



Interoffice Memorandum

May 9, 2018

TO: Mayor Teresa Jacobs
-AND-
Board of County Commissioners

FROM: Jon V. Weiss, P.E., Director
Community, Environmental and Development
Services Department

CONTACT PERSON: **David D. Jones, P.E., CEP, Manager
Environmental Protection Division
(407) 836-1405**

SUBJECT: June 5, 2018- Public Hearing
Revision to Chapter 15, Article III, Air Quality Control

The Environmental Protection Division (EPD) is presenting a proposed revision to the Air Quality Control Ordinance (Chapter 15, Article III).

In 1985, Orange County was designated by the Florida Department of Environmental Protection (FDEP) as a "locally approved air program." The current Specific Operating Agreement (SOA) between FDEP and the County was approved by the Board in July 2016. The SOA authorizes the County to act on behalf of FDEP in the matter relating to air pollution control and enumerates the County's duties and responsibilities as a local air program. The SOA requires Orange County to keep the Air Quality Ordinance and the Air Quality Management (AQM) Program consistent with FDEP's rules, programs, and standards. Adherence to the SOA ensures Orange County is eligible to receive funding to support the program in the form of a portion of the tag fee for every vehicle registered in the County as well as state and federal grants for local air programs that are awarded on an annual basis.

The AQM staff has reviewed the changes in FDEP and U.S. Environmental Protection Agency (EPA) air pollution control rules that have occurred since the Air Quality Ordinance was last updated. Based on this review, it was determined that only relatively minor changes to FDEP and EPA air rules have been promulgated, including clarifications, minor administrative changes and updating of references to reflect more current standards and methods. The changes to the federal and state air rules are not expected to have a substantial impact on the development of real property within Orange County. The proposed changes to the air ordinance reflect an updating of the dates of the FDEP and EPA rules adopted by reference to the versions as they exist on January 31, 2018.

The following is a synopsis of the amended key provisions of the proposed revisions to the Air Quality Control Ordinance:

- Clean-up of existing ordinance language,
- Incorporate minor changes to existing state air pollution control rules by reference, and
- Incorporate Orange County Burn Ban Ordinance 2018-07 in Section 15-96.

A more detailed summary of state and federal air rule changes is attached.

EPD held two public workshops on the proposed ordinance revision on March 28, 2018; no adverse comments were received. EPD presented the draft ordinance revisions to the Environmental Protection Commission (EPC) on March 28, 2018. The EPC voted unanimously to support the proposed changes to the ordinance. In addition, the County Attorney's Office has reviewed the revised ordinance as to form.

ACTION REQUESTED: Determine that the Proposed Ordinance will not have a substantial impact on the development of real property within Orange County; and Adopt the Ordinance revisions to amend Chapter 15, Article III, related to Air Quality Control. All Districts

JVW/DDJ: mg

Attachments

ORDINANCE NO. 2018-_____

AN ORDINANCE AMENDING THE "ORANGE COUNTY AIR QUALITY RULES" REGULATING AIR QUALITY AND AIR POLLUTION CONTROL; AMENDING SECTION 15-70 REGARDING DEFINITIONS; AMENDING SECTION 15-71 REGARDING VIOLATIONS, PENALTIES AND REMEDIES; AMENDING SECTION 15-89 REGARDING PERMITS REQUIRED, PERMITTING GENERALLY, EXCEPTIONS FROM PERMITTING, PERMIT APPLICATION PROCESSING, VARIANCES AND WAIVERS, EXEMPTIONS, FINAL AGENCY ACTION FOR PERMITS, TEMPORARY NONCOMPLIANCE; AMENDING SECTION 15-89.1 REGARDING AIR POLLUTION PROHIBITED; AMENDING SECTION 15-90 REGARDING ADOPTION OF STATE AND FEDERAL RULES BY REFERENCE; AMENDING SECTION 15-96 REGARDING PROHIBITIONS; AMENDING SECTION 15-98 REGARDING OPEN BURNING OF LAND CLEARING DEBRIS; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY:

Section 1. Amendments; In General. Chapter 15 of the Orange County Code is amended as set forth in Section 2 through Section 8 herein with new additions being shown as underlined, deletions being shown by strike-throughs, and asterisks (***) indicating portions of code text which have not changed.

