

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In re:

**EMERGENCY AUTHORIZATION FOR
A DISASTER DEBRIS MANAGEMENT
SITE MADE NECESSARY BY
THE TORNADO IN VOLUSIA COUNTY, FLORIDA**

OGC NO. 20-1243

EMERGENCY FINAL ORDER

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 and immediate danger to the public health, safety, and welfare of the citizens of the State of Florida caused by a tornado in Volusia County, Florida (hereinafter “the Storm”).

FINDINGS OF FACT

1. On August 18, 2020, the National Weather Service reported a tornado had winds up to 115 m.p.h. The National Weather Service said that the Storm was an EF-2 tornado on the Enhanced Fujita scale in an update on August 19, 2020. The Storm caused widespread damage in Volusia County. The effects of the Storm pose a threat to the health, safety, and welfare to the communities, infrastructure, and citizens in central Florida, including Volusia County. The effects of and damage caused by this tornado produced huge amounts of debris and waste. The Storm caused widespread damage within Volusia County, which shall constitute the specific area covered by this Order. This area shall herein be referred to as the “Emergency Area.”

2. The Department finds that the effects of the Storm created a state of emergency posing an imminent danger to 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 clear, sort, and process the debris.

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 Storm poses an immediate danger to the public health, safety, or welfare and requires an immediate order of the Department.

2. Under Sections 120.569(2)(n) and 252.46, Florida Statutes, the Secretary or designee of the Department is authorized to issue this 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. 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). Such staging areas are to be used for temporary storage of Storm-generated debris and chipping or grinding, of Storm-generated vegetative debris. Field authorizations should be requested by the local, state, or federal government entity responsible for disaster debris management within the jurisdiction and 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 Storm-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

b. Storm-generated vegetative debris that 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. Upon request and approval by the Department vegetative debris may be placed in or on soils to provide a beneficial use pursuant to Chapter 62-709, Florida Administrative Code.

c. Construction and demolition debris that is mixed with other Storm-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 Storm-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, Class III landfill, 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, Storm-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 Storm-generated debris shall also be disposed of in a Class I landfill or waste-to-energy facility.

e. 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, 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.

f. Permitted landfills, waste-to-energy facilities, and transfer stations which accept Storm-generated debris in accordance with the terms of this Order may accept Storm-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 Storm-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 Storm cleanup activities. This paragraph does not authorize the permanent lateral or vertical expansion of any facility beyond its permitted limits.

B. GENERAL PROVISIONS

1. General Limitations

The Department issues this Order solely to address the emergency created by the Storm. This Order shall not be construed to authorize any activity within the jurisdiction of the Department except in accordance with the express terms of this Order. Under no circumstances shall anything contained in this Order be construed to authorize the repair, replacement, or reconstruction of any type of unauthorized or illegal structure, habitable or otherwise. This Order does not convey any property rights or any rights or privileges other than those specified in this Order.

2. Suspension of Statutes and Rules

Within the Emergency Area, the requirements and effects of statutes and rules which conflict with the provisions of this Order are suspended to the extent necessary to implement this Order.

To the extent that any requirement to obtain a permit, lease, consent of use, or other authorization is waived by this Order, it should also be construed that the procedural requirements for obtaining such permit, lease, consent of use or other authorization, including requirements for fees and publication of notices, are suspended for the duration of this Order.

3. Review of Requests for Field Authorizations

It is the intent of the Department to act on requests for field authorizations in a timely and expeditious manner. The Department may require the submission of additional information as is necessary.

4. Other Authorizations Required

This Order only provides relief from the specific regulatory and proprietary requirements addressed herein for the duration of the Order and does not provide relief from the requirements of other federal, state, water management district or local agencies. This Order therefore does not negate the need for the property owner to obtain any other required permits or authorizations, nor from the need to comply with all the requirements of those agencies. This Order does not provide relief from any of the requirements of Chapter 471, Florida Statutes, regarding professional engineering.

8. Expiration Date

This Order shall take effect immediately upon execution by the Secretary of the Department, or designee, and shall expire on October 19, 2020, unless modified or extended by further order.

9. Violation of Conditions of Emergency Final Order

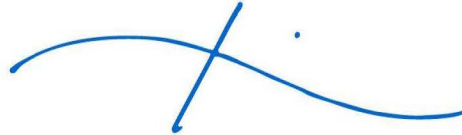
Failure to comply with any condition set forth in this Order shall constitute a violation of a Department Final Order under Chapters 161, 253, 258, 373, 376, and 403, Florida Statutes, and enforcement proceedings may be brought in any appropriate administrative or judicial forum.

NOTICE OF RIGHTS

Pursuant to Section 120.569(2)(n), Florida Statutes, any party adversely affected by this Order has the right to seek an injunction of this Order in circuit court or judicial review of it under Section 120.68, Florida Statutes. Judicial review must be sought by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel by mail at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within 30 days after this Order is filed with the Clerk of the Department.

DONE AND ORDERED on this 20th day of August 2020, in Tallahassee, Florida.

FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION



Noah Valenstein, Secretary
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

FILED on this date, pursuant to §120.52 Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

Lea Crandall
CLERK

August 20, 2020
DATE