

APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS
AUG 17 2010 CS/BS

AIR POLLUTION CONTROL
SPECIFIC OPERATING AGREEMENT

BETWEEN THE
STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP)
AND
ORANGE COUNTY

PART I
BACKGROUND

- 1) **Prior Operating Agreements.** On April 3, 1989, The Department of Environmental Protection (DEP or Department) and the Environmental Protection Division (EPD or Local Agency) of Orange County entered into a General Operating Agreement (GOA). A copy of the GOA is on file at the EPD and the DEP's Division of Air Resource Management (DARM).

The GOA, executed pursuant to s. 403.182, Florida Statutes (F.S.), specifically requires that the Secretary of the Department must further authorize the duties a local program will undertake in accordance with a Specific Operating Agreement (SOA). The SOA must specify the DEP programs or duties to be conducted by the Local Agency and will include such specifics terms as are necessary to clearly delineate each party's rights and obligations. Therefore, this SOA constitutes the sole agreement defining the rights and responsibilities of the Local Agency regarding the air program under ss. 403.182 and 403.087, F.S. and the GOA. This SOA recognizes the Local Agency as an "approved local air pollution control program" for purposes of ss. 320.03 and 376.60, F.S. In the event the Department disapproves the local air pollution control program, for cause as provided in s. 403.182(4), F.S., the Local Agency reserves the rights under the law to pursue all rights the Local Agency may be entitled to under ss. 320.03 and 376.60, F.S.

This SOA supersedes all provisions relating to air pollution control of all prior SOA's in Orange County. A copy of the GOA and SOA are on file at the Local Agency, the DEP's Division of Air Resource Management (DARM)

- 2) **County Authority.** EPD, a division of Orange County government, was created by the Orange County Air and Water Pollution Control Act, Chapter 67-1830, Laws of Florida and exists under the Orange County Charter and the County's home rule authority. The powers and duties of the Local Agency established by the ordinances, set forth in the Orange County Code and administrative regulations are incorporated herein by reference. Copies of the Special Acts are available at the Local Agency. Pursuant to s. 403.182(9), F.S., nothing in this agreement will diminish the Local Agency's independent authority as established by law, nor hinder the Local Agency from independently enforcing its own rules, regulations, or orders.

- 3) **General Nomenclature.** Throughout this document, “county” will mean Orange County and “Local Agency” will mean EPD. Likewise, “DEP” will mean the Florida Department of Environmental Protection and “DARM” will mean DEP’s Division of Air Resource Management. “EPA” will mean the U.S. Environmental Protection Agency.
- 4) **DEP’s Role.** DEP administers the following U.S. Environmental Protection Agency approved or EPA delegated programs: the State Implementation Plan (SIP), the Title V permit program and programs related to sections 7411 and 7412 of Title 42, United States Code (U.S.C.). Pursuant to the EPA delegations or approvals, DEP cannot delegate or sub-delegate such authorities to any approved local air pollution control program. However, DEP, collectively through this SOA, the ambient monitoring contract, and the Title V contract (as applicable) may authorize the Local Agency to act on its behalf for purposes of federally-delegated or approved programs. Furthermore, this SOA and the contracts mentioned above constitute the principal agreement between the Local Agency and DEP in regard to air pollution control responsibilities. Compensation for services under the ambient monitoring and Title V contracts is contingent upon annual legislative appropriations. Pursuant to s. 403.182, F.S., DEP may assume and retain jurisdiction over a particular area, category, or program of air pollution control.
- 5) **Objective.** The intent of this SOA is to establish the basis upon which DEP and the Local Agency will work together to protect the air quality of the county according to the provisions of s. 403.182, F.S., which are incorporated herein by reference.

PART II
ADMINISTRATION OF THE SOA

- 1) Commencement. This SOA will become effective on the date this document is signed by both DEP and the Local Agency. Notwithstanding the provisions of the GOA, this SOA is entered into by the DEP's Director, Division of Air Resource Management, and the Mayor or his designee, both of whom have the authority to execute this SOA and satisfy its terms and conditions.
- 2) Expiration. This SOA will expire at midnight on June 30th three years after this agreement is signed by both DEP and the Local Agency. It is the expectation of the parties that SOA renewals will be negotiated timely well in advance of the expiration deadline. However, if parties are in good faith negotiations to renew the SOA at the time of the expiration date, the SOA will be automatically extended during the period of negotiation and will remain in effect until negotiations have ended and a new SOA has been signed, or the parties do not reach agreement on a new SOA in which case the termination procedures of this Part, paragraph 3), will be followed.
- 3) Termination Procedures.
 - a) Termination of SOA. The local air pollution control program or DEP may terminate this SOA without cause by providing written notice to the other party at least ninety (90) days prior to the effective date of such termination.
 - b) Distribution of Funds. Within ninety (90) days of termination, the Local Agency will refund to DEP any financial support provided by DEP for air pollution control which has not been obligated or expended by the Local Agency for that purpose. Conversely, DEP will pay the Local Agency a pro rata share of any such financial support due during that budgetary period which has been obligated or funded by the Local Agency for air pollution control before the effective date of termination.
- 4) Modification. This SOA may be modified in writing at any time by mutual consent of DEP and the Local Agency. The modification will become effective on the date executed by both parties.
- 5) Agreement Conflicts. If this SOA conflicts with any part of the GOA, then that part of the GOA will not apply to DEP or the Local Agency with respect to the air pollution control program in the county.
- 6) Severability. If any part of this SOA is found invalid or unenforceable by any Court or any administrative proceeding, the remaining parts of this SOA will not be affected if DEP and the Local Agency 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.

