

Revised 7/3/97

**SOLID WASTE PROGRAM
SPECIFIC OPERATING AGREEMENT**

BETWEEN THE

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

AND

PALM BEACH COUNTY HEALTH DEPARTMENT

RECEIVED

JUL 23 1997

**DEPT OF ENV PROTECTION
WEST PALM BEACH**

BACKGROUND

- (1) **Specific Operating Agreements.** On January 2, 1991, the Florida Department of Environmental Regulation (now Department of Environmental Protection - DEP) and the Palm Beach County Health Department (PBCHD) entered into a Specific Operating Agreement that delegated some of the Solid Waste Program responsibilities to the PBCHD. A copy of the Specific Operating Agreement (SOA) is on file at the Palm Beach County Records Division, the Palm Beach County Health Department (PBCHD), and the Southeast District DEP office in West Palm Beach.
- (2) **Special Acts.** The powers and duties of the PBCHD established by Florida Statutes, Palm Beach County Ordinances, Rules and Codes, and related Special Acts are incorporated herein by reference. Copies of these are available at the Palm Beach County Attorney's Office, PBCHD, and the DEP Office of the General Counsel (OGC) in Tallahassee.
- (3) **Objective.** This Solid Waste Specific Operating Agreement (SOA) supersedes all provisions related to solid waste management in any Agreements prior to and including the one of January 2, 1991. 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 and 403, F.S., and Chapters 62-3, 62-4, 62-301, 62-520, 62-522, 62-701, 62-709, 62-710, and 62-711, 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.

- (4) Delegation. This SOA will define the provisions for delegation of the Solid Waste Program permitting, compliance, and enforcement activities from DEP to the PBCHD. The DEP and PBCHD 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 PBCHD'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.

PART I

ADMINISTRATION OF THIS SOLID WASTE SPECIFIC OPERATING AGREEMENT

- (1) Commencement. This SOA shall become effective 90 days after the date this document is signed by both DEP and the PBCHD. This SOA is entered into by the DEP Secretary and the Director of the Palm Beach County Health Department, both of whom have the authority to execute this SOA and satisfy its terms and conditions.
- (2) Expiration. This SOA shall expire at midnight on the third anniversary of the date that this document was signed by both DEP and the PBCHD unless both DEP and the PBCHD provide in writing an intent to renew or amend this SOA. Upon such written intent, this SOA shall remain in effect pending the execution of an agreement to extend or amend it or until terminated pursuant to Part I, Section (6).
- (3) Modification. This SOA may be modified in writing at any time by mutual consent of DEP and the PBCHD.
- (4) 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 the PBCHD 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.
- (5) Approval of PBCHD County Rules. The PBCHD hereby certifies that the PBCHD'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. Such rules are identified in Attachment 5, affixed to this SOA. 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 the PBCHD. This determination is not applicable to rules not listed above. This determination does not apply to any facilities excepted from this delegation as listed in

paragraph (2)(a) of Part III. The PBCHD 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 the PBCHD will use DEP remedies for all other enforcement actions.

Future County Rules. To clarify the intent of DEP and the PBCHD regarding the effect of Section 403.182(7), F.S., it is agreed by DEP and the PBCHD that if the PBCHD 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 (2)(a) of Part III.

- (6) Termination. The PBCHD 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 PBCHD permits issued in accordance with County rules and not covered by this agreement.

PART II

SOLID WASTE PROGRAM MANAGEMENT

- (1) Budget. The District and PBCHD shall annually exchange summaries of their respective approved budgets, outlining funding and staffing for the Solid Waste Program.
- (2) Adequate Staff. PBCHD 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. PBCHD 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. PBCHD 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 described below. PBCHD's

organizational chart (Attachment 4) shall be periodically updated or supplemented by PBCHD as necessary when there are changes of key personnel or organizational structure. For purposes of this SOA, an organizational chart and an alphabetical directory of PBCHD and DEP District personnel shall be exchanged by PBCHD and DEP at least every year from the signing of this SOA.

