

**MEMORANDUM OF AGREEMENT
BETWEEN**

**THE NORTH CAROLINA DIVISION OF WASTE MANAGEMENT
AND THE MECKLENBURG COUNTY LAND USE AND ENVIRONMENTAL SERVICES
AGENCY**

Memorandum of Agreement between the N.C. Division of Waste Management (the Division) and the Mecklenburg County Land Use and Environmental Services Agency (the County) as it pertains to the enforcement of the non-hazardous solid waste program that has been delegated to the County, pursuant to the Delegation of Authority to the County, signed by Dexter Matthews for the Division on the 16 day of October, 2008. This Memorandum of Agreement and the Delegation of Authority shall remain in effect for five years, unless modified in writing and signed by the parties, or unless terminated in writing by one of the parties pursuant to paragraph 14.

1. Employees of the County authorized to enforce the delegated program shall meet the minimum equivalent training requirements established for the Division's Environmental Senior Specialists, including OSHA 40 hour training, and shall demonstrate to the Division the following:
 - A. Working knowledge of the statutes and rules pertaining to the delegated program.
 - B. Working knowledge of the Solid Waste Section policies pertaining to the delegated program. Such documents shall be provided by the Division.
 - C. The ability to represent the County in a professional manner in implementing the delegated program.
2. The County and Division shall assume the full responsibility for actions of their respective employees operating under this program delegation in accordance with law and shall defend claims against their representative employees in accordance with law. For the purposes of this delegation and any activities arising from participation, authorized employees of the County shall not be considered agents of the state of North Carolina.
3. Mecklenburg County shall demonstrate that appropriate mechanisms are in place to cover any claim of injury or damage brought against the County based, in whole or in part, upon its implementation of the delegated solid waste management program. Mecklenburg County agrees to provide for the defense of and payment of any judgment against a County employee(s) or former employee(s) in any civil action or proceeding brought against him or her in his or her official or individual capacity, or both, on account of an act of omission made in the course and scope of his or her employment as a County employee engaged, in whole or in part, in implementing the delegated solid waste management program.

Demonstration shall be for at least the maximum amount payable under the North Carolina Tort Claims Act, subject to said policy. As of August 27, 2007, that amount is \$1,000,000 payable cumulatively to all claimants on account of injury and damage to any one person.

Said mechanism shall be kept in force at all times that Mecklenburg County operates the delegated solid waste management program and shall cover claims made and actions and proceedings brought after Mecklenburg County ceases to operate the delegated solid waste management program, to the extent that the claims, actions, or proceedings arise from Mecklenburg County's implementation of the delegated program, and in accordance with the above said policy of the Board of Commissioners.

This delegation shall not be effective until a demonstration of responsibility that satisfies the Division of Waste Management of the above said policy of the Board of Commissioners is filed with the Division of Waste Management.

4. An annual review will be made of the delegated program by the Division's Solid Waste Section (Section) to determine compliance with the conditions specified in this agreement.
 - A. The review shall include a records inspection to assure adequate compliance monitoring, appropriate corrective action, complete documentation, timely follow-up, and inspection frequency in accordance with Section policy.
 - B. In addition, each authorized employee of the delegated program shall, as part of the annual review, make a minimum of two permitted site inspections and a non-facility and/or complaint investigation jointly with the Environmental Senior Specialist.
5. All inspections performed under the delegated program shall be conducted in accordance with the Solid Waste Management statutes, rules and policies.
6. All permit applications shall be reviewed, and permits issued or denied, and recorded in accordance with all applicable solid waste rules and statutes. Other conditions, based on acceptable engineering practices and public health and environmental standards, may be added to the standard conditions based on each site's characteristics.
7. Illegal disposal sites shall be addressed in accordance with rule 15A NCAC 13B .0502.
8. All land clearing and inert debris landfill notification "Acknowledgement" letters generated by the county pursuant to 15A NC Admin. Code 13B, Section .0563 shall

be submitted to the Division's Raleigh Central Office and Mooresville Regional Office. The "Acknowledgement" letters shall verify, by inspection where necessary:

- A. completeness of notification
 - B. proper recordation
 - C. compliance with all local government requirements
 - D. compliance with Rule .0564 (siting criteria)
 - E. compliance with the local Solid Waste Management Plan(s) if applicable
9. The County agrees to review permit applications for solid waste management facilities proposed for location in Mecklenburg County and for which permitting authority has not been delegated. The County will provide comments on said applications to the Division regional engineer within thirty days of receipt of a copy of an application from the Division. Comments may include any information available to the County relevant to the proposed permit and any local conditions which may affect conditions of the permit.
10. Upon issuance of a Permit for which a delegated program has compliance monitoring responsibility, the Solid Waste Section shall provide the delegated program with a complete set of approved plans and a complete copy of the permit. The delegated program shall review such plans and contact, in a timely manner, the Regional Engineer or Environmental Senior Specialist assigned to the County if clarification or explanation is necessary.
11. A copy of all Permits, Notifications, Inspection Reports, warning letters, and notices of violation issued by or generated under this delegated program shall be forwarded immediately upon issuance to the Solid Waste Section's Environmental Senior Specialist assigned to the County. The Environmental Senior Specialist will review the documents, make copies as necessary for regional files, and forward the documents to the Central Office.
12. If it becomes necessary, the delegated program shall consult with the Solid Waste Section's District Supervisor and submit a draft compliance order to the District Supervisor. The draft compliance order shall include:
- A. Statement of Facts
 - B. Statement of Violations
 - C. Conditions for Compliance
 - D. Copies of all supporting documents and correspondence
 - E. The Section's District Supervisor will submit a statement of corroboration of the facts presented and forward the request for a Compliance Order with Administrative Penalty to the Raleigh Central Office.

