

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In re:

**EMERGENCY AUTHORIZATION FOR
REPAIRS, REPLACEMENT,
RESTORATION, AND CERTAIN
OTHER MEASURES MADE NECESSARY
BY MAY NORTH FLORIDA TORNADOES**

OGC NO. 24-1683

FIRST AMENDED EMERGENCY FINAL ORDER

The State of Florida Department of Environmental Protection (Department) enters this First Amended 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 an intense thunderstorm that traveled across North Florida (hereinafter “the Storm”).

FINDINGS OF FACT

1. In the early morning hours of May 10, 2024, an intense thunderstorm moved across the southeastern United States and brought severe weather across North Florida. The Storm brought numerous tornadoes and strong winds that caused extensive damage to critical state infrastructure, including widespread debris. Accordingly, this Order shall apply to an area hereafter referred to as the “Emergency Area,” which consists of the following counties: Baker, Columbia, Escambia, Gadsden, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Okaloosa, Santa Rosa, Suwannee, Taylor, and Wakulla.

2. By State of Florida Executive Order No. 24-94, as amended by 24-95, the Governor declared that a state of emergency exists throughout the Emergency Area

based upon the serious threat to the public health, safety, and welfare posed by the Storm.

3. 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 repair, replace, and restore structures, equipment, surface water management systems, works, and other systems damaged by the Storm.

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 State of Florida Executive Order Nos. 24-94 and 24-95, 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 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 the Department waives Rules 62-761.405 and .700, and 62-762.411 and .701, F.A.C., to the extent necessary for:

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.

2. Mineral Oil Dielectric Fluid Discharges

A blanket approval of time extensions under Rule 62-780.550, Florida Administrative Code, is necessary within the Emergency Area for responding to and completing the cleanup of mineral oil dielectric fluid (MODEF) discharges from electric power generation, transmission, and distribution facilities damaged by the Storm within the Emergency Area. The Department authorizes a general extension of time of 30 days from the date of discovery of a nonpetroleum de minimis discharge (for a total of 60 days from the discovery of the discharge) for responding to and completing cleanup of MODEF discharges from electric power generation, transmission, and distribution facilities damaged by the Storm within the Emergency Area in accordance with the applicable provisions of Chapter 62-780, Florida Administrative Code. However, all other provisions of Rule 62-780.550, Florida Administrative Code, such as the record-keeping requirements, shall apply.

B. AIR RESOURCE MANAGEMENT

Within the Emergency Area:

1. Open Burning Operations

a. Pursuant to Section 403.7071, Florida Statutes, open burning of storm-generated yard trash, other storm-generated vegetative debris, or untreated wood from construction and demolition 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 in preventing public nuisances.

(1) Air curtain incinerators may be used in the Emergency Area for a period of up to eight (8) weeks without a Department-issued air permit to combust storm-generated yard trash, other storm-generated vegetative debris, or untreated wood from construction and demolition debris so long as the operator meets the operating requirements detailed in the Division of Air Resource Management's [Air Curtain Incinerator Worksheet](#) and do not create a public nuisance.

(2) Local governments or their agents may conduct the open pile burning of Storm-generated yard trash, other Storm-generated vegetative debris, and untreated wood from construction and demolition debris at Department-authorized staging areas (other than staging areas located at permitted landfills or permitted disposal facilities), so long as they meet the operating requirements detailed in the Division of Air Resource Management's [Open Pile Burning Worksheet](#).

2. Asbestos

40 CFR Part 61, Subpart M does not apply to the renovations or demolitions of residential buildings with four or fewer dwelling units. Owners of these types of residential buildings may commence a renovation or demolition without notice to the Department. For more information on asbestos regulation, please review the Division of Air Resource

Management's factsheets on [Asbestos Emergency Cleanups](#) and [Asbestos Building Debris Cleanup](#).

C. 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. 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. Other Authorizations Required

This Order only provides relief from the specific regulatory 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.

4. Deadlines for Agency Actions

For each of the following offices, any deadlines specified in statutes, rules, agreements, or Department orders, under which the Department is required by law to take action within a specified time period, and under which failure by the Department to timely take such action could result in any type of default binding on the Department (including the time to request additional information on permit applications), are hereby suspended and tolled for a period of 30 days, provided such deadline had not expired as of the effective date this Order:

a. Each Department office and delegated local program that sustains within its geographic boundaries any significant physical damage occurring as a direct result of the Storm. This includes Department offices located outside the impacted area that perform any of their duties in the impacted area; and

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

5. Expiration Date

This Order shall take effect immediately upon execution and shall expire upon expiration or rescission of EO 24-94 and EO 24-95, as modified or extended.

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 Chapter 403, Florida Statutes, and enforcement proceedings may be brought in any appropriate administrative or judicial forum.

7. 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.


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 13th day of May, 2024, in Tallahassee, Florida.

FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION


Digitally signed by
Shawn Hamilton
Date: 2024.05.13
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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

CLERK


Digitally signed by Lea Crandall
Date: 2024.05.13 13:11:44 -04'00'

DATE