

**BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**In re:**

**EMERGENCY AUTHORIZATION  
FOR DEVIATION FROM PERMIT  
AND CERTIFICATION REQUIREMENTS  
AT POWER PLANT FACILITIES  
MADE NECESSARY BY  
HURRICANE IRMA**

**OGC No. 17-0996**

---

**EMERGENCY FINAL ORDER**

Under Sections 120.569(2)(n), 252.36, 252.46, and 403.504(12), 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, to authorize power plants to deviate from permit and certification requirements 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. On September 10, 2017, Hurricane Irma made landfall on the State of Florida.
2. Hurricane Irma is projected to cause catastrophic damage across the full width of the peninsula and eastern panhandle of the state, including damage to electric generating units, electric transmission lines, and the interruption of the transport of fuel and process materials (e.g. ammonia, demineralized water, etc.) to numerous power generation facilities in those

regions.

3. As a result, available power generation facilities in the state of Florida are facing a severe shortage of fuel, process materials, and capacity for the generation of electricity to supply the state's needs.

4. If power plants in Florida are not temporarily authorized to use fuels other than those allowed in permit or certification conditions, or allowed to use fuels and operate available electric generating capacity in a manner that may result in exceedances of permit or certification conditions, this may result in the need to shut down generating facilities needed during the state's emergency response operations and post-storm recovery operations.

5. The shut-down of generating units due to fuel or material shortages has the potential to result in brownouts or blackouts throughout the state or to limit the extent to which available generating capacity can be utilized to address the state's emergency response operations and post-storm recovery operations. Brownouts and blackouts pose an imminent major threat to the health, welfare, and safety of the citizens of Florida.

6. On September 4, 2017, Governor Rick Scott issued Executive Order Number 17-235, declaring a state of emergency in the State of Florida as a result of the impending threat of Hurricane Irma. That Executive Order designates the State Coordinating Officer as the Governor's Authorized Representative for the duration of the emergency.

7. On September 10, 2017, the State Coordinating Officer delegated to the Florida Department of Environmental Protection the authority to issue an

emergency order to the state's electrical power generating facilities, allowing those facilities to exceed certain permit limitations and conditions set forth in their orders of site certification.

### **CONCLUSIONS OF LAW**

1. The Governor has the authority pursuant to Article IV, Section 1(a) of the Florida Constitution, and the Florida Emergency Management Act, Sections 252.31-252.60, Florida Statutes, to declare a state of emergency in the State of Florida, to issue such executive orders as may be necessary to meet the dangers presented to the state and its citizens by emergencies, and to delegate such powers as he may deem prudent. This authority has been delegated to me, as Secretary of the Department of Environmental Protection, pursuant to Executive Order Number 17-235.

2. Section 120.569(2)(n), Florida Statutes, gives the Department the authority to issue an emergency final order if the agency head finds that there is an immediate danger to the public health, safety, or welfare and if the order recites with particularity the facts underlying that conclusion.

3. Based on the findings recited above, I conclude that the emergency created by damage to the state electric generating capacity and the curtailment of fuel or material supplies caused by the impacts from Hurricane Irma requires an immediate order of the Department to protect the public health, safety, and welfare by increasing the availability of electric generating capacity and minimizing the likelihood of brownouts or blackouts or interference with the operation of available electric generating capacity needed during the state's

emergency response operations and post-storm recovery operations.

**THEREFORE, IT IS ORDERED:**

1. All power plants in the state of Florida that are experiencing shortages of fuel or material supply as a result of the impacts of Hurricane Irma are authorized to deviate from state permit and certification requirements as specified below, as necessary to ensure continued operation.

2. Power plants may only deviate from permit and certification requirements when the occurrence of blackouts or brownouts to Florida citizens is imminent, or the utility foresees fuel depletion such that the potential for brownouts or blackouts exists absent fuel conservation measures, as determined by the utility based on prudent utility practice.