- (3) **Plans.** PBCHD 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 PBCHD shall coordinate and annually exchange their respective workplans, 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.
- (4) **Training.** PBCHD 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. PBCHD staff shall have the same minimum qualifications as the respective DEP District Program staff, and PBCHD staff turnover shall be minimized. PBCHD staff will attend DEP sponsored Solid Waste Workshops. PBCHD staff will participate in DEP monthly Solid Waste teleconferences. DEP shall provide notification of teleconferences.

In addition, PBCHD 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.
- (5) **Policy Coordination.** PBCHD and DEP will coordinate their activities regarding operations and enforcement issues.
- (6) **Program Reports.** DEP will send PBCHD a copy of the letter of transmittal (or another form of verification) indicating when a report has been submitted by DEP to the EPA or to another agency on behalf of PBCHD. A list of these reports will be periodically updated by DEP, as needed, and provided to PBCHD.
- (7) **Evaluations and Audits.** DEP will periodically conduct both program performance evaluations and financial audits of PBCHD'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 PBCHD. After the effective date of this SOA, records shall be maintained by PBCHD for at least three years or the life of the project, whichever is longer. PBCHD 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 PBCHD for its solid waste program have been properly accounted for and distributed, and that appropriate records of all monetary transactions are on file. After the effective date of this SOA, financial records shall be maintained for at least three years. PBCHD will otherwise comply with requirements of Chapter 119, F.S.
- (c) Coordination. In instances when PBCHD is subject to audit by a federal agency as well as the DEP, every effort will be made to fully coordinate the audits. PBCHD will have adequate time to complete any DEP preaudit surveys and to comment on draft DEP audit findings. Draft DEP audit findings will be provided to PBCHD Solid Waste Staff for review before releasing for general distribution.
- (d) Frequency. DEP will evaluate PBCHD's performance every 6 months for the first year after the effective date of this SOA. Thereafter, DEP will evaluate PBCHD's program performance every two years, and will provide written comments to PBCHD. DEP may conduct solid waste program evaluations or audits more or less frequently at the DEP's discretion. To the extent feasible and appropriate, DEP will consider availability of the needed PBCHD solid waste program staff when selecting specific dates for conducting on-site visits. Oversight of reports and data entry will be performed on a continuous basis.

PART III

AGENCY RESPONSIBILITIES

- (1) Delegation of District-level Solid Waste Permitting. As of the effective date of this delegation (as specified below), PBCHD 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 the PBCHD in accordance with the following general procedures and specific conditions.

- (a) **Effective Date and Limitations.** One hundred and eighty (180) days after DEP and the PBCHD have signed this SOA, DEP delegates to the PBCHD the authority and PBCHD 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 & II Landfills;
 4. Class III Landfills; and
 5. County-owned or operated facilities whose owner or operator would be represented by county legal staff (in enforcement action) and county owned or operated facilities and facilities owned or operated by county commissioners and health department facilities.
 6. Other facilities, with unique situations or conditions which DEP specifically requests authority for.

Refer to the Agency Assignment Table (Attachment I) attached for Agency lead and support assignments.

- (b) **Revocation.** In the event that the DEP Secretary determines that the PBCHD has failed to comply with the conditions of this delegation or any relevant part of this SOA, the PBCHD 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, the PBCHD 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) **Notification of Facility Owners.** Within 45 days after DEP and the PBCHD have signed this SOA, DEP and PBCHD will notify each owner of a permitted solid waste facility located in Palm Beach County for whom they have permitting authority, whether or not this delegation will affect that owner. A list of these facilities is shown in Attachment 3.

- (d) **Training.** Within 60 days after all parties have signed this SOA, DEP will provide PBCHD's solid waste permitting staff with a training seminar, during which the staff will be provided all applicable state solid waste permitting forms and guidance. DEP will periodically meet with PBCHD's solid waste permitting staff to keep them up to date on DEP's solid waste permitting practices and requirements. Over the following 60 days, PBCHD will assign a member of its staff to meet periodically as necessary with staff of the Southeast District DEP office in West Palm Beach, to help review permits affecting Palm Beach County and to facilitate the transition of permit processing to the PBCHD.
- (e) **Specific Condition of Delegation.** In addition to the other provisions of this SOA regarding solid waste permitting, the PBCHD 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 licensed by the State of Florida. The supervising professional engineer shall provide professional engineering certification of all technical evaluations of permit applications as required by Florida law.
 2. In its exercise of DEP-delegated Solid Waste permitting authority, the PBCHD shall comply with the applicable permitting requirements of Chapters 120 and 403 F.S., and Chapters 62-3, 62-4, 62-301, 62-520, 62-522, 62-701, 62-709, 62-710, and 62-711, F.A.C.
 3. PBCHD shall follow the written permitting procedures issued by DEP's Secretary and his/her legal and program directors.
 4. PBCHD is authorized to make determinations of whether a facility is exempt under DEP's permitting and solid waste rules. PBCHD is not authorized to issue a variance from DEP rules or to approve alternate procedures under Chapter 62-701, F.A.C.
 5. PBCHD 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 the PBCHD, and may use those forms in lieu of forms adopted by DEP, upon approval of the DEP.