7) Interpretation of Laws, Ordinances, Rules, and Regulations.

- a) **Interpretation of Rules.** The governmental agency responsible for promulgating a law, ordinance, rule or regulation will be the primary interpretative authority for that law, ordinance, rule or regulation. In the event there is litigation concerning interpretation of a DEP or Local Agency rules, the governmental agency responsible for promulgation of the questioned rule will provide testimony concerning the interpretation. All requests for interpretation will be answered as expeditiously as possible. The term "rule" as applied to a local program refers to a local program's duly adopted ordinances, regulations, rules or other local law.
- b) **Federally-Delegated or Approved Programs.** It is recognized by the Local Agency that EPA has approved or delegated to DEP all of the federal programs listed in Part I, paragraph 4). The Local Agency recognizes that DEP must take final responsibility for any actions or activities related to these federally-delegated or approved programs. DEP has overriding authority regarding any conflicts arising from the Local Agency acting on behalf of DEP in the administration of these federally-delegated or approved programs. For these reasons and to ensure consistent state-wide implementation, DEP has a responsibility to oversee the dissemination of information related to these federally delegated and approved programs and will be disseminated as follows:
 - i) DARM is responsible for disseminating official policy and guidance regarding the implementation of these federally-delegated or approved programs to the DEP district offices and approved local air pollution control programs.
 - ii) The Local Agency may distribute pre-existing state or federal documents (e.g., EPA guidance documents or applicability determinations) regarding federally-delegated or approved programs to the public or regulated entities operating in its jurisdiction. The Local Agency will provide a copy of such information to DARM if requested.
 - iii) To the extent the Local Agency has adopted rules more stringent than a federally-delegated or approved program as set forth in this Part, the Local Agency may distribute information to the public, or regulated entities operating in its jurisdiction relating to the applicability, interpretation, or implementation of the Local Agency's own rule. When distributing this information, the Local Agency will provide a copy to DARM if requested.
 - iv) The Local Agency may create informational material related to the applicability, interpretation, or implementation of federally- delegated or approved programs for the purposes of assisting its regulated community, or other DEP district or approved local air pollution control offices. When distributing this information, the Local Agency will provide a copy to DARM if requested.
- c) **EPA Regulations.** EPA will interpret its regulations such as National Ambient Air Quality Standards (NAAQS), New Source Performance Standards (NSPS), and National Emission Standards for Hazardous Air Pollutants (NESHAP). In the event the Local Agency and DARM disagree about the applicability or requirements of an EPA

Regulation, the Local Agency may request that DARM seek clarification from EPA and DARM will be the agency responsible for coordinating contact by both parties with EPA regarding such requests for clarification. Whether the request is verbal or in writing, DARM will coordinate the contact with the Local Agency so that neither party works unilaterally with EPA.

- d) **SIP Revisions**. SIP revisions developed by DEP are considered state-originated rules, except when EPA language is used verbatim.
- 8) **Approval of County Rules**. DEP has determined that the Local Agency's existing rules pertaining to air pollution control, Chapter 15, Article III and XIV of the Orange County Ordinance, pertaining to air pollution control in Orange County, are compatible with or stricter or more extensive than those imposed by Chapter 403, F.S., and rules issued there under. This determination is not applicable to rules not listed above; to administration or enforcement of any authority other than DEP's Chapter 403, F.S. and EPA's Clean Air Act (CAA) authority; or pertaining to noise pollution.
 - a) **Future County Rules**. If the Local Agency amends any existing ordinances or rules pertaining to air pollution control, 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 those imposed by Chapter 403, F.S., and rules adopted there under. If the Local Agency attempts to implement or enforce such rules, the Local Agency cannot assert it is acting on behalf of DEP in such circumstances. Nothing in this SOA will limit the Local Agency from adopting more stringent local rules. After such adoption, the rule must be submitted to DEP as set forth in this Part.
 - b) **Remaining Current with DEP Referenced Rules**. In the event DEP renames, amends, adds or deletes F.A.C. regulations referenced by the Local Agency, the Local Agency understands that failure to incorporate the changes in the local rules or ordinances within twelve (12) months from the time the state makes such changes may result in DEP determining that such local rules or ordinances are incompatible with state requirements.
- 9) **Adequate Administrative and Judicial Processes**. DEP has determined that the Local Agency provides for enforcement of its requirements by appropriate administrative and judicial processes. DEP remedies remain available to the Local Agency as an alternative to its own procedures.
- 10) **Adequate Staff**. DEP has determined that the Local Agency has the adequate and appropriate administration, staff, and financial resources to effectively and efficiently carry out an "approved local air pollution control program" in its county.

