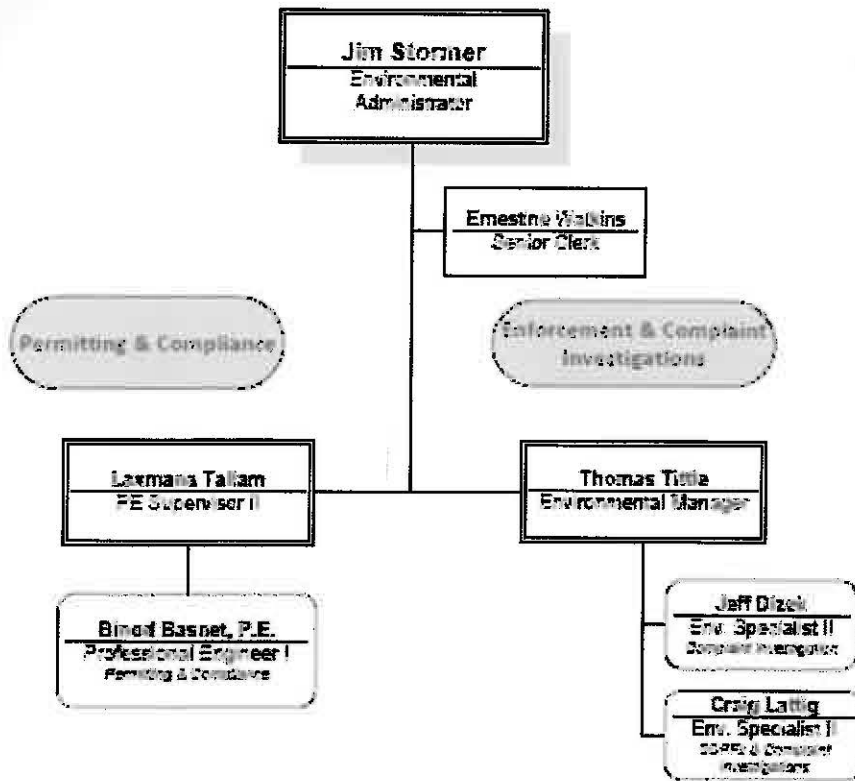
¹ This term includes county-owned or operated facilities whose owner or operator would be represented by county legal staff (in enforcement or permitting action), and facilities owned or operated by county commissioners and health department facilities.

Trash Processing Facilities	Lead	Support
11. Disaster Debris Management Sites	Lead	Support

Attachment 2

FDOH PBC Organizational Charts

**Palm Beach County Health Department
Solid Waste Program**



Attachment 3

Procedure for Submitting Fees to DEP for Permit Applications Processed by FDOH PBC

This procedure will ensure that permitting reimbursements received from FDOH PBC will be properly processed and accounted for in DEP Cash Receiving Application (CRA) and Permitting Application (PA) Databases.

Step 1

FDOH PBC will send an e-mail with permitting information from the previous quarter to revenue@dep.state.fl.us. Information required by the District will include the PA site number-project number-permit type, site name, date application received, and the delegated amount. Group and total by object code. The following is an example.

Object Code 2306			
53333-002-SCMM	UHEL POLLY HAULING INC	13-JAN-2000	50.00
133579-006-SCMM	ATLAS-DAVIE, INC	22-MAR-2000	50.00
100.00			
Object Code 2307			
56057-002-SO20	AIRPORT RECYCLING SPECIALISTS	17-MAR-2000	400.00
133366-003-SO20	REUTER RECYCLING OF FLORIDA	20-DEC-1999	400.00
			800.00
Object Code 2311			
168356-001-WT02	TIRE RECYCLING SERVICES	24-MAR-2000	
250.00	250.00		
Total Reimbursement			\$1150.00

The District Solid Waste Program will verify that the information is correct.

Step 2

FDOH PBC shall send payment to DEP Bureau of Finance and Accounting (DEP Finance) in Tallahassee. The information from Step 1 shall be attached to, or printed directly onto, the check. The memo shall include the terms "Delegated Solid Waste Permit Reimbursement" and "Cash Listing Area: SEPB." Alternatively, the following is an example of the minimum information that is required to process the reimbursement and could be printed directly onto the check.

Delegated Solid Waste Permit Reimbursement	
Cash Listing Area: SEPB	
Object Code 2306	\$ 100.00
Object Code 2307	\$ 800.00
Object Code 2311	\$ 250.00
Total	\$1150.00

Step 3

DEP Finance will process the check and log the remittance into CRA. A payment number will be assigned to each object code of the remittance.

DEP Finance will mail a cash listing receipt that includes payment numbers, object codes and amounts to FDOH PBC. A copy will be sent to the District Office. FDOH PBC will verify that the funds have been properly allocated. **Once the information is verified, FDOH PBC will link the payments in PA.** If there are any errors or any difficulties encountered in linking, FDOH PBC shall contact the District Office.

FDOH PBC shall notify the District Office if an acknowledgement of payment is not received from Tallahassee within 20 days of check submittal. FDOH PBC shall provide the check number to the District. The District will initiate an investigation.