PBCHD shall issue permits using the format used by the DEP District Solid Waste Program. DEP will provide PBCHD with current model forms in use by the DEP District Solid Waste Program. 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. PBCHD shall have access to DEP's computer information systems used for the Solid Waste Program, including COMET and GMS, and Permit Application Tracking System (PATS), 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 PATS, a timely manner is within one working day. PBCHD shall not have access to confidential information maintained in DEP computer information systems.
 7. The PBCHD shall have the legal resources to defend PBCHD'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, at its option, PBCHD in such proceedings.
 8. PBCHD shall have full authority to make determinations regarding the correct DEP permit fees on permits for which they have full delegation. All determinations will be made pursuant to Section 403.087, F.S., and Rule 62-4.050, F.A.C., and to any written guidance as issued by the DEP's Secretary or his/her legal and program directors.
 9. PBCHD will coordinate reviews with and seek comments from DEP's MSSW permitting section when reviewing permit applications for solid waste management facilities.
- (f) Distribution of Permit Fees.
1. PBCHD 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, PBCHD shall require permit applicants to remit at least the application fee required by the DEP's current fee schedule. However, to further good government PBCHD will begin charging a single fee for fully delegated permits on the effective date of the delegation.
 2. DEP and the PBCHD agree that the PBCHD 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 PBCHD to keep all but 20% of the fees authorized under

Section 403.087, F.S., and Rule 62-4.050, F.A.C., for fully delegated permits. The remaining 20% of the fees authorized under Section 403.087, F.S., and Rule 62-4.050, F.A.C., shall be remitted to the DEP on a monthly basis to cover oversight costs. Said fees shall be delivered to the DEP twenty days following the previous month and shall consist of a single check with sufficient records to verify its standing. This agreement does not affect the ability of PBCHD to charge local fees when needed to support the costs of the program.

- (g) **Permitting Reporting Requirements.** PBCHD will report its state solid waste permitting activities to DEP by use of the following DEP reporting systems at the frequencies shown:
 - 1. Update GMS and COMET for sources permitted by PBCHD. All such permit data will be entered into GMS and COMET prior to permit issuance.
 - 2. Update the DEP's Permit Application Tracking System (PATS) for all applications received, permits processed, and issued or denied by PBCHD. All such information will be entered into PATS within one working day of any solid waste permit action.
 - (h) **Exchange of Information.** All permits and supporting material in the possession of PBCHD shall be made available to DEP upon request or as otherwise specified in this SOA (or its amendments or attachments), and as shown in Attachment 2.
- (2) **Application Review Procedures.**
- (a) **Delegated Permits**
 - 1. **DEP Procedures.** When DEP receives a permit application for a solid waste facility within Palm Beach County and for which permit issuance authority has been delegated, DEP will return the application and the associated fees, with instructions to resubmit the application to PBCHD, or, at the applicant's request, will forward the application and the associated fees to PBCHD, with the specific understanding that the permit application timeclock will not start until PBCHD receives the application and fees.
 - 2. **PBCHD Procedures.**

- a. PBCHD 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 PBCHD receives the proper fee made out to the PBCHD, the permit processing time requirements of Sections 120.60(2) and 403.0876, F.S., shall begin.
- b. Within seven days of receiving the application, PBCHD will provide DEP with one copy of the state solid waste permit application as received.
- c. When PBCHD determines that a fee is correct for an application that PBCHD is to process, PBCHD will promptly process the check.
- d. All checks for application fees for state permits which are delegated to the PBCHD and not made out to the Palm Beach County Health Department will be promptly returned to the applicant, with a notice to resubmit the fee to PBCHD via a check made out to the Palm Beach County Health Department.

