

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In re:

**EMERGENCY AUTHORIZATION FOR
REPAIRS, REPLACEMENT,
RESTORATION, AND CERTAIN
OTHER MEASURES MADE NECESSARY
BY HURRICANE IRMA**

OGC NO. 17-0989

EMERGENCY FINAL ORDER

Under Sections 120.569(2)(n), 252.36, and 252.46, Florida Statutes, and upon consideration of the State of Florida Executive Order No. 17-235 and the following findings of fact, the State of Florida Department of Environmental Protection (Department) enters this Emergency Final Order (Order), including Findings of Fact and Conclusions of Law, in response to the imminent or immediate danger to the public health, safety, and welfare of the citizens of the State of Florida posed by Hurricane Irma (hereinafter "the Hurricane").

FINDINGS OF FACT

1. Hurricane Irma is a major Hurricane located east of the Leeward Islands with maximum sustained winds of 175 mph. The National Hurricane Center forecasts that the Hurricane will travel west into the Straits of Florida, with computer models predicting that the Hurricane will turn north and travel up the entire spine of Florida. The Hurricane poses a severe threat to the State of Florida and requires that timely precautions are taken to protect the communities and critical infrastructure and the general welfare of this State. The Hurricane is likely to cause significant impact and widespread damage throughout the State of Florida which shall constitute the area covered by this Emergency Final Order. This area shall herein be referred to as the "Emergency Area."

2. By State of Florida Executive Order No. 17-235, the Governor declared that a state of emergency exists throughout the State of Florida, based upon the serious threat to the public health, safety and welfare posed by the Hurricane.

3. The Department finds that the Hurricane creates a state of emergency threatening the public health, safety, welfare, and property throughout the Emergency Area. As a result of the emergency, immediate action by Florida's citizens and government may be necessary to repair, replace, and restore structures, equipment, surface water management systems, works, and other systems damaged by the Hurricane.

4. The Department finds that an emergency authorization is required to address the need for immediate action because the normal procedures for obtaining the necessary authorizations would not result in sufficiently timely action to address the emergency.

5. The Department finds that immediate, strict compliance with the provisions of the statutes, rules, or orders noted within this Order would prevent, hinder, or delay necessary action in coping with the emergency, and that the actions authorized under this order are narrowly tailored to address the immediate need for action and are procedurally appropriate under the circumstances.

CONCLUSIONS OF LAW

1. Based on the findings recited above, it is hereby concluded that the emergency caused by the Hurricane poses an immediate danger to the public health, safety, or welfare and requires an immediate order of the Department.

2. Under State of Florida Executive Order No. 17-235, and Sections 120.569(2)(n), 252.36, and 252.46, Florida Statutes, the Secretary, or designee, of the Department is authorized to issue this Emergency Final Order.

3. Suspension of statutes and rules as noted within this Order is required so as not to prevent, hinder, or delay necessary action in coping with the emergency.

THEREFORE, IT IS ORDERED:

A. WASTE MANAGEMENT

Within the Emergency Area:

1. Storage Tank Systems

Owners and operators of storage tank systems, regulated under Chapters 62-761 and 62-762, Florida Administrative Code, and their licensed engineers and contractors, are authorized to make all necessary repairs to restore essential services and repair or replace (as necessary) all structures, equipment, and appurtenances of the systems to their pre-Hurricane permitted or registered condition without prior notice to the Department. Within thirty (30) days of commencing the work of such repair or replacement, however, the owner or operator shall notify the Department in writing, describing the nature of the work, giving its DEP Facility I.D. for the location, and providing the name, address, and telephone number of the representative of the owner or operator to contact concerning the work.

2. Solid Waste Management

a. Field authorizations may be issued prior to or following a site inspection by Department personnel or a delegated local program for staging areas (also referred to as DDMSs – Disaster Debris Management Sites) to be used for temporary storage and chipping, grinding or burning of Hurricane-generated debris. Field authorizations may be requested by providing a notice to the local office of the Department containing a description of the staging area design and operation, the location of the staging area, and the name, address, and telephone number of the site manager. Written records of all field

authorizations shall be created and maintained by Department staff. Field authorizations may include specific conditions for the operation and closure of the staging area, and may include a required closure date which extends beyond the expiration date of this Order. Staging areas shall avoid wetlands and other surface waters to the greatest extent possible; such areas that are used or affected must be fully restored upon cessation of use of the area. Staging areas must cease operation, and all Hurricane-generated debris must be removed from the site by the date specified in the field authorization. Failure to comply with the conditions of the field authorization, or failure to adequately close the site by the required closure date, may result in enforcement actions by the Department. Field authorizations issued prior to the effective date of this Order remain in effect but may be modified by the Department to include conditions and closure dates as specified herein.