Section 2. Amendment to Section 15-70. The definitions of "open burning," and "yard waste" in Section 15-70 ("Definitions.") are hereby amended to read as follows:

Open burning means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the outdoor atmosphere without passing through a stack or chimney. This definition does not include the

38 burning of tobacco products in the form of cigarettes, cigars, and
40 pipe tobacco when ignited for personal consumption.

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44 *Yard waste* means vegetative matter resulting from
landscaping and yard maintenance operations and other such
46 routine property clean-up activities. It includes materials such as
leaves, shrub trimmings, grass clippings, palm fronds, and brush.
48 This term does not include land clearing debris or tree cutting
debris.

50 In all other respects, Section 15-70 shall remain unchanged.

52 **Section 3. Amendment to Section 15-71.** Subsection (c) of Section 15-71
("Violations; penalties and remedies.") is amended to read as follows:

54 **Sec. 15-71. Violations; penalties and remedies.**

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58 (c) *DEP enforcement remedies.* The county may avail
itself of the enforcement provisions available to DEP under chapter
403, F.S., including section 403.121, F.S. (~~2014~~2015), and the
rules adopted by reference in this ordinance.

60 **Section 4. Amendment to Section 15-89.** Subsection (c) of Section 15-89 ("Permits
required; permitting generally; exceptions from permitting; permit application processing;
62 variances and waivers; exemptions; final agency action for permits; temporary noncompliance.")
is amended to read as follows:

64 **Sec. 15-89. Permits required; permitting generally;
exceptions from permitting; permit application processing;
66 variances and waivers; exemptions; final agency action for
permits; temporary noncompliance.**

68 ***

70 (c) *Exceptions from permitting.* The county shall not
administer the following permits or categories of air sources:

72 (1) Electrical power plants and waste-to-energy
facilities.

(2) Permits for which local air pollution programs are precluded from taking final agency action under F.S. § 403.0872 (e.g., pulp and paper mills, sugar mills, and chemical manufacturing plants).

(3) County-owned or operated facilities.

(4) New source preconstruction review ~~(NSR) and conducted for the prevention of significant deterioration (PSD) construction permits of air quality and Non-Attainment Area air construction permits.~~

(5) Construction permits subject to processing under "expedited permitting" provisions set forth in Florida Statutes.

(6) Landfills, as designated by Florida Department of Environmental Protection Guidance, Reedy Creek Improvement District, Walt Disney World, and Stanton Energy Center.

(7) General permit facilities operating under the authority of an air general permit in accordance with Rule 62-210.310, F.A.C.

Section 5. Amendment to Section 15-89.1. Subsection (a) of Section 15-89.1 ("Air

pollution prohibited.") is amended to read as follows:

Sec. 15-89.1. Air pollution prohibited.

(a) *Emissions prohibited.*

(1) No person shall cause, let, suffer, allow, or permit the discharge of air pollutants that cause or contribute to an objectionable odor.

(2) No person shall cause, let, suffer, allow, or permit to be discharged into the atmosphere the emissions of air pollutants from any activity, the density of which is equal to or greater than ~~that designated as Number 1 on the Ringelmann Chart~~ (twenty (20) percent opacity) per EPA Method 9.

(3) No person shall store, pump, handle, process, load, unload or use in any process or installation, volatile organic compounds or organic solvents without applying known and

106 existing vapor emission control devices or systems deemed
necessary and ordered by EPD.

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Section 6. Amendment to Section 15-90. Section 15-90 ("Adoption of state and
110 federal rules by reference.") is amended to read as follows:

Sec. 15-90. Adoption of state and federal rules by reference.