3. Power plants may deviate from permit and certification requirements only if, and only to the extent that:

a. additional power or fuel switching for conservation purposes is necessary to prevent or limit the potential of blackouts or brownouts or limitation on the extent to which available generating capacity can be utilized to address the state's emergency response operations and post-storm recovery operations;

b. all existing operable generating units within a utility's fleet are already operating at maximum output in compliance with permit and certification conditions, except as necessary for fuel conservation purposes;

- c. all units continue to be operated in compliance with permit and certification conditions except to the extent necessary to avoid a brownout or blackout or interference with the operation of available electric generating capacity needed during the state's emergency response operations and post-storm recovery operations;
- d. the utility has taken all reasonable measures to return units to service that were inoperable;
- e. additional power is not available by short term purchase or by production by other utility units (regardless of ownership); and
- f. the utility has determined by prudent utility practices that all demand side management options up to but not including interrupting customers have been exercised.

4. Affected power plants meeting the above conditions are authorized to use alternate fuels, to exceed operational time restrictions, to exceed air emissions requirements, to exceed water thermal discharge limits, to exceed effluent limitations, and to deviate from cooling reservoir flow restrictions and pH adjustment, and can invoke the bypass and upset provisions in Rules 62-620.610 (22) and (23), F.A.C., where applicable, to demonstrate that the bypass or upset was unavoidable.

5. Once each potential or discrete blackout or brownout condition has passed, power plants operating pursuant to this Emergency Final Order shall take all reasonable measures to promptly return generating units to

compliance with existing permit conditions or conditions of certification.

6. Utilities operating pursuant to this Emergency Final Order may not provide any power for economic dispatch, except for power currently committed by long term contract executed prior to the date of the issuance of this Emergency Final Order.

7. Utilities operating pursuant to this Emergency Final Order who have purchased fuel to meet the emergency situation described in this Emergency Final Order may use the remainder of that fuel after the emergency situation subsides, and may deviate from permit and certification requirements for such fuels as set forth in this Emergency Final Order until the purchased supplies are exhausted.

8. Power plants operating pursuant to this Emergency Final Order must provide daily reports to the Department. The first report shall be submitted within 24 hours after the commencement of operations that use an alternative fuel or that have other deviations from permit or certification requirements, and shall be submitted daily thereafter until normal operations resume and are reported to the Department. Daily reports must include a description of all deviations from permit or certification requirements, and hourly totals of megawatts generated during the 24-hour period. Reports shall be provided to the Department's Division of Air Resource Management, by U.S. Mail, facsimile, or e-mail. Reports should be directed to Jeff Koerner, 2600 Blair Stone Road, Tallahassee, Florida, 32399-2400, telephone number (850) 717-9083, facsimile number (850) 717-9001, email address [Jeff.Koerner@dep.state.fl.us](mailto:Jeff.Koerner@dep.state.fl.us).

9. Power plants operating pursuant to this Emergency Final Order shall

operate in compliance with all other conditions of all federal and state permits, certifications, and consent agreements and in compliance with all Florida statutes and rules of the Department.

10. Nothing in this Order provides relief from or shall eliminate the necessity for obtaining any other federal, state or local permit or other authorizations that may be required.

11. This Emergency Final Order shall take effect immediately. It shall expire at 12:01 A.M., Monday, October 2, 2017, unless otherwise modified or extended by order of the Department.

#### **NOTICE OF RIGHTS**

Pursuant to Section 120.569(2)(n), Florida Statutes, any party adversely affected by this Emergency Final Order has the right to seek judicial review under section 120.68 of the Florida Statutes, 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, 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 fee along with the appropriate district court of appeal,. The notice of appeal must be filed within thirty days after this Order is filed with the Clerk of the Department.

**DONE AND ORDERED** on this 10th day of September 2017, in Tallahassee,  
Florida.

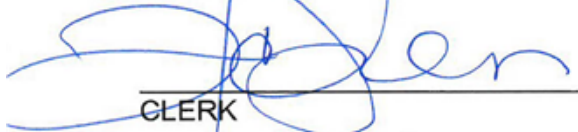
FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION



Noah Valenstein, Secretary

3900 Commonwealth Blvd  
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.



CLERK

DATE: 09/10/2017