PART III **AIR PROGRAM MANAGEMENT**

- 1) **Budget.** DARM and the Local Agency will, upon request, exchange summaries of their respective approved budgets, outlining funding and staffing for the respective air programs.
- 2) **Adequate Staff.** The Local Agency will maintain an adequate permitting, ambient monitoring, mobile source, emissions monitoring, compliance and enforcement staff to satisfy the requirements of this SOA. The Local Agency's organizational chart will be periodically updated or supplemented by the Local Agency when there are changes of key personnel or organizational structure.
- 3) **Plans.** DARM and the Local Agency will coordinate and annually exchange, or otherwise make available, their respective EPA 105 air planning agreements, upon request of the other party.
- 4) **SIP and 111(d) Plan Revisions.** The Local Agency will coordinate with and assist DARM in the preparation and submittal to EPA of all SIP and 111(d) plan revisions which may affect the Local Agency. DARM will be responsible for determining the need and relative priority for SIP revisions.
- 5) **Proposed Federal Air Rules.** The Local Agency will copy DARM, and vice versa, on all responses to proposed federal air rules published in the Federal Register.
- 6) **Evaluations and Audits.** DEP will periodically conduct program performance evaluations, financial audits, and Title V audits of the Local Agency's implementation of air programs and activities. The ambient monitoring program activity evaluations are addressed in Part VII.
 - a) **Performance Evaluations.** DARM may conduct performance evaluations to determine if permit application reviews, permit issuance, emissions inventory, mobile-source activities, compliance activities, and enforcement actions are being effectively conducted in accordance with state requirements and DEP policies.
 - b) **Financial Audits.** The DEP's Office of Inspector General (OIG) may conduct financial audits to determine if state funds received by the Local Agency for its air program have been properly accounted for and funds have been spent appropriately. Upon request of DEP's OIG, the Local Agency is responsible for providing county financial records relating to expenditures from tag fees received under s. 320.03 (6), F.S., asbestos fees received under s. 376.60, F.S., and reimbursements from the Title V and Ambient Monitoring contracts entered into between DEP and the Local Agency.
 - c) **Title V Program Audit.** Pursuant to s. 403.0872(11)(c), F.S., DEP is required to audit its Title V Program once every two years. The purpose of the audit is to determine whether the annual operation license fees collected by the department are used solely to support any reasonable direct and indirect costs listed in 403.0872(11)(b), F.S.

- d) Coordination of Evaluations and Audits. To the extent practicable, DEP and the Local Agency will coordinate as necessary during evaluations and audits. Where possible, DEP will provide the Local Agency with the opportunity to prepare its response and comment on draft findings. In instances when DEP is subject to an evaluation or audit by a federal agency, and DEP requests the Local Agency's participation, the Local Agency will provide its responses through DEP. In the event the Local Agency is contacted directly by a federal agency regarding any program listed in Part I, paragraph 3), the Local Agency will coordinate its response with DEP. The Local Agency also will provide DEP with a copy of its response.
- 7) Records. After the effective date of this SOA, air program records associated with this SOA or contracts between DEP and Local Agency will be made available to DEP upon request and will be retained by the Local Agency in accordance with, and for the duration specified in: Chapter 119, F.S., DEP's and the Department of State's records retention schedules, any DEP and Local Agency contracts, and the Department of State's regulations regarding electronic records (if applicable). If not otherwise specified, air program records will be maintained for a minimum of five (5) years. The Local Agency may reach agreement with the DEP district office such that the DEP district office will retain the local agency's air program records in accordance with the above requirements.
- 8) Electronic Communications. Any reference in this SOA to "mail" includes electronic mail as described at Chapter 668, F.S. All reference to "certified mail" includes electronic mail with a receipt notification. All electronic communications relating to a permitting activity will be considered part of the permitting file and will be retained as part of the file. All electronic communications relating to a compliance or enforcement activity will be considered part of the compliance or enforcement file and will be retained as part of the file. Nothing in this SOA will preclude use of electronic files or electronic communications provided that such files and communications are easily identifiable and publicly accessible and provided that such files meet all formatting requirements detailed elsewhere in this SOA or by contract.
- 9) General Information Requests. As time and resources allow, the Local Agency will respond to and attend meetings with individual citizens, the news media, schools, civic groups, and other organizations to provide information about air pollution or about specific program activities.
- 10) Training and Meetings. The Local Agency will ensure that its employees have the requisite training to properly accomplish their work assignments. Appropriate Local Agency staff will attend the following specific training events and meetings:
 - a) Annual Air Meeting;
 - b) Air Permit Engineers' Specialty Meeting;
 - c) Air Compliance and Enforcement Specialty Meeting;
 - d) Asbestos Inspector Training Course (EPA or TREO or equivalent);
 - e) Visible Emissions Observation Training;
 - f) Ambient Monitoring and Quality Assurance Workshops;
 - g) Air Monitoring Advisory Committee Meeting;

- h) DEP's Compliance & Enforcement Meeting or Workshop;
- i) Air Council Meetings;
- j) Monthly Air Specialty Teleconferences; and
- k) Others as may be requested by DEP.

As time and resources allow, the Local Agency staff will also attend training sessions offered by DEP regarding significant program changes, as well as EPA APTI training courses and SESARM/Metro4 training courses.

- 11) Legal. The Local Agency must have access to adequate legal staff to comply with the permitting and enforcement requirements of this SOA.
- 12) Use of Tag Fees. Use of tag fees by the Local Agency will be provided by s. 320.03(6), F.S. To provide consistency with implementing program requirements, the Local Agency agrees to work closely with DEP to address questions, as they arise, regarding the use of tag fees for program activities. The Local Agency will summarize its activities that have been funded by tag fees in a report to DARM submitted with the tag fee certification, sixty (60) days after the end of each county fiscal year.
- 13) Collection of Title V Emission Fees. Any payments for Title V annual emission fees and forms submitted to the Local Agency will be promptly returned to the applicant with a notice to submit the payment directly to DARM. A copy of the notice will be provided to DARM.
- 14) Local Fee Prohibited for Title V Sources. In accordance with s. 403.873, F.S., the Local Agency will collect no fees from Title V sources, except asbestos fees collected pursuant to s. 376.60, F.S.
- 15) Distribution of Title V Fees. The Local Agency will enter into a Title V contract with DARM each state fiscal year to receive compensation for the Title V Program work that is referenced in this SOA. Funding for the annual Title V Contract is contingent upon the availability of legislative budget authority each state fiscal year.
- 16) Emergency Situations. In emergency situations, the Local Agency will defer to DEP's decisions regarding enforcement discretion and interpretations of DEP air program rules and permit conditions, will abide by any air related portions of a DEP Emergency Order issued by DEP, and will not take action contrary to DEP's decisions. This does not preclude the Local Agency from taking independent action on its own unique local rules (those that are not simply duplicative of DEP requirements).