If the amount of submitted fee for such an application is not correct, PBCHD 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).

- e. A copy of all correspondence related to a permit application will be kept on file by PBCHD. PBCHD will mail to DEP a copy of its proposed agency action on such permit application at the same time that PBCHD mails its intent to issue (or deny) to the applicant.
- f. PBCHD will review each application for completeness within 30 days of receipt. If the application is determined to be incomplete, a letter of incompleteness will be sent by certified mail, return receipt requested, to the applicant by PBCHD identifying and requesting the needed additional information. PBCHD will include all comments or questions provided by DEP in PBCHD's request for additional information.
- g. When the application is determined to be complete, PBCHD will process the application as expeditiously as possible, and take final

3. Administrative Hearings and Final Agency Actions. All delegated solid waste permits received, processed, and acted upon by PBCHD on behalf of DEP will be accomplished in accordance with the appropriate state laws and DEP rules.

a. Permit Appeals. All delegated solid waste permitting decisions made by PBCHD 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. All timely petitions for formal administrative hearings on delegated solid waste permitting applications processed by PBCHD shall be referred to the Division of Administrative Hearings (DOAH) for the assignment of Administrative Law Judge, if the petitions are submitted pursuant to Chapter 120 F.S. and satisfy the requirements set forth in the applicable rules of 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 shall be mailed to DEP's Office of General Counsel at Marjory Stoneman Douglas Building, 3900 Commonwealth Blvd., Tallahassee, Florida 32399-3000. 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, PBCHD 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 Administrative Law Judge. Prior to all final hearings, County attorneys 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 appeal hearing shall be the responsibility of DEP. PBCHD 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 County Attorney. If, in the course of processing solid waste permitting applications, the interpretation of a DEP rule becomes an issue, the PBCHD permit processor shall consult with DEP to determine the appropriate regulatory interpretation. If DEP is enforcing County rules, then DEP shall consult with PBCHD (who will consult with County 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. PBCHD will assist DEP in the processing of applications for state solid waste permits pertaining to facilities referenced in paragraph (2)(a) above 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 PBCHD for review and comment. Comments should be returned within ten (10) working days from receipt. DEP will provide PBCHD with sufficient opportunity to comment on the completeness of each such permit application, as well as to recommend issuance or denial. DEP will copy PBCHD on all proposed agency actions related to such permit applications.
 - 2. PBCHD's Application Review Procedures.
 - a. When PBCHD receives an application for a non-delegated state solid waste permit for which DEP is to take final agency action, PBCHD 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, PBCHD 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.

- (d) **PBCHD Enforcement Actions.** PBCHD may initiate solid waste enforcement actions to correct detected violations pursuant to its authority, or for DEP for those facilities delegated to PBCHD by DEP, or upon request.
- (e) **Exchange of Information.** All complaints, results of inspections, results of laboratory analyses and other such material in the possession of PBCHD shall be made available to DEP upon request or as otherwise specified in this SOA (or its amendments or attachments), and as shown in Attachment 2.
- (f) **Concurrent Action.** It is agreed that PBCHD will assume the enforcement lead for violations of federal, state, and local solid waste regulations within Palm Beach County for those facilities delegated to PBCHD by DEP. PBCHD will routinely discuss its enforcement actions with DEP. If discussions with PBCHD reflect that PBCHD is resolving the violation in a timely and appropriate manner as prescribed by EPA or DEP, DEP will continue to defer enforcement to PBCHD. If PBCHD is unable to resolve the violation in a timely or appropriate manner as prescribed by EPA or DEP, DEP will advise PBCHD of its intent to proceed with its own action. If DEP takes enforcement action against a facility delegated to PBCHD by DEP, it shall enforce any county regulations which are stricter or more stringent than DEP rules, in accordance with Section 403.182(6), F.S. PBCHD 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 PBCHD against the same source for the same violations, then the actions should be combined as a joint or consolidated enforcement action where possible. The PBCHD retains the right to resume an independent enforcement action should DEP fail to resolve the violation.
- (g) **Conflict of Interest.** To avoid any appearance of a conflict of interest in the event that a violation is levied by the PBCHD against a county owned or operated facility, PBCHD agrees to allow the DEP to participate in such actions, as described below.

