

**STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**In re:**

**EMERGENCY AUTHORIZATION FOR  
MANAGEMENT OF STORM-GENERATED  
DEBRIS MADE NECESSARY BY  
THE TORNADO IN LIBERTY COUNTY, FLORIDA**

**OGC NO. 23-0792**

**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 Liberty County, Florida (hereinafter “the Storm”).

**FINDINGS OF FACT**

1. On April 27, 2023, the National Weather Service reported an EF-2 tornado on the Enhanced Fujita scale touched down in the Hosford area of Liberty County. The Storm caused widespread damage in Liberty County. The effects of the Storm pose a threat to the health, safety, and welfare to the communities, infrastructure, and citizens in the panhandle, including Liberty County. The effects of and damage caused by this tornado produced huge amounts of debris and waste. The Storm caused widespread damage within Liberty 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.

3. 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.

4. 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 from 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 provided within this Order is required so as not to prevent, hinder, or delay necessary action to cope with the emergency.

***THEREFORE, IT IS ORDERED:***

**A. WASTE MANAGEMENT**

Within the Emergency Area:

**1. Solid Waste Management**

a. Pursuant to Section 403.7071, F.S., Storm-generated debris shall be managed at authorized staging areas or Disaster Debris Management Sites (DDMS) in accordance with the [Division of Waste Management's Guidance for the Establishment, Operation, and Closure of Disaster Debris Management Sites](#).

b. The Department waives Rule 62-701.320(4), F.A.C., to the extent that 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. 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.

c. Pursuant to Section 403.7071, Florida Statutes, open burning of Storm-generated debris is allowed provided it meets the following requirements and does not create a public nuisance. Please refer to the Division of Air Resource Management's [Guidance on Site Selection Criteria for Open Burning Activities](#) for additional information.

(1) An air curtain incinerator may be used at any staging area, permitted landfill, waste-to-energy facility, registered yard trash processing facility, or transfer station so long as the operator meets the operating requirements detailed in the Division of Air Resource Management's [Air Curtain Incinerator Worksheet](#) and does not create a public nuisance.

(2) Open pile burning may be conducted at any staging area other than staging areas located at permitted landfills or permitted disposal facilities so long as the operator meets the operating requirements detailed in the Division of Air Resource Management's [Open Pile Burning Worksheet](#) and does not create a public nuisance.

## **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.

**5. Expiration Date**

This Order shall take effect immediately upon execution by the Secretary of the Department, or designee, and shall expire on July 3, 2023, unless modified or extended by further order.

**6. 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, 381, 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 4th day of May 2023, in Tallahassee, Florida.

FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION

 Digitally signed by  
Shawn Hamilton  
Date: 2023.05.04  
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Shawn Hamilton, 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**  Digitally signed by Lea  
Crandall  
Date: 2023.05.04  
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CLERK

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May 4, 2023  
DATE