b. Hurricane-generated vegetative debris which is managed at an authorized staging area may be disposed of in permitted lined or unlined landfills, permitted land clearing debris facilities, or permitted construction and demolition debris disposal facilities. Such vegetative debris may also be managed at a permitted waste processing facility or a registered yard trash processing facility in accordance with the terms of the applicable rules and permit conditions.

c. Construction and demolition debris that is mixed with other Hurricane-generated debris need not be segregated from other solid waste prior to disposal in a lined landfill. Construction and demolition debris that is either source-separated or is separated from other Hurricane-generated debris at an authorized staging area, or at another area specifically authorized by the Department, may be managed at a permitted construction and demolition debris disposal or recycling facility upon approval by the

Department of the methods and operational practices used to inspect the waste during segregation.

d. Except as otherwise specifically provided herein, Hurricane-generated debris shall be disposed of in a Class I landfill or, except for asbestos-containing materials, in a waste-to-energy facility. Non-recyclables and residuals generated from segregation of Hurricane-generated debris shall also be disposed of in a Class I landfill or waste-to-energy facility.

e. Ash residue generated from incineration or burning of Hurricane-generated vegetative debris in accordance with Section B of this Order may be disposed of in a permitted disposal facility, or may be land spread in any areas approved by local government officials except in wellfield protection areas or water bodies.

f. Ash from the combustion of other Hurricane-generated debris shall be disposed of in a Class I landfill. Metals or other non-combustible materials segregated from the ash residue may also be disposed of in an unlined, permitted landfill.

g. Unsalvageable refrigerators and freezers containing solid waste such as rotting food that may create a sanitary nuisance may be disposed of in a Class I landfill; provided, however, that chlorofluorocarbons and capacitors must be removed and recycled to the greatest extent practicable using techniques and personnel meeting the requirements of 40 CFR Part 82.

h. Permitted landfills, waste-to-energy facilities, and transfer stations which accept Hurricane-generated debris in accordance with the terms of this Order may accept Hurricane-generated debris for disposal or storage without the need to first modify existing solid waste permits or certifications. Operators of landfills shall seek

modifications of their existing permits to address any long-term impacts of accepting Hurricane-generated debris on operations and closure that are not addressed in existing permits. Long-term impacts are those, which will extend past the expiration date of this Order. The requests for modification shall be submitted as soon as possible, but no later than the expiration date of this Order. No permit fee will be required for any modifications necessitated solely by the Hurricane clean-up activities. This paragraph does not authorize the permanent lateral or vertical expansion of any facility beyond its permitted limits.

i. Domestic wastewater biosolids may be disposed of in Class I landfills even if such biosolids meet the definition of a liquid waste found in Rule 62-701.200(72), Florida Administrative Code, provided that such disposal is approved in advance by the Department and that the material is managed to the extent practicable so as to minimize liquid content, odors and runoff.

3. Hazardous Waste Management

A blanket approval of time extensions under Chapter 62-730, Florida Administrative Code, is necessary within the Emergency Area for hazardous waste generators for the storage of their hazardous wastes on site, pending the cleanup any Hurricane damage and restoration of essential services. The rules authorize a thirty-day extension because of unforeseen and uncontrollable circumstances such as the Hurricane. Therefore, to avoid having to issue a potentially large number of individual approvals on a case-by-case basis and waste limited agency resources during the time of emergency, the Department authorizes a general extension of time of thirty days from the expiration of this Order for all

such hazardous waste generators for the storage of their hazardous wastes on site, in the counties within the Emergency Area.

B. AIR RESOURCE MANAGEMENT

Within the Emergency Area:

1. Air Curtain Incinerators

Local governments or their agents may conduct the burning of Hurricane-generated yard trash, other vegetative debris, and untreated wood from construction and demolition debris in air curtain incinerators in accordance with the provisions of Section 403.7071(6), Florida Statutes. In operating any air curtain incinerator pursuant to this Order, the pit width shall not exceed 12 feet, vertical side walls shall be maintained, and waste material shall not be loaded into the air curtain incinerator such that it protrudes above the level of the air curtain. Ash shall not be allowed to build up in the pit higher than one-third the pit depth or to the point where the ash begins to impede combustion, whichever level is lower. Refractory-lined air curtain incinerators may operate 24 hours per day. Air curtain incinerators without refractory-lined walls may operate 24 hours per day provided reasonable efforts are made to prevent nuisance smoke. Notwithstanding the provisions of this paragraph, the burning of asbestos-containing materials or hazardous waste is prohibited.