PART IV
PERMITTING RESPONSIBILITIES

1) General Requirements.

- a) Local Air Permitting. By this SOA, DEP authorizes the Local Agency to process federally-delegated air permits on its behalf, and delegates the authority to process or issue state air permits in accordance with the procedures and conditions of this Part. The federally-delegated permit programs mentioned above have been delegated to DEP and are not considered as delegations to the Local Agency under s. 403.182(2), F.S. DEP retains the authority to take final action on all permit applications.
- b) Roles and Responsibilities. Pursuant to this SOA, the Local Agency assumes the responsibility to receive, process and take final agency action on air permit applications within its county that otherwise would be administered by DEP's district office, except for applications for the following permits or categories of air sources:
 - i) Electrical power plants and waste-to-energy facilities.
 - ii) Permits for which local air pollution programs are precluded from taking final agency action under 403.0872, F.S.
 - iii) County-owned or operated facilities.
 - iv) Prevention of Significant Deterioration (PSD) and New Source Review (NSR) construction permits.
 - v) General Permit facilities.
 - vi) Construction permits subject to processing under state "expedited permitting" statutes.
 - vii) Specific Facilities:
 - (1) Stanton Energy Center
 - (2) Reedy Creek Improvement District
 - (3) Walt Disney World
- c) Variances and Waivers. The Local Agency will not issue variances and waivers from state permitting requirements.
- d) PSD Determinations. The Local Agency will consult with DARM when establishing operational and emission limits to avoid PSD, or making determinations that facility changes are not subject to PSD.
- e) EPSAP. The Local Agency will use the Electronic Permit Submittal and Processing System (EPSAP) database (or subsequent data systems) when processing permitting applications electronically.
- f) Public Comments. The Local Agency will accept and respond to public comments and requests for public meetings as required by DEP rules and statutes.

- g) Misdirected Applications. Except as noted in this Part, when the Local Agency receives an application for a state air permit for which DEP is to take final agency action, the Local Agency will return the application to the applicant with instructions to submit the application and fees to DEP and vice versa when DEP receives a Local Agency permit application.
 - h) Permit Fees. The Local Agency will retain eighty (80) percent of the state fees for non-Title V permits. The remaining twenty (20) percent of the fees will be returned to DEP Tallahassee on a monthly basis by means of a single check and an attached "Permit Revenue Roster" (see Attachment 1), twenty (20) days following the previous month. Permit fee refunds to the applicant may be deducted from the subsequent month's submittal and will be adequately reflected on the permit revenue roster.
- 2) Specific Conditions of Local Air Permitting. In addition to the other provisions of this SOA regarding air permitting, the Local Agency will comply with the following specific requirements as a condition of maintaining this air permitting authority:
- a) Professional Engineer Requirement. The Local Agency will review permit applications and draft specific permit conditions under the oversight of a professional engineer licensed by the State of Florida. The professional engineer will provide a professional engineering certification of all technical evaluations of permit applications as required by Florida law, as well as certifications consistent with DARM guidance.
 - b) Permitting Provisions. The Local Agency will comply with applicable permitting provisions of the Florida Air and Water Pollution Control Act, Chapter 403, F.S., the Florida Administrative Procedures Act (APA), Chapter 120, F.S.; and DEP permitting and air pollution control rules regarding permit processing, permit content and timeframes for Title V and non-Title V permit applications. The Local Agency will follow the DARM permitting guidance procedures, including DEP's procedures for electronic submittals when available, and will copy the appropriate district office on all permit related actions.
 - c) Exemptions. The Local Agency is authorized to make determinations of exemption pursuant to DEP rule 62-4.040, F.A.C. A copy of all pertinent correspondence related to such exemption will be submitted to DEP's district office.
 - d) Forms. The Local Agency will use permitting forms adopted by DEP. The local air program may affix its name and logo on the forms.
 - e) ARMS Database. The Local Agency will have full access to the DEP Air Resource Management System (ARMS) database and will enter all permit-related data as required by Part VIII and DARM guidance.
 - f) Legal Resources. The Local Agency will have the legal resources to defend the Local Agency permitting decisions in Administrative Hearings under Chapter 120, F.S., or any

other legal proceedings. Laws, ordinances, rules and regulations will be interpreted according to Part II of this SOA.