DEP will assume the lead for all inspections and enforcement at county owned or operated facilities and facilities owned or operated by any county commissioner.

- (h) **Enforcement Guidelines.** DEP's penalty assessment guidelines will be followed by PBCHD. These guidelines will serve as the basis of PBCHD enforcement actions with respect to local, state, and federal solid waste requirements. PBCHD 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, PBCHD will review its guidelines and work with DEP to correct those inconsistencies.

Alternatively, where DEP and PBCHD agree it is appropriate, the PBCHD may elect to pursue enforcement action through its board, as allowed by Florida Law in Palm Beach County. Where such action is taken, the PBCHD 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.

- (i) Coordination. Nothing in this agreement shall prohibit either DEP or PBCHD from taking enforcement action for violations of their respective rules. However, PBCHD must coordinate with DEP on any action it intends to pursue under Section 403.161, F.S., when such action is initiated against a permitted facility or a facility requiring a DEP Solid Waste permit.
- (j) Compliance and Enforcement Reporting Requirements. PBCHD shall report its state solid waste compliance and enforcement activities to DEP by use of the following DEP reporting systems at the frequencies shown:
 - 1. Update COMET for sources delegated to PBCHD. All such compliance and enforcement data shall be entered into COMET within five 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. The established inspection frequency will be specified in a written document agreed to by the parties involved.
- (5) Complaints. PBCHD 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. Records will be kept of all complaints.
 - (a) Referral of Complaints from DEP to PBCHD. DEP will refer any complaint that it receives about solid waste situations within the county to PBCHD for investigation. However, DEP reserves the right to investigate certain complaints at its own discretion but will provide notice to the PBCHD 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 PBCHD. If a violation of a local, state or federal solid waste standard, rule, or permit condition is determined to have occurred, PBCHD will notify the responsible person, attempt to bring about compliance, and inform the complainant of the action taken. PBCHD may take enforcement action in accordance with this SOA.

PART IV

MISCELLANEOUS PROVISIONS

- (1) General Information Requests. PBCHD 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, PBCHD employees will speak to schools, civic groups, and other interested organizations when requested to do so. Inquiries about DEP solid waste rules which require interpretation and guidance will be referred to DEP for reply.
- (2) Solid Waste Program Computer Information Systems. PBCHD will access DEP's computer information systems and assure sufficient availability of on-line time to accomplish the various updates required under this SOA. PBCHD will also designate an individual to serve as the agency's computer information system contact. PBCHD 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) EPA Regulations. EPA will interpret regulations which it originates.
- (b) DEP Rules. DEP will interpret the basic permitting rules, and the solid waste and related administrative rules adopted in Title 62, F.A.C., except for federal rules adopted verbatim or by reference.
- (c) County Rules. The County Attorney will interpret rules locally adopted, other than EPA or DEP rules adopted verbatim by reference. If the PBCHD intends to apply an EPA or DEP rule in a more stringent way than intended by the originating agency, the PBCHD 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. The same general principle will be observed with respect to EPA-originated rules.

- (d) 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 PBCHD (who will consult with the County Attorney as needed), in writing.
- (4) Abnormal Events. DEP and PBCHD agree to coordinate and cooperate with each other and with other agencies as appropriate to handle abnormal events such as natural disasters. The lead agency for regulating facilities experiencing abnormal events shall be PBCHD for delegated facilities and the DEP for non-delegated facilities. The provisions of the Emergency Response Agreement are incorporated into this agreement and will dictate what actions are to be taken by both agencies in handling abnormal events.
- (5) Inquiries. Inquiries from the Governor's Office, Cabinet, and members of the Legislature regarding PBCHD delegated facilities shall be forwarded, as applicable, to the PBCHD Director. PBCHD 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) Effective Date and Modification Dates. Subsequent approvals of modifications to this SOA shall not change the effective date.