Attachment 4.

DEP Compliance Assistance Memorandum



Florida Department of
Environmental Protection
Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Rick Scott
Governor

Jennifer Carroll
Lt. Governor

Herschel I.
Vinyard Jr.
Secretary

TO: Regulatory Directors

FROM: Jeff Littlejohn, Deputy Secretary, Regulatory Programs *JML*

DATE: November 16, 2011

SUBJECT: Regulatory Compliance

Thank you all for the good discussions about compliance assistance and enforcement at the Secretary's strategic planning meeting and our subsequent directors meeting in July. I appreciate your collective experience and the careful thought you continue to give these issues. Based on your continuing input and further reflection, I intend the regulatory programs to move forward under the following guidance.

Compliance Assistance

Keep uppermost in your mind that the department's primary *regulatory* objective is compliance with Florida's environmental laws. As such, compliance assistance must be integral and fundamental to our work.

Please expand your outreach, education and technical assistance efforts to help your constituents avoid violations. Reach out to local small business organizations, trade groups, homeowners associations, contractors, local governments, and similar groups to arrange regular and continuing educational meetings, Q&A sessions, permitting and compliance guidance workshops, etc. You provided Carla with examples of the kind of outreach assistance you undertake (attached). We need to actively transfer effective strategies across District and Division boundaries – and we will discuss how best to do so at our upcoming directors meeting. Compliance assistance must be integral and fundamental to your work. I expect the districts and divisions to work together to develop and implement well thought out programs with specific compliance objectives.

I also want to make sure we routinely offer the opportunity for pre-application meetings. These are particularly important for applicants with limited access to

consulting resources. They are also valuable for projects you believe are likely to prove controversial, in order to make sure the ground rules are clear up front and to understand the applicant's objectives.

Pre-application and compliance assistance is hard work and takes time. It is essential, then, to track it in terms of time and effort—and results. What's the pay off? Do our actions improve compliance over time and, if so, to what measurable degree? Can we determine which actions are most effective? Can we use the information to adapt and better target strategies? Cause and effect relationships may be difficult to establish, but we will work on that problem collectively over time. We also must have data systems to account for the time, effort and results; and we have to transfer knowledge—successful models should be expanded, unsuccessful ones dropped.

Formal assistance is essential, but your day-to-day encounters with regulated interests and the general public are the best opportunity we have to gain good will, trust and responsiveness—all of which will improve compliance and environmental stewardship. Build good relationships every day. Every phone call, every drop-in visitor, every inspection, every meeting of any sort is a forum for positive interaction. That does not mean your answer is always "yes"—it does mean that every transaction must be professional, respectful and helpful.

Inspections and Enforcement

One tool for delivering compliance assistance is, of course, field inspections. Inspections are not only a means of detecting violations and making responsible decisions about enforcement, they also are a gauge by which to identify patterns and trends in environmental behavior in order to target compliance assistance. Patterns may involve a single actor over time, a type of activity, an area, or an industry sector, for example. While they may identify those who warrant meaningful enforcement, patterns may also reflect confusing regulatory requirements or inconsistencies in our application of requirements, both of which we need to fix. Understanding patterns requires attention and analysis. The results should be factored into future actions—so we can adapt and improve.

Where noncompliance occurs, despite your best efforts at education and outreach, your first consideration should be whether you can bring about a return to compliance without enforcement. The department's longstanding practice, explicitly set forth in the Enforcement Manual, recognizes that if compliance can be achieved without enforcement, the outcome is usually timelier and less costly than formal measures, especially legal proceedings, and allows the focus to be on fixing the problem, achieving positive environmental results, and moving forward.

Compliance without enforcement is certainly not appropriate in all situations, but it is the right approach when a violation is limited in scope, the violator is unaware or genuinely confused about the requirements and is cooperative and willing to rectify the situation and restore any damage. (Consideration must always be given to federal delegation agreements, which may prescribe an enforcement response.) Such situations typically can be resolved by informal agreement or letter, with agency follow-up to make sure the issue is resolved. If corrective actions are complicated and time consuming, a consent order making everyone's responsibilities clear may be a better choice.

In some instances, parties report on themselves when they discover an inadvertent violation. The department should encourage this behavior, which shows good faith on the part of the reporter and helps us quickly reach a positive environmental result. These situations may be handled without enforcement as well if the violation is limited in scope and the violator is not a chronic offender (unlikely for a self-reporter) and is willing to fix the problem and restore any damage. Again, if corrective actions are simple, the situation can be resolved by informal agreement or letter, with agency follow-up. If corrective actions are complicated, a consent order may prove necessary. (And, again, federal delegation agreement requirements must be considered.)

Determining whether achieving compliance without enforcement is the right approach is not always straightforward. Determining the right penalties when formal enforcement becomes necessary. The direction provided by the Enforcement Manual, including the specific guidelines for characterizing different types of violations, is essential to promoting consistent practices. The division offices and the Office of General Counsel are positioned to help make these judgments and review outcomes to assure that we are consistent. With that in mind, I will be asking the divisions and OGC to make recommendations to me on reviewing penalties and other compliance and enforcement practices.