- g) Administrative Hearings and Final Agency Actions for Permits. All air permitting decisions made by the Local Agency on behalf of DEP will be subject to the provisions of the Florida Administrative Procedures Act (APA), Chapter 120, F.S., as if these decisions had been made by DEP.
 - i) Petitions. All petitions for formal administrative hearings on air permitting applications processed by the Local Agency will be processed pursuant to sections 120.569 and 120.57, F.S. and the applicable rules of the Administration Commission and DEP. The Local Agency will use the Florida Division of Administrative Hearings (DOAH) as fact-finder for all air permitting formal administrative hearings, unless otherwise explicitly directed by DEP. At the time of referral of a petition to DOAH, a copy of the notice of referral, the petition, and the challenged permitting decision will be mailed to DEP's Office of General Counsel (OGC). To the extent that DEP's technical or rule interpretation or guidance is at issue, DEP will provide technical assistance to the Local Agency. DEP retains the right to be a party to any hearing or to intervene in the DOAH proceeding.
 - ii) Hearings. For all hearings challenging agency action on air permits, the Local Agency will be responsible for preparation for the hearings, appearance at the hearings, and preparation and submittal of the proposed recommended orders to the assigned administrative law judge. No agreement for mediation pursuant to s.120.573, F.S., or for summary hearing pursuant to s.120.574, F.S., will be made by the Local Agency unless DEP has been joined as a party to the dispute and has also agreed to the mediation or summary hearing. Prior to all final hearings, the Local Agency's attorneys will consult with DEP's OGC regarding significant issues. All recommended orders resulting from DOAH hearings will be referred to DEP's OGC for preparation of final agency action. Exceptions and responses to exceptions will be filed with DEP's OGC within the times set forth in rule 28-106, F.A.C.
 - iii) Final Orders. DEP retains sole authority to issue final orders resulting from DOAH hearings. Appeals of final orders entered following a DOAH hearing will be the responsibility of DEP. The Local Agency may join the appeal as a party, upon coordination with DEP's OGC.

3) Additional Title V Program Requirements.

- a) The Local Agency will provide a statement of basis and a final determination for each Title V permit. The Local Agency will provide notification to EPA and neighboring states as required by DEP rule 62-213.450, F.A.C. [Note: The Duval County Local Agency is the only agency that must provide notice to the State of Georgia, following the format provided by DARM.]

- b) The Local Agency requirements approved in Part II will be included in the Title V air permit if the requirements apply to such sources that are required to obtain a Title V permit.
 - c) Concurrent processing of the construction permit and any related Title V permits will be done if requested by the applicant, pursuant to DEP rule 62-213, F.A.C.
- 4) Additional Non-Title V Requirements.
- a) The Local Agency will write a technical evaluation, including at a minimum a brief project description, a rule applicability determination, and a summary description of the allowable and estimated emissions, and final determination for each construction permit. The final determination will identify public comments received during the public comment period and changes made to the final permit pursuant thereto.
 - b) All operating permits will include applicable permit conditions from previously issued construction permits. The Local Agency has the authority to change a construction permit except where the construction permit is required by law to be issued by DEP. If any change is warranted to a PSD permit, such change will be made in consultation with DARM.
- 5) General Permits. All general permit notification forms will be received and reviewed by DARM's air general permit section. When the Local Agency receives a notification form, the form will be forwarded by the Local Agency within three (3) working days to DARM's air general permit section. If fees are enclosed, the Local Agency will forward the form along with the fees to FDEP Receipts, P.O. Box 3070, Tallahassee, Florida 32315-3070. DARM's general permits section will forward a scanned copy of the notification form to the Local Agency within three (3) working days of receipt.
- 6) Copies to Local Agency. DEP will provide the Local Agency with a copy of any application, request for additional information and response thereto, and notice of DEP-proposed agency actions for an air source within the county for which DEP has permitting authority.

PART V
COMPLIANCE AND ENFORCEMENT RESPONSIBILITIES

- 1) **General Requirements.** By this SOA, DEP establishes how air program compliance and enforcement will be conducted by DEP or the Local Agency within its county.
 - a) **County Authority.** The Local Agency will use its remedies and procedures in its authorizing act(s) and ordinances. DEP remedies remain available to the Local Agency as an alternative to the Local Agency's own procedures.
 - b) **Roles and Responsibilities.** Subject to Part II, and except as provided below, the Local Agency will conduct compliance and enforcement activities within its county. The Local Agency will provide the necessary support for DEP's compliance and/or enforcement actions as requested. DEP's district office will conduct compliance and enforcement activities for county-owned or operated facilities.
 - c) **DEP Action in County.** Nothing herein prohibits DEP from initiating compliance and/or enforcement activity for any facility within the Local Agency's county. In the event DEP initiates an enforcement activity in the Local Agency's county, DEP will provide the Local Agency with notice unless circumstances make notice inappropriate. The Local Agency's rules will be enforced by DEP if it elects to exercise its jurisdiction over air pollution sources within the jurisdiction of the Local Agency. If enforcement actions are initiated by DEP and the Local Agency against the same source for the same violations, then the actions should be combined as a joint consolidated enforcement action where possible. Any penalty fees or damages collected as a result of joint action will be divided equitably between the two agencies.
 - d) **Federal Facilities.** If federal facilities are not responsive to enforcement action initiated pursuant to local rules reflecting federal NSPS or NESHAP requirements and further action is necessary to achieve compliance, the Local Agency shall consult with DARM (not EPA) to determine the appropriate enforcement approach.
- 2) **Citizen Complaints.** In a timely fashion, the Local Agency will respond to, and investigate complaints from citizens and any such complaints forwarded by DEP. If there is a compliance issue, the Local Agency will attempt to bring about compliance in accordance with this SOA when appropriate and inform the complainant (if not anonymous) of the action taken.
- 3) **Sampling of Fuels and Materials.** The Local Agency will collect or assist DEP in collecting and analyzing fuel and material samples for air sources within the county, as needed, to determine compliance with DEP's air pollution control rules or permit conditions.
- 4) **Open Burning.** The Local Agency will adopt and enforce open burning requirements at least as stringent as DEP open burning rules and may enter into agreements with local fire control authorities or the Division of Forestry to assist in the enforcement of these requirements.