2. Open Pile Burning

Only vegetative material can be burned on an open pile. Open pile burning of vegetative debris is managed under the authority of the Florida Forest Service in the Department of Agriculture and Consumer Services, and the Department will defer to decisions made by that agency, provided that burning does not occur in wetlands or other

surface waters. Open pile burning shall avoid adversely affecting wetlands and other surface waters to the greatest extent possible; any wetland or other surface water areas that are used or affected must be fully restored upon cessation of use of the area in consultation with the Department.

3. Other Air Pollution Sources

The Department authorizes the minor repair of any previously permitted stationary source of air pollution that is damaged by the Hurricanes to restore it to its previously permitted condition without prior notice to the Department. Within thirty days of commencing such repairs, however, the permittee shall notify the Department in writing, stating the location and nature of the work and providing the name, address, and telephone number of the representative of the permittee to contact concerning the work. Minor repairs are repairs that would not constitute reconstruction under any definition of 40 CFR Part 60, 61 or 63 and that could not affect potential to emit any pollutant. Repairs that would constitute reconstruction under any definition of 40 CFR Part 60, 61 or 63, or repairs that could affect potential to emit any pollutant are not authorized by this Order.

LANDFILL
GAS VENTS →

4. Asbestos Clean-up

The Department waives the requirement for 10 day prior notification for emergency demolition or emergency cleanup of asbestos-containing material resulting from the Hurricane. Within one business day of commencing such demolition or cleanup, however, the person responsible for such work shall notify the Department in writing. The notification shall be consistent with the information on the Notice of Demolition or Asbestos Renovation, and shall include the location and nature of the work and the name, address, and telephone number of operator on the project. The procedures in 40 CFR 61 Subpart M for handling

asbestos-containing material shall be complied with during demolition and cleanup. Asbestos-containing material shall be disposed of in a Class I or III landfill in accordance with Rule 62-701.520(3), Florida Administrative Code. Burning of asbestos containing material is prohibited

C. WATER RESOURCE MANAGEMENT

Within the Emergency Area:

1. Definitions

The following definitions apply to activities authorized under Section C of this Order:

- a. For purposes of subsection C.2. of this Order, the term "structures" includes:
 - (1) utility infrastructure, including wastewater treatment plants, substations, lift stations, solid and hazardous waste facilities, utility lines (including transmission and distribution), poles, towers, support structures, cables, conduits, outfalls, intake structures, and pipelines;
 - (2) roads, bridges, culverts, driveways, sidewalks, bike paths, and other similar public and private infrastructure;
 - (3) public, private, and commercial habitable and non-habitable buildings, and structures ancillary to these buildings, such as garages, cabanas, storage sheds, bath houses, pools, and decks;
 - (4) piers (including docks, boardwalks, observation platforms, boat houses, and gazebos), and pilings;
 - (5) shore-stabilization structures, such as seawalls, bulkheads, revetments, breakwaters, and groins;
 - (6) fences, signs and billboards; and

Hurricane. This includes Department offices located outside the impacted area that perform any of their duties in the impacted area.

b. Any office of the Department not directly impacted by the Hurricane if that office has deployed staff to any Department district office or delegated local program specified above, or to any Water Management District office in an impacted area, to assist in Hurricane relief efforts or to supplement the normal staff in those impacted offices.

8. Expiration Date

This Emergency Final Order shall take effect immediately upon execution by the Secretary of the Department, or designee, and shall expire on October 4, 2017, unless modified or extended by further order.

9. Violation of Conditions of Emergency Final Order

Failure to comply with any condition set forth in this Order shall constitute a violation of a Department Final Order under Chapters 161, 253, 258, 373, 376, and 403, Florida Statutes, and enforcement proceedings may be brought in any appropriate administrative or judicial forum.

10. Applicability to Delegated Programs

The provisions of this Order apply in those cases where a water management district, local government or other entity is acting for the Department in accordance with a delegation agreement, operating agreement, or contract. Such water management district, local government or other entity shall comply with the terms of this Order to the extent that it is acting as an agent of the Department. This Order does not apply in those cases where a water management district, local government or other entity is acting under its own independent authority.