Mecklenburg County Delegation of Solid Waste Program Authority
Memorandum of Agreement

13. The County will make every effort to immediately notify the District Supervisor of any imminent or potential imminent hazard to public health or the environment when it becomes known to the county or its authorized personnel.
14. The Division or the County may terminate this Delegation of Authority upon 30 days written notice with an explanation of the reason for the termination. Termination by the Division shall not be appealable under N.C.G.S. section 150B-23.

Agreed to this 16 day of October, 2008.

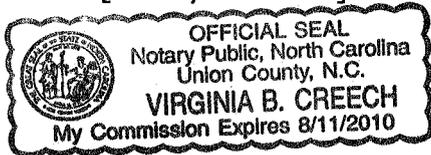
Cary Saul

Cary Saul, Director
Land Use and Environmental Services
Agency

Dexter Matthews

Dexter Matthews, Director
Division of Waste Management

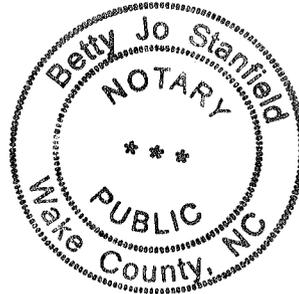
[County Seal Here]



Sworn to and subscribed before
me this 29 day of Sept., 2008

Virginia B. Creech
(Notary Public)

My commission expires: 8/11/2010



Sworn to and subscribed before
me this 16 day of October, 2008

Betty Jo Stanfield
(Notary Public)

My commission expires: December 29, 2009

**DELEGATION OF AUTHORITY TO
THE MECKLENBURG COUNTY LAND USE AND ENVIRONMENTAL
SERVICES AGENCY**

AUTHORITY

This delegation is made pursuant to the authority granted to the Division of Waste Management (hereinafter "the Division") by G.S. 130A-294(a)(5c) and is contingent upon the terms of the attached memorandum of agreement incorporated herein by reference.

DELEGATION

The Division hereby delegates to the Mecklenburg County Land Use and Environmental Services Agency (hereinafter "the County") through the County Board of Commissioners the authority and the responsibility, to perform within its jurisdictional area a solid waste management program as described herein.

SCOPE

The authority and responsibility to carry out functions described in those sections listed below of the North Carolina Solid Waste Management Rules, 15A NC Administrative Code 13B, are hereby delegated to the County.

SECTION .0100 – GENERAL PROVISIONS

- .0101 DEFINITIONS
- .0102 APPLICABILITY
- .0103 GENERAL CONDITIONS (a), (b), (c), (e), (f) and (i) only
- .0104 SOLID WASTE STORAGE
- .0105 COLLECTION AND TRANSPORTATION OF SOLID WASTE
- .0106 GENERATOR OF SOLID WASTE

SECTION .0200 – PERMITS FOR SOLID WASTE MANAGEMENT FACILITIES
(Delegated Authority to issue permits is limited to permits for Land Clearing and Inert Debris Landfills.)

- .0201 PERMIT REQUIRED
- .0202 PERMIT APPLICATION
- .0203 PERMIT APPROVAL OR DENIAL
- .0204 RECORDATION OF LAND DISPOSAL PERMITS

SECTION .0300 – TREATMENT AND PROCESSING FACILITIES
(Delegation of Authority limited to Inspections and Compliance Monitoring as provided by Paragraphs 11 and 12 in the Memorandum of Agreement.)

- .0302 OPERATIONAL REQUIREMENTS

SECTION .0400 – TRANSFER FACILITIES
(Delegation of Authority limited to Inspections and Compliance Monitoring as provided by Paragraphs 11 and 12 in the Memorandum of Agreement.)

- .0402 OPERATIONAL REQUIREMENTS

SECTION .0500 – DISPOSAL SITES

- .0501 APPROVED DISPOSAL METHODS
- .0502 OPEN DUMPS

.0505 OPERATIONAL REQUIREMENTS FOR SANITARY LANDFILLS
(Delegation of Authority limited to Inspections and Compliance Monitoring as provided by Paragraphs 11 and 12 in the Memorandum of Agreement.)

.0509 OPERATIONAL REQUIREMENTS FOR INCINERATORS

.0510 CLOSURE CONDITIONS (Limited to (a), (b), and (d).)