112 (a) The board of county commissioners hereby adopts
114 by specific reference thereto the rules of the DEP relating to air
quality standards and criteria, design, construction, permitting,
116 performance, operation, maintenance, monitoring, and reporting
requirements for air pollution sources, as they exist as of January
31, 2017~~8~~. These rules are:

- 118 (1) ~~F.A.C. ch. Chapter~~ 62-4, F.A.C.
(2) ~~F.A.C. ch. Chapter~~ 62-204, F.A.C.
120 (3) ~~F.A.C. ch. Chapter~~ 62-210, F.A.C.
(4) ~~F.A.C. ch. Chapter~~ 62-212, F.A.C.
122 (5) ~~F.A.C. ch. Chapter~~ 62-213, F.A.C.
(6) ~~F.A.C. ch. Chapter~~ 62-243, F.A.C.
124 (7) ~~F.A.C. ch. Chapter~~ 62-252, F.A.C.
(8) ~~F.A.C. ch. Rule~~ 62-257.400, F.A.C.
126 (9) ~~F.A.C. ch. Rule~~ 62-257.900, F.A.C.
(10) ~~F.A.C. ch. Chapter~~ 62-296, F.A.C.
128 (11) ~~F.A.C. ch. Chapter~~ 62-297, F.A.C.

(b) The board of county commissioners hereby adopts
130 by specific reference the regulations of the EPA as set forth in 40
CFR, Subpart M, for asbestos ("NESHAP") as they exist as of
132 January 31, 2017~~8~~.

Section 7. Amendment to Section 15-96. Subsection (c) of Section 15-96

134 ("Prohibitions.") is amended to read as follows:

Sec. 15-96. Prohibitions.

136 ***

138 (c) *Prohibition on open burning during adverse*
139 *conditions.* No open burning, including the use of any air curtain
140 incinerator exempted from permitting pursuant to ~~F.A.C.~~ Rule 62-
141 210.300, F.A.C. shall be conducted during a National Weather
142 Service Air Stagnation Advisory or Air Pollution Episode, or if the
143 Florida Department of Agriculture and Consumer Services,
144 Division of Forestry, has determined that the weather conditions
145 are unfavorable for safe burning, or the Orange County Fire
146 Rescue Department issues a Burn Ban Activation per section 18-4
under Ordinance 2018-07.

148 **Section 8. Amendment to Section 15-98.** Section 15-98 ("Open burning of land
clearing debris.") is amended to read as follows:

150 **Sec. 15-98. Open burning of land clearing debris.**

151 (a) Open burning of land clearing debris is allowed
152 provided:

153 (1) The open burning is restricted to the site where the
154 land clearing debris is generated; and

(2) The fire is ignited after 9:00 a.m.; and

156 (3) The fire is completely extinguished one (1) hour
before sunset; and

158 (4) The fire is attended by qualified personnel, and
adequate fire extinguishing equipment is available at all times; and

160 (5) The moisture content and composition of material
161 to be burned is favorable to good burning which will minimize
162 smoke; and

164 (6) Prior to conducting the open burning, the person
responsible for the burning activity contacts the division of forestry

and the local firefighting authority having jurisdiction regarding the planned burning activity.

(b) If the open burning resulting from the land clearing operation is creating a nuisance, as determined by the environmental protection officer or the local firefighting authority having jurisdiction, then the environmental protection officer and the chief of the local firefighting authority having jurisdiction have the authority to suspend or defer open burning or require the use of an air curtain incinerator.

(c) Except as provided above in this section, open burning of any other land clearing debris shall be conducted using an air curtain incinerator operated in compliance with F.A.C. Rule 62-210.300, F.A.C. or F.A.C. Rule 62-292.401, 62-296.401, F.A.C. and all applicable terms of the incinerator's air permit.

Section 9. Effective Date. This ordinance shall take effect pursuant to general law.

ADOPTED this _____ day of _____, 2018.

