



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

September 10, 2017

Noah Valenstein, Secretary  
Florida Department of Environmental Protection  
3900 Commonwealth Blvd.

RE: No Action Assurance for Florida Power Plant Facilities in Response to the  
Emergency Request for Hurricane Irma Related Relief

Dear Secretary Valenstein:

Today the Florida Department of Environmental Protection (FDEP) issued an order entitled "Emergency Authorization for Deviation from Permit and Certification Requirements at Power Plant Facilities Made necessary by Hurricane Irma," OGC No. 17-0996 (FDEP Emergency Authorization). The FDEP Emergency Authorization provides, with certain conditions, state-wide authorization for any electric generating utility in Florida 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." In response to a clear and present danger presented by Hurricane Irma, FDEP requested that the United States Environmental Protection Agency provide analogous relief from permit conditions and permitting requirements, including emission limits, hours of operation limits, fuel usage restrictions, restrictions on the shutdown or bypass of pollution control equipment, and thermal discharges into State and/or federal waters. This letter is in response to the FDEP requests for a No Action Assurance (NAA) in order to assist Florida utility generators to maintain the supply of electricity to customers and critical facilities in Florida, and to facilitate the expeditious restoration of lost electrical service caused by Hurricane Irma.

On September 9, 2017, the State of Florida's Emergency Response Team provided an update indicating that nearly all the Florida peninsula will be impacted by Hurricane Irma. The National Weather Service has reported severe impacts from the Hurricane in the southwestern part of the State and is predicting additional severe damage along substantial portions of Florida's west coast.

In light of the existing emergency in the State of Florida, the EPA will exercise its discretion not to pursue enforcement for violations of Title V and/or NPDES permit requirements, and the underlying requirements contained therein, at electric generating units located in the State of

Florida that operate under the control of, or in coordination with, the Florida Reliability Coordinating Council if units at those generating stations are unable to comply due to impacts from Hurricane Irma. The violations for which this exercise of enforcement discretion applies are the (1) violations and (2) actions taken or not taken in response to the conditions listed below:

- Emissions limits from operating these units at high or load output levels necessitated by the circumstances;
- Operation in excess of operating and fuel restrictions;
- Unit and/or control equipment malfunctions, shutdowns or restarts;
- Inoperable or damaged process, production, control or monitoring equipment;
- Disruptions in fuel or material supplies (e.g., ammonia, demineralized water, etc.);
- Alternative fuel and material handling procedures;
- Use of backup fuels in excess of permit restrictions;
- Use of available, but off-specification fuels (e.g., higher sulfur fuels);
- Temporary operation of large mobile diesel generators to restore power and start units and auxiliary equipment;
- The shutdown or bypass of air pollution control equipment to shed parasitic load: and
- Exceedance of thermal discharge limits.

Pursuant to this NAA, the EPA will not enforce the violations described above, subject to the following conditions:

1. Owner/Operators of covered electric generating units must comply with any and all conditions set forth in FDEP Emergency Authorization;
2. Owner/Operators of covered electric generating units must promptly return to normal operations as soon as practicable;
3. As soon as practicable after system restoration, Owner/Operators of covered electric generating units shall notify the EPA (as provided below) of any exceedances or unpermitted activities implemented in response to Hurricane Irma. This notification should include a detailed description (e.g., cause, duration, quantity of excess emissions) and supporting documentation that each exceedance or activity was essential to provide electric service to customers; and
4. Any maintenance and repairs performed outside of the NAA period and outside of damage caused by Hurricane Irma shall not be covered by the NAA and will subject to Clean Air Act requirements as appropriate.

The notifications identified above should be sent to the EPA via email to Jason Dressler, at [dressler.jason@epa.gov](mailto:dressler.jason@epa.gov).

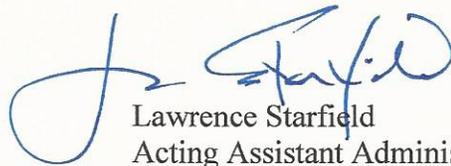
The issuance of an NAA for this period of time is in the public interest. Through today's NAA, the EPA is continuing its commitment to address the very difficult circumstances caused by Hurricane Irma. Nothing in this NAA is intended to override state or local authorities.

The NAA terminates at 11:59 PM EDT, September 26, 2017. The EPA reserves the right to extend, revoke or modify the NAA if the EPA believes that such action is necessary to protect public health and the environment. This NAA does not apply to any other federal requirements that may apply to regulated activities at these facilities other than those listed above.

Nothing in this exercise of enforcement discretion relieves any person of the obligation under law, if any, to report emissions from the operation of equipment covered by this action.

If you have any questions please contact Phillip A. Brooks, at 202-564-0652 or [brooks.phillip@epa.gov](mailto:brooks.phillip@epa.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Lawrence Starfield". The signature is stylized with a large initial "L" and a circular flourish at the end.

Lawrence Starfield  
Acting Assistant Administrator

cc: Onis "Trey" Glenn III, Regional Administrator, EPA Region 4