- 5) Stack Tests. (For purposes of this paragraph, “stack tests” are not considered to include determinations of visible emissions.) The Local Agency will witness a minimum of fifty (50) percent of the pollutant stack tests performed in the county, including relative accuracy test audits (RATAs) other than those for Acid Rain CEMS certification tests. Witnessing stack tests will at a minimum include witnessing the equivalent of one complete stack test run, and may include witnessing any required laboratory procedures preserving a suitable chain of evidence. For all stack tests, the Local Agency is responsible for monitoring compliance with stack test methods that are required by state rules or federal regulations.

Where audit samples are required by the stack test method, the Local Agency will obtain audit samples from EPA when available, provide the audit samples to those conducting compliance tests, and determine the acceptability of the audit sample results. Audit sample cylinders should be returned directly to EPA. (EPA is currently re-evaluating its audit sample program, and may stop providing samples in the future, or may make such samples available to the stack test firms at a cost. In either event, the requirement for the Local Agency to obtain the samples shall no longer apply.)

- 6) Continuous Emissions Monitoring Systems (CEMS). The Local Agency is not required to observe any Title IV Acid Rain CEMS certification tests. The Local Agency is responsible for monitoring compliance with appropriate quality assurance procedures for CEMS that are required by state rules or federal regulations.
- 7) Review of Reports. The Local Agency will receive and review all of the following reports for completeness, accuracy and compliance with applicable state rules or federal regulations, and take appropriate compliance and enforcement action: excess emission, stack test, visible emissions test, RATA, and relative accuracy audit (RAA). For each report that is deficient or requires additional information, the Local Agency will send a timely letter to the source owner or operator requesting additional information necessary to make the report complete.
- 8) Alternatives to Testing and Monitoring. All requests for alternative testing and monitoring requirements, and determinations of MACT minor source status, will be handled in accordance with DARM guidance.
- 9) Inspections. The Local Agency will perform a biennial full compliance evaluation as defined in and in accordance with EPA’s Stationary Source Compliance Monitoring Strategy and DEP guidance for all Title V major and synthetic minor sources permitted in its county. The Local Agency will inspect all other air permitted facilities and general permitted facilities at least once every five (5) years. Inspections results should be entered into the DEP database and DEP encourages the Local Agency to utilize portable field computers to document inspection results.
- a) Follow-Up Inspections. The Local Agency will conduct follow-up inspections as necessary to determine if a facility has returned to compliance.
- b) Identification of Unpermitted Facilities. The Local Agency will identify facilities that are operating without a permit and take appropriate enforcement.

10) Compliance Activities.

- a) **Compliance Monitoring.** Compliance monitoring will be done according to applicable federal and state statutes, rules, and guidelines. In accordance with the EPA's Stationary Source Compliance Monitoring Strategy and DARM guidance, the Local Agency will complete and submit to DARM biennial compliance monitoring plans. The Local Agency will abide by its biennial compliance monitoring plan and will notify DARM if it is unable to meet the requirements contained therein.
- b) **Annual Statement of Compliance.** By May 1 of each calendar year, the Local Agency will identify facilities which did not submit the annual statement of compliance by March 1 of that calendar year. In addition, the Local Agency will complete the reviews of the annual statements and make a compliance determination by August 31 of each calendar year and take appropriate enforcement action, as needed, in accordance with Part V, paragraph 1), above.
- c) **Semi-Annual Monitoring Reports.** The Local Agency will review each semi-annual monitoring report within sixty (60) days of the specified due date for the report.
- d) **Compliance Assistance and Pollution Prevention.** The Local Agency will conduct compliance assistance and pollution prevention outreach as time and resources allow.

11) **Enforcement Activities.** The Local Agency will: follow the EPA Guidance for timely and appropriate enforcement response to high priority violations, follow the county's penalty guidelines and consult the DEP enforcement manual and its appendices including the DARM's Air Penalty Guidelines, and any other DARM guidance documents or reference materials in determining appropriate enforcement responses and penalty calculations. The Local Agency 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.

12) **Small Business Environmental Assistance Program.** The Local Agency will assist in the development of the Small Business Environmental Assistance Program (SBEAP) and provide ongoing support of activities associated with the mission and directives of that program as time and resources allow.

13) **Asbestos Compliance.** Inspections by the Local Agency will be conducted at a minimum frequency as specified by the EPA Section 105 Air Planning Agreement. Upon determining that a violation has occurred, the Local Agency will initiate appropriate enforcement action that is consistent with state and federal requirements. The Local Agency will receive asbestos notifications for facilities located in its county and will input the notification and compliance data into the DEP asbestos database. Notwithstanding exclusions noted in this Part, the Local Agency may inspect any asbestos activity within the county, and take enforcement action pursuant to its local authority. DEP and the Local Agency will coordinate on inspections of county-owned or operated facilities to the extent possible to

avoid duplication of effort and conflicting results.

- 14) **Misdirected Asbestos Notifications**. Asbestos notifications received by the Local Agency which should have been sent instead to DEP shall be redirected to DEP no later than two working days of receipt by the Local Agency, in a format acceptable to DEP or vice versa.