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: _____
Teresa Jacobs
Orange County Mayor

ATTEST: Phil Diamond, CPA, Orange County Comptroller,
As Clerk of the Board of County Commissioners

By: _____
Deputy Clerk

Florida Administrative Code (F.A.C.) Regulation Timeline

F.A.C. Effective Date	Category	Chapter	Rule	Affected Rules	Purpose
12/21/2017	Federal Regulations Adopted by Reference	62-204	204.800	Multiple	Amendments to Federal Regulations Adopted by Reference.
7/13/2017	Exemptions	62-243	243.300	Entire rule.	REPEALED as exemptions were moved into 62-243.500.
7/13/2017	Certification	62-243	243.500	62-243.500(1) & (2)	Replaced the Acknowledgment of Certification found in 62-243.500(2) with the exemptions from 62-243.300.
6/22/2017	Forms and Instructions	62-210	210.900	62-210.900(1), (3), and (5).	Updates subsection 62-210.900(5), F.A.C., the instructions to the Annual Operating Report for Air Pollutant Emitting Facility, and subsections 62-210.900(1) and (3), F.A.C., the instructions to two air permit application forms, each of which contains an updated appendix of pollutant identification codes. The amendments also provide clarifications to facilitate the completion and processing of the forms and provide links to other forms that have not been updated to provide consistency.
4/26/2017	Definitions	62-210	210.200	62-210.200(135) "Gas/Gas Method", and (163) "Liquid/Gas Method", removed and the rest of the definitions renumbered accordingly.	Though the definitions for these terms are still valid and used in EPA methods, these terms are no longer used in F.A.C. rules.
4/26/2017	Permits Required	62-210	210.300	62-210.300(3)(a)33.c.; 34.a. & i.; 35.f., g., & h.; (b)3.; & (c)2.j.	Revisions to 62-210.300(3)(a)33.c., F.A.C., amend permitting exemption criteria for fossil fuel steam generators, hot water generators, and other external combustion heating units. Revisions to 62-210.300(3)(a)34.a. & i., F.A.C., will allow units that meet the requirements of 40 CFR Part 63, Subpart JJJJJ to maintain the existing permit exemption. Revisions to 62-210.300(3)(a)35.f., g., and h., to clarify RICE exemption criteria. Subparagraph 62-210.300(3)(b)3., F.A.C., regarding temporary exemptions for emissions units at certain Title V sources, was removed because it applied to the very first round of Title V permits and was obsolete. Sub-subparagraph 62-210.300(3)(c)2.j., F.A.C., was deleted to remove the prohibition against an asphalt plant collocating with a Title V source.

F.A.C. Effective Date	Category	Chapter	Rule	Affected Rules	Purpose
4/26/2017	Air General Permits	62-210	210.310	62-210.310(2)(a)3.; (4)(b), (4)(b)1., (4)(b)2.a., d., & e.; (4)(b)3.c., d., e., & f.; (5)(b)4.b.; (5)(b)5.; (5)(e)5.; (5)(g)4.; (5)(h)4.; (5)(i)4.; (5)(i)4.a., b., c., & d.; (5)(j)4; and (5)(k)4.	Removed subparagraph 62-210.310(2)(a)3., F.A.C., to delete the prohibition against a GP facility from collocating with or relocating to a Title V facility unless the GP facility is included in the Title V permit. Revisions to insert the word "stationary" multiple times into paragraph 62-210.310(4)(b), F.A.C., to clarify the GP language applies to "stationary" reciprocating internal combustion engines (RICE) only. Revisions made to paragraph 62-210.310(5)(b), F.A.C., to clarify fuel consumption exemption criteria for emissions units authorized by the concrete batching GP and allow relocation to a Title V facility. Revisions to paragraph 62-210.310(5)(e), F.A.C., allow the relocation of crushers operating under a GP to a Title V facility. Revisions to the GP for Chromium Electroplaters to reflect updates to 40 CFR Part 63, Subpart N. Also, clarifying and corrective revisions to existing rule language for several GPs to change "this air general" to "this air general permit".
2/8/2017	Portland Cement Plants	62-296	296.701	Entire rule.	REPEALED.
2/8/2017	Carbonaceous Fuel Burners	62-296	296.703	Entire rule.	REPEALED.
2/8/2017	Glass Manufacturing Process	62-296	296.706	Entire rule.	REPEALED.
2/8/2017	Lime Kilns	62-296	296.709	Entire rule.	REPEALED.
2/8/2017	Smelt Dissolving Tanks	62-296	296.710	Entire rule.	REPEALED.