.0542 OPERATION PLAN AND REQUIREMENTS FOR C&DLF FACILITIES
(Delegation of Authority limited to Inspections and Compliance Monitoring as provided by Paragraphs 11 and 12 in the Memorandum of Agreement.)

.0543 CLOSURE AND POST-CLOSURE REQUIREMENTS FOR C&DLF
FACILITIES
(Delegation of Authority limited to Inspections and Compliance Monitoring, as provided by Paragraphs 11 and 12 in the Memorandum of Agreement, for .0543(c)(5), (c)(6), (e)(1)(A), (e)(1)(C), and (e)(1)(D).)

.0560 LAND CLEARING AND INERT DEBRIS (LCID) LANDFILLS

.0562 BENEFICIAL FILL

.0563 APPLICABILITY REQUIREMENT (LCID) LANDFILLS

.0564 SITING CRITERIA FOR (LCID) LANDFILLS

.0565 APPLICATION REQUIREMENTS FOR LAND CLEARING AND INERT
DEBRIS (LCID) LANDFILLS

.0566 OPERATIONAL REQUIREMENT (LCID) LANDFILLS

SECTION .1200 – MEDICAL WASTE MANAGEMENT
(Delegation of Authority limited to Inspections and Compliance Monitoring as provided by Paragraphs 11 and 12 in the Memorandum of Agreement.)

SECTION .1400 – SOLID WASTE COMPOST FACILITIES
(Delegation of Authority limited to Inspections and Compliance Monitoring as provided by Paragraphs 11 and 12 in the Memorandum of Agreement.)

.1402 GENERAL PROVISIONS FOR SOLID WASTE COMPOST FACILITIES

.1403 GENERAL PROHIBITIONS FOR SOLID WASTE COMPOST FACILITIES

.1406 OPERATIONAL REQUIREMENTS FOR SOLID WASTE COMPOST FACILITIES

.1407 CLASSIFICATION/DISTRIBUTION OF SOLID WASTE COMPOST PRODUCTS (Limited to Type 1 and Type 2 Composting Facilities)

.1408 METHODS FOR TESTING AND REPORTING REQUIREMENTS (Limited to Type 1 and Type 2 Composting Facilities)

SECTION .1600

.1626 OPERATIONAL REQUIREMENTS FOR MUNICIPAL SOLID WASTE LANDFILL FACILITIES

(Delegation of Authority limited to Inspections and Compliance Monitoring as provided by Paragraphs 11 and 12 in the Memorandum of Agreement.)

N.C.G.S. 130A-294 (b2) AND (b3) DEMONSTRATION OF FINANCIAL QUALIFICATION AND ENVIRONMENTAL COMPLIANCE by applicants for permits for Applicants for permits for Land Clearing and Inert Debris Landfills.

CONTINUITY

Subsequent revisions and additions to delegated sections of the North Carolina Solid Waste Management Rules shall be automatically delegated upon adoption, unless other wise specified by the Division in writing.

EXCEPTIONS

The Division shall retain exclusive authority and responsibility for the permitting of municipal and industrial solid waste landfills, construction and demolition waste landfills, incinerators, treatment and processing facilities, composting facilities, solid waste transfer facilities, and other non-delegated solid waste management facilities. Contingent upon a satisfactory demonstration by the County the Division may delegate additional functions at a later date.

The Division shall retain exclusive authority and responsibility for permitting and regulation of all solid waste management facilities owned and or operated by the County, facilities owned and or operated by a unit of local government other than Mecklenburg County, and facilities in which Mecklenburg County or any other unit of local government as a partial ownership or operational interest. The Division shall retain exclusive authority and responsibility for the issuance of administrative penalties.

In accordance with G.S. 130A-294 (a) (5c) the authority delegated herein does not include authority to designate a geographic area to be served by a solid waste management facility, and no authority over or

control of the operations or properties of any other local government is delegated to the County.

NOTE: The Solid Waste Section of the Division of Waste Management shall retain concurrent and overriding jurisdiction over all areas of delegated authority.

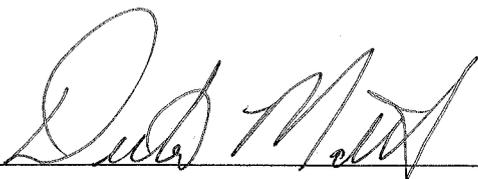
CONDITIONS

As a condition of this delegation, the County shall send to the Division of Waste Management, Solid Waste Section, an official, electronic copy of all permits, inspection reports and monitoring reports concerning solid waste management facilities for which the County is delegated certain authority and responsibility under this document. The Division reserves the right to conduct an annual unannounced review of the County's program. This review will consist of a random selection of facilities at which to conduct a records and facility site inspection.

TERMINATION

The Division or the County may terminate this Delegation of Authority upon 30 days written notice with an explanation of the reason for the termination.

This delegation shall become effective October 16, 2008



Dexter Matthews
For the Department of Environment and Natural Resources

10-16-08

Date