PART VI
MOBILE SOURCE CONTROL RESPONSIBILITIES

- 1) **Mobile Source Control Coordination.** The Local Agency will coordinate its efforts with DARM in operating a mobile source control program for its county. Such coordination will include, but is not limited to, the following activities: Development of Regional Impact (DRI) reviews, public information presentations, and Metropolitan Planning Organization (MPO) Technical Coordinating Committee activities, and activities to promote clean fuels and motor vehicles.
- 2) **Metropolitan Planning Organization (MPO).** The Local Agency will seek to maintain its status as an advisor to the MPO Technical Coordinating Committee(s) within its area. The Local Agency will also be active in the state, county, and local community transportation planning process and will participate in mobile source meetings, public information presentations, and training sessions, as time and resources allow.
- 3) **Mobile Source Emissions Inventory.** In cooperation with the Metropolitan Planning Organizations (MPO) and the Florida Department of Transportation (FDOT), The Local Agency will update emissions estimates for mobile sources in its county as required by the SIP or EPA 105 Air Planning Agreement.
- 4) **Gasoline Marketing and Distribution.** The Local Agency will enforce DEP's rules that apply to gasoline and marketing and distribution.
- 5) **Vehicle Emission Controls.** The Local Agency will refer complaints about tampering as defined by DEP rule 62-243, F.A.C., to the Department of Highway Safety and Motor Vehicles or the Department of Agriculture and Consumer Services, or will consult with DARM regarding referral to DEP.

PART VII
AMBIENT AIR MONITORING RESPONSIBILITIES

- 1) **Ambient Air Monitoring Program.** The Local Agency will be responsible for calibrating, operating, maintaining, and repairing all ambient air monitoring, calibration, and data acquisition equipment utilized in the State and Local Air Monitoring Station (SLAMS) and Special Purpose Monitoring (SPM) networks, including the N-Core site (if applicable), within its county. The Local Agency will also be responsible for operating and maintaining a laboratory, or contracting for laboratory services to perform any needed analyses or air samples, and operating any Episode Monitoring Sites (EMS) designated for the county and approved by EPA. SPM desired by the Local Agency will be the responsibility of the Local Agency. SPM desired by DEP will be the responsibility of DEP but may be negotiated between the two agencies and performed by the Local Agency where availability of equipment, staffing, and state funding allow.
 - a) **Coordination.** Other than for routine day-to-day operational functions, the Local Agency will coordinate its ambient air monitoring activities with DEP. Program decisions requiring EPA approval, such as the addition, deletion, or relocation of a monitor or the exclusion of SLAMS data, will be submitted to EPA through, and with the approval of DARM.
 - b) **Air Monitoring Procedures.** All SLAMS ambient air monitoring activities and SPM activities (from which data are to be used for official purpose) conducted by the Local Agency will be performed in accordance with applicable federal regulations and the appropriate Statewide Quality Assurance Project Plans (QAPPs), using EPA and DEP-approved standard operating procedures. DEP will provide technical assistance to the Local Agency, to the extent that DEP's resources allow.
 - c) **Data Automation.** The Local Agency will obtain and maintain data automation equipment that can communicate with, and be linked to, the DEP Florida Air Monitoring Assessment System (FAMAS) database. The Local Agency will enter and verify all valid data into the database in accordance with technical and schedule guidelines provided by DEP.
 - d) **Forms.** The Local Agency will use EPA's Air Quality Subsystem (AQS) data forms or formats, as well as other DEP or EPA-required or approved forms or formats for ambient air monitoring activities as necessary.
- 2) **Ambient Air Monitoring Quality Assurance Program.** The Local Agency will coordinate all air monitoring quality assurance activities with DEP.
 - a) **Quality Assurance Procedures.** The Local Agency will conduct all ambient monitoring activities in accordance with the Statewide QAPPs, incorporated herein by reference. This includes use of DEP's Standard Operating Procedures (SOPs), which include approved Local Agency SOPs that have been incorporated into DEP's SOPs, and all

applicable state and federal regulations and policies to ensure the acceptability of analytical results.

- i) All the Local Agency monitoring SOPs must be approved by DEP and EPA, and be incorporated into the Statewide QAPPs, before they are used for operational purposes, except as may be provided for in the current version of those plans. DEP will provide “Quality Assurance Standards Laboratory” services on request, as resources allow. DEP will provide other technical assistance to the Local Agency as resources allow.
- ii) The Local Agency will participate in the Florida Air Monitoring Advisory Committee meetings and assign one the Local Agency employee as the quality assurance coordinator for their program.
- b) Systems and Instrument Performance Audits. DEP will conduct a triennial or more frequent ambient air monitoring management systems audit for the Local Agency and utilize the process and schedule as outlined in the “Quality Assurance Systems Audit Protocol.” As resources allow, DEP will accomplish performance audits on continuous SLAMS (and SPM used for official purposes) instruments and manual PM_{2.5}, lead and collocated PM₁₀ samplers to meet minimum federal regulations. Written notice will be given if DEP is unable to continue conducting the performance audits. The Local Agency will be responsible for conducting performance audits on all other manual samplers.
- c) Electronic Record Archiving. The Local Agency will create an archive in electronic form of sufficient documentation and records to provide legal defensibility for all of the ambient monitoring data submitted to the EPA database which address the criteria pollutants and which could be used to determine the attainment status of the county. This archive will be maintained on a calendar year basis, with the annual records being closed and finalized no later than ninety (90) days after the end of the calendar year.