Code of Federal Regulations (CFR) Timeline

CFR Promulgation Date	CFR Effective Date	Date CFR Adopted by Reference in Florida*	Category	CFR Part	Subpart (or Appendix)	Affected Rules	Purpose
<u>10/11/2017</u>	10/11/2017	12/21/2017	NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES - Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills	63	MM	63.860; 63.861; 63.862; 63.863; 63.864; 63.865; 63.866; 63.867; 63.868; Table 1	Finalizes the residual risk and technology review (RTR) by determining that risks from the source category are acceptable and that the standards provide an ample margin of safety to protect public health. Also finalizes amendments to the NESHAP based on developments in practices, processes, and control technologies identified as part of the technology review. These final amendments include revisions to the opacity monitoring provisions and the addition of requirements to maintain proper operation of the electrostatic precipitator (ESP) automatic voltage control (AVC). Also finalized: the requirement to conduct 5-year periodic emissions testing, and submit electronic reports; revisions to provisions addressing periods of startup, shutdown, and malfunction (SSM); and technical and editorial changes.
<u>10/6/2017</u>	11/6/2017	12/21/2017	APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS - Florida	52	K	52.520	Finalizes approval of portions of five State Implementation Plan (SIP) revisions submitted by the FDEP on 6/23/1999, 7/1/2011, 12/12/2011, 2/27/2013, and 2/1/2017. The revisions recodify, clarify, and reorganize the State's non-TitleV air permitting and compliance assurance program regulations consistent with flexibility provided under the Clean Air Act and EPA's rules which address new source preconstruction permitting.
<u>9/28/2017</u>	9/28/2017	12/21/2017	NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES - Phosphoric Acid Manufacturing Plants	63	AA	63.605; 63.608; Table 1; Table 2; Table 3; Table 4	Revises the compliance date by which affected sources must include emissions from oxidation reactors when determining compliance with the total fluoride emission limits for superphosphoric acid (SPA) process lines. In addition, revises the compliance date for the monitoring requirements for low-energy absorbers. Also clarifies one option and adding a new option, to the monitoring requirements for low-energy absorbers.
<u>9/28/2017</u>	9/28/2017	12/21/2017	NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES - Phosphate Fertilizers Production Plants	63	BB	63.625; 63.628; Table 3; Table 4	Revises the compliance date by which affected sources must include emissions from oxidation reactors when determining compliance with the total fluoride emission limits for superphosphoric acid (SPA) process lines. In addition, revises the compliance date for the monitoring requirements for low-energy absorbers. Also clarifies one option and adding a new option, to the monitoring requirements for low-energy absorbers.
<u>9/21/2017</u>	10/23/2017	12/21/2017	STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES - Quality Assurance Procedures	60	Appendix F	Procedure 6 Sections 4.1.5, 4.1.5.1, and 5.2.4.2	Technical amendments to Procedure 6 to established consistent requirements for ensuring and assessing the quality of HCl data measured by CEMS that meet initial acceptance requirements in Performance Specification (PS) 18 of Appendix B to part 60.