PALM BEACH COUNTY
HEALTH DEPARTMENT

STATE OF FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

BY 
DR. JEAN MALECKI, DIRECTOR

BY 
VIRGINIA B. WETHERELL, SECRETARY

DATE: 7/20/97

DATE: 8/26/97

LIST OF ATTACHMENTS

1. Lead and Support Agency Assignments
2. Reporting Requirements
3. List of District-level Permits
4. PBCHD Organizational Charts
5. PBCHD Rules, Stricter or More Extensive Than DEP Rules
6. Emergency Response Agreement

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

Program or Program Element Assignment	Agency	
	PBCHD	DEP
Solid Waste Program		
1. Class I, II & III Landfills, WTEs, Ash Landfills, County Owned or Operated Facilities, and any other SWMF delegated	Support	Lead
2. Compost Facilities	Lead	Support
3. Transfer Stations	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. Materials Recovery Facilities	Lead	Support
7. Variances, Alternate Procedure	Support	Lead

Attachment 1

REPORTING REQUIREMENTS

(1) Local Program Reports

PBCHD shall submit copies of the following reports, based on the extent of delegation, according to the schedule shown.

	<u>Report</u>	<u>Frequency</u>	<u>Recipient</u>
(a)	Annual Budget Summary	Annually	DEP Division and District
(b)	Organizational Charts	Annually and as updated	DEP Division and District
(c)	Local Program Ordinances, Laws, Rules, Regulations and Orders	As drafted, and within 15 days after adoption	DEP Division and District
(d)	Annual Work Plan, including lists of delegated and non-delegated facilities	Annually	DEP Division and District
(e)	Summary of SW compliance inspections conducted during the month, including dates, locations, violations noted, and corrective actions requested	Monthly (by the third Monday of the following month)	DEP District
(f)	Status report on all Local Program SW enforcement cases	Monthly (by the third Monday of the following month)	DEP District

Attachment 2

REPORTING REQUIREMENTS PAGE 2 OF 2

(2) Department Reports

DEP shall submit copies of the following reports to PBCHD according to the schedule shown.

	<u>Report</u>	<u>Frequency</u>	<u>Recipient</u>
(a)	Organizational Charts	Annually and as updated	PBCHD
(b)	DEP Rules, Regulations Regulations, Orders, Forms Policy, and Guidance Memoranda	As drafted, and within 15 days after adoption	PBCHD

Attachment 2

LIST OF DISTRICT-LEVEL PERMITS

1. Palm Beach County Solid Waste Authority, Site 7, All Facilities (Power Plant siting approval PA 84-20)
2. Palm Beach County Solid Waste Authority, Dyer LF (Closure Permit SF 50-206464)
3. Palm Beach County Solid Waste Authority, Lantana LF (Closure Permit SF 50-206488)
4. Palm Beach County Solid Waste Authority, Belle Glade LF (Closure Permit SF 50-263554)
5. Palm Beach County Solid Waste Authority, Pahokee LF (Closure Permit SF 50-?)
6. Palm Beach County Solid Waste Authority, JDM LF (BallenIsles) (Monitoring Plan Permit MP 50-?)
7. City of Lake Worth, South LF (Closure Permit expired. DEP District will retain lead on matters related to this site.)
8. City of Pahokee, Yard Trash LF (Operation Permit SO 50-?)
9. City of Pahokee, Ash LF (Closure Permit SF 50-179625)
10. Lake Worth Drainage District, Yard Trash LF (Operation Permit SO 50-188312)
11. Town of Palm Beach, Okee. Road LF (No Current Permit. DEP District will retain lead on matters related to this site.)
12. Town of Palm Beach, Skees Rd. Yard Trash LF (Operation Permit SO 50-?)
13. City of Boynton Beach LF (Closure Permit SF 50-248181)
14. City of West Palm Beach, Haverhill Yard Trash LF (Closure Permit SF 50-291828)