3) Ambient Monitoring Reporting Requirements.

- a) Ambient Air Data Reporting Requirements. The Local Agency will enter all valid ambient air data collected each month into DEP’s FAMAS database according to the schedule given below. The Local Agency will also adhere to the schedules given below for submitting missing data forms/information and for verifying data.
 - i) The Local Agency will transmit valid ambient monitoring data to DEP’s FAMAS database within thirty (30) days after the end of the month in which they were recorded, unless transmission problems make this impossible.
 - ii) Missing data forms/information will be submitted to DARM within thirty (30) days following the month of record.

- iii) All data will be verified in DEP's FAMAS database to ensure that the data were transmitted without errors. A verification notice will be transmitted to DEP within fifty (50) days following the quarterly period of record.
- b) Quality Assurance Reporting Requirements. The Local Agency will use DEP-approved forms and/or formats and will comply with DARM's reporting guidance when submitting data and performing ambient air monitoring and quality assurance activities. All precision, bias and accuracy data will be submitted to DARM within thirty (30) days after the end of the quarterly reporting period.
- c) Air Quality Reporting Requirements. The Local Agency will report to the general public prominent notice of the Air Quality Index in accordance with federal regulations. The local agency will correct the concentration values reported to be used in Florida's Air Quality System (FLAQS) and the Spatial Air Quality System (SAQS) as soon as practical after discovery of any errors.

PART VIII
DATA MANAGEMENT RESPONSIBILITIES

- 1) Air Resource Management System (ARMS), and DEP's Asbestos Database. In addition to ambient monitoring data and the Florida Air Monitoring Assessment System (FAMAS) data system, the Local Agency will access ARMS and DEP's asbestos database to accomplish the various updates required under this SOA. The Local Agency will notify DARM of any systems-related problems or training needs.
- 2) ARMS/Asbestos Database Contact. The Local Agency will designate an employee (or employees) to serve as the local program's database contact. The contact will be the primary person (or persons) who DEP will contact on issues related data entered into ARMS or the asbestos database by the Local Agency. The Local Agency will respond promptly to requests from DEP for information, correction and clarification of any database entry in ARMS and the asbestos database.
- 3) Data Updates.
 - a) Permitting Data. Where the Local Agency is authorized to process permits on behalf of DEP, the Local Agency will enter data elements derived from permit applications and permits into ARMS within thirty (30) days of permit issuance.
 - b) Compliance Verification Data. The Local Agency will update ARMS for compliance data, excess emission reports, CEMS data, and stack test and visible emission test results. All applicable inspection and source compliance activity data for NSPS, NESHAP, Title V, non-Title V minor source facilities, and asbestos renovation/demolition data will be entered into ARMS and DEP's asbestos database, as applicable, no later than the 10th of the month following any federally reportable action during the previous month. All other compliance data, including stack test results and excess emission reports, will be entered into the ARMS database no later than thirty (30) days after receipt. CEMS data, including RATA and RAA results, will be entered no later than forty-five (45) days after receipt; visible emission results will be entered no later than ninety (90) days after receipt.
 - c) Semi-Annual Monitoring Reports. The Local Agency will review and enter semi-annual monitoring reports into ARMS within sixty (60) days of the specified due date for reports.
 - d) Annual Operating Report Data. The Local Agency will verify timely receipt of required annual operating reports from facilities in the county. By June 1 of each year, the Local Agency will enter any hard-copy annual operating report submittals they receive into either the Electronic Annual Operating Report (EAOR) system (preferred) or ARMS. If the Local Agency opts to review the submitted reports in the EAOR system prior to DEP review, it will establish a schedule with DEP for its review to ensure that all data is uploaded into ARMS by June 30 of each year. DEP will perform all upload of EAOR data into ARMS. The Local Agency will complete its quality assurance review of the

data in ARMS (i.e., the "edit check" process) by September 30 of each year. If DEP finds items of incompleteness or error in the submitted reports during either the report review or edit check process, the Local Agency will take the lead on any necessary follow up with the facility.

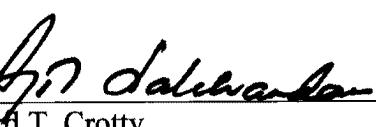
SIGNATURES

State of Florida
Department of Environmental Protection

By: 
Joseph Kahn
Director, Division of Air Resource Management

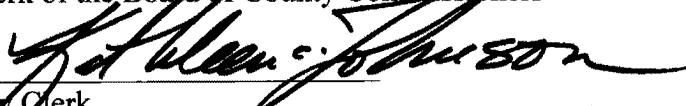
Date: 8/30/10

Orange County, Florida
By: Board of County Commissioners

By: 
Richard T. Crotty
Orange County Mayor

Date: 8.17.10

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

By: 
Deputy Clerk

CESD-C-02



PERMIT REVIEW ROSTER

COUNTY NAME

AIR PERMIT FEES COLLECTED FOR THE MONTH AND YEAR OF _____

Summary

DEP Object Code	Permit Type	Total	20%
2304	Air Operation (AO, AF)		
2303	Air Construction (AC)		
Total to DEP			

Explain any adjustments in comments

Comments:

Submit to:

**Supervisor of Revenue
Finance & Accounting
Department of Environmental Protection
Post Office Box 3070
Tallahassee, Florida 32315-3070**

Page _____ of _____

Roster must be submitted with County's payment to ensure proper processing of funds.