CFR Promulgation Date	CFR Effective Date	Date CFR Adopted by Reference in Florida*	Category	CFR Part	Subpart (or Appendix)	Affected Rules	Purpose
<u>8/14/2017</u>	9/13/2017	12/21/2017	STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES - Quality Assurance Procedures	60	Appendix F	Procedure 2	Finalizes revisions to Procedure 2, Quality Assurance Requirements for Particulate Matter Continuous Emission Monitoring Systems at Stationary Sources, that were proposed in the Federal Register on 11/21/2016. Procedure 2 includes quality assurance/quality control (QA/QC) procedures for particulate matter (PM) continuous emission monitoring systems (CEMS) used for compliance determination at stationary sources. The QA procedures specify the minimum requirements necessary for the control and assessment of the quality of PM CEMS data submitted to the EPA and other regulatory authorities. This action establishes consistent requirements for ensuring and assessing the quality of PM data measured by CEMS that meet initial acceptance requirements in Performance Specification (PS) 11 of appendix B to part 60.
<u>8/10/2017</u>	10/10/2017	12/21/2017	APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS - Florida	52	K	52.520(e)	EPA takes direct final action to approve a portion of Florida's 1/22/2013 SIP submission addressing the CAA infrastructure requirements for the 2010 1-hour NO2 NAAQS. Specifically, EPA takes direct final action to approve the portions of Florida's 1/22/2013 SIP submission addressing section 110(a)(2)(B) of the infrastructure requirements, which requires SIPs to provide for the establishment and operation of appropriate devices, methods, systems, and procedures necessary to: (i) Monitor, compile, and analyze data on ambient air quality, and (ii) upon request, make such data available to the Administrator. EPA approves this portion of Florida's infrastructure submission for the 2010 1-hour NO2 NAAQS because this submission is consistent with section 110 of the CAA.
<u>7/21/2017</u>	9/19/2017	12/21/2017	APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS - Florida	52	K	52.520(c)	Removes unnecessary and superseded rules from the Florida State Implementation Plan (SIP) by removing the entries for "62-210.100," "62-212.100," "62-297.100," and "62-296.407".
<u>7/3/2017</u>	9/1/2017	12/21/2017	APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS - Florida	52	K	52.520(c)	EPA takes direct final action to approve changes to the Florida SIP to update definitions and make administrative edits to regulations for the Plantwide Applicability Limits(PALs) and Florida's Small Business Assistance program (SBA). EPA is proposing to approve portions of a SIP revision submitted by the State of Florida, through the Florida DEP on 7/1/2011, to update definitions and make administrative edits to regulations for PALs and the SBA. This action is taken pursuant to the Clean Air Act.

CFR Promulgation Date	CFR Effective Date	Date CFR Adopted by Reference in Florida*	Category	CFR Part	Subpart (or Appendix)	Affected Rules	Purpose
<u>6/23/2017</u>	6/23/2017	12/21/2017	STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES - General Provisions	60	A	60.17	EPA action to correct paragraph numbering in the Incorporations by Reference (IBR) section of regulations that specifically lists material that can be purchased from the American Society for Testing and Materials (ASTM). This action assigns the appropriate IBR paragraph numbers by correcting paragraph ordering errors.
<u>4/7/2017</u>	5/8/2017	12/21/2017	APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS - Florida	52	K	52.520	FDEP certified that the Florida SIP contains provisions that ensure the 2012 Annual PM2.5 NAAQS is implemented, enforced, and maintained in Florida. EPA has determined that portions of Florida's SIP satisfy certain required infrastructure elements for the 2012 Annual PM2.5 NAAQS.
<u>4/6/2017</u>	4/6/2017	12/21/2017	NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS: Coal- and Oil-Fired Electric Steam Generating Units	63	UUUUU	63.10021, 63.10031, Appendix A	Amends the electronic reporting requirements for the NESHAP for Coal- and Oil-Fired Electric Utility Steam Generating Units (also known as the Mercury and Air Toxics Standards (MATS)) to allow for the temporary submission, through June 30, 2018, of certain reports using the portable document file (PDF) format and to correct inadvertent errors.