SEC. 16.3 PROHIBITION OF DUMPING, REGULATION OF WASTE DISPOSAL AND CLEAN FILL ACTIVITY

- A. Purpose and Intent.** The purpose and intent of this section is to protect the surficial aquifer and prevent sanitary nuisances and public health threats by prohibition of dumping, regulation of waste disposal and clean fill activity. The specific objectives of this section are to establish prohibition for dumping or placing of waste upon any land or water on private or public property and regulate the disposition of clean fill.
- B. Applicability.** The standards of this section shall apply to all activities involving disposal of waste and clean fill activities within the unincorporated or incorporated areas of Palm Beach County.
- C. Exemptions.** The following shall be exempted from the standards of this section:
1. All waste management activities which are approved by Department of Environmental Regulations, Solid Waste Authority, or the Palm Beach County Health Department (PBCHD).
 2. Agricultural waste disposal, provided the agricultural wastes are generated and disposed of on site and the property is agriculturally zoned.
 3. Soil and mulch brought on to a property and used for the purpose of improving soil/plant relations through improving retention of nutrients and water for plants in ground or above ground on that site.
 4. Clean fill disposed on land located in Palm Beach County if the person obtains the property owner's consent and the property has provided the Palm Beach County Health Department (PBCHD) with required notification as set forth herein. [Ord. No. 97-14].
- D. Prohibition for Dumping and Placing Waste.** It is unlawful and shall constitute willful causing of pollution for any person to dump, or cause or allow to be dumped; or place, or cause or allow to be placed; or bury, or cause or allow to be buried; any waste upon any land, or any water located in Palm Beach County.
- E. Regulation of Clean Fill Activities.**
1. **Prohibitions of Clean Fill Activities.** It is unlawful for any person to engage in the following activities:
 - a. Create or maintain a sanitary nuisance due to clean fill activities;
 - b. Adversely affect drainage resulting from clean fill activities; or
 - c. Store waste which results from clean fill activities for more than seven (7) days.
 2. **Notification of Clean Fill Activities.**
 - a. **Initial notification.** Forty-five (45) working days prior to the commencement of clean fill activities, the property owner shall provide the PBCHD written initial notification. Initial notification shall include; property owner(s) name, mailing address, phone number, clean fill material to be utilized, amount of clean fill activity, a survey prepared by a Registered Land Surveyor, and a sketch indicating location of fill on property.

b. **Exception.** Initial notification shall not be required for the following activities:

- (1) Clean fill activities at parcels that have received a Palm Beach County Engineering Department subdivision approval and have a Land Development Permit;
- (2) Clean fill activities necessitated by the Building Department permit standards for individual lot improvements which previously have not received a Land Development Permit. The intent is to allow the clean filling of individual unplatted or by-passed platted lots to meet current standards without deleteriously impacting the surrounding parcels;
- (3) Clean fill activities at sites that have received a dredge and fill permit; or
- (4) Clean fill activities conducted by any governmental agency.

c. **Other permits required.** Notification to the PBCHD does not relieve the property owner from the need to obtain any local, state, or federal permit nor does it relieve the property owner from abiding by all local, state or federal laws, as applicable.

F. Enforcement, Penalties, Circuit Court Proceedings. Failure to comply with the requirements of this Section shall constitute a violation of this Code.

1. **Enforcement.** The PBCHD shall have available to it all enforcement remedies made available pursuant to Chapter 77-616, Laws of Florida, as amended, and County ordinances adopted pursuant thereto. Violations will be heard by the Environmental Control Hearing Board.

2. **Penalties.** Penalties that may be imposed include the following:

a. A civil penalty of up to \$500.00 per day for each violations; and

b. Affirmative action such as a requirement that the violator perform roadside waste clean-up services or bear the cost of waste removal in lieu of such services.

3. **Circuit Court Proceedings.** Circuit Court proceedings may be instituted to abate and prosecute violations, or enforce orders. Such relief may include both temporary and permanent injunctions.

[Ord. No. 95-24]

[Ord. No. 95-24; July 11, 1995] [Ord. No. 97-14; May 23, 1997]

Sec. 16.4 OPEN BURNING

A. **Purpose and Intent.** The purpose and intent of this section is to ensure that open burning does not have a negative impact on human health and welfare and the surrounding environment. The specific objectives of this section are to encourage the use of air curtain incinerators (ACIs) and to establish guidelines for open burning.

B. **Applicability.** The standards of this section shall apply to all activities involving open burning within the unincorporated areas of Palm Beach County.

C. **Exemptions.** This section shall not apply to agricultural burning which is regulated by Florida Administrative Code (F.A.C.) Chapter 51-2.

D. **Definitions.** The following definitions shall apply to this section only.

1. Open burning means the burning of land clearing debris.