

STATE OF MISSISSIPPI

Office of the Governor



RESOLUTION

WHEREAS, the entire State of Mississippi was severely affected by *Hurricane Katrina*, beginning on August 27, 2005, with hurricane and tropical storm force winds, severe thunderstorms, tornadoes and flooding; and

WHEREAS, *Hurricane Katrina* caused personal injuries, complete devastation to homes, businesses, public property, and threatened the safety of the citizens and property throughout the entire State of Mississippi; and

WHEREAS, on August 29, 2005, the Federal Emergency Management Agency ("FEMA") issued a Disaster Order, FEMA-1604, covering the entire State of Mississippi; and

WHEREAS, Hurricane Katrina has created conditions that require immediate action to prevent irreparable damage to the environment and serious threats to life or safety throughout the areas affected by the Hurricane:

NOW, THEREFORE, I, Haley Barbour, Governor of the State of Mississippi, pursuant to the authority vested to me under the Constitution of the State of Mississippi and Section 33-15-11(b)(17), Mississippi Code of 1972, as amended, hereby delegate and authorize the Executive Director of the Mississippi Department of Environmental Quality, acting on behalf of the Mississippi Commission on Environmental Quality, to execute the attached Emergency Order.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Mississippi to be affixed.

DONE in the City of Jackson, on the 13 day of September in the year of our Lord, two thousand and five, and of the Independence of the United States of America, the two hundred and thirtieth.


GOVERNOR



BY THE GOVERNOR



SECRETARY OF STATE

BEFORE THE MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY

IN RE: HURRICANE KATRINA

ORDER NO. 5062 05™

EMERGENCY ORDER

The above-captioned cause came before the Executive Director of the Mississippi Department of Environmental Quality (“MDEQ”) this day for consideration under the authority granted to me by Resolution dated September 13, 2005, by the Governor of the State of Mississippi, issued pursuant to his emergency powers under Miss. Code Ann. §33-15-11 (Supp. 2004), and in accordance with Miss. Code Ann. §§ 49-2-13 and 49-17-17 (Rev. 2003), having heard and considered the evidence therein and having determined that an Emergency Order should issue. The Executive Director finds and orders as follows:

FINDINGS AND DECLARATION

I.

On the 29th day of August, 2005, Hurricane Katrina (the “Hurricane”) struck Mississippi, causing widespread and significant damage statewide. As a result of the damage, many wastewater treatment units are not able to function as designed, air pollution control devices were rendered inoperable, monitoring required by permits is not able to be done, and temporary sources of air pollution have been put into service. This damage has also caused facilities to be unable to meet certain submittal requirements of their permits. Areas within the State of Mississippi that were adversely affected by the Hurricane, herein referred to as “Emergency Areas” are covered by this Emergency Order (“Order”).

II.

The Governor declared on August 26, 2005, that a state of emergency existed in the State of Mississippi as a result of Hurricane Katrina.

III.

On August 29, 2005, the Federal Emergency Management Agency (“FEMA”) issued a Disaster Order, FEMA-1604 covering the State of Mississippi.

IV.

The Hurricane has created conditions that require immediate action to prevent irreparable damage to the environment and serious threats to life or safety throughout the Emergency Areas. It is the opinion of the Executive Director that an emergency situation exists which creates an imminent and substantial endangerment threatening the public health and safety and the lives and property of the people of Mississippi. Therefore, the undersigned, acting on behalf of the Mississippi Commission on Environmental Quality and consistent with the Governor’s

Resolution dated September 13, 2005, hereby declares that an emergency exists and entry of this Emergency Order is warranted. Pursuant to this Order, the following measures are ordered to prevent irreparable damage to the environment and serious threats to safety, life and human health within the Emergency Areas:

ORDER

V.

1. Wastewater Treatment Systems

- a. For wastewater sources that were adversely affected by the Hurricane such that an upset condition as described in an NPDES Permit, a Pretreatment Permit and/or a State Operating Permit, and/or Chapter One, IV.A.27 of Regulation WPC-1 was created, the initial notification requirement is hereby waived. All other requirements of the applicable permit and/or regulation apply. Over the next 30 days the units shall be operated as efficiently as possible. The effluent monitoring requirements for sampling and analysis are waived for a period of 30 days from the date of the Order.
- b. For areas adversely affected by the Hurricane, authorization is hereby granted to discharge water that was placed in storage tanks, other containers or vessels for the purpose of stabilization, provided that the tanks, containers or vessels were emptied of their previous contents prior to filling with water. To the extent practicable, discharges should not contain free oil, hydrocarbons or other pollutants in other than trace amounts. Water that accumulates in storage tanks, containers or vessels as a result of rainfall, flooding or tidal surge may be discharged under the same conditions. Water put in tanks for the purpose of hydrostatic testing prior to the tank being returned to service may be discharged under the same conditions.
- c. Owners and operators of water and wastewater plants and collection and distribution systems and their licensed engineers and contractors are authorized to make all necessary repairs to restore essential services and repair or replace (as necessary) all structures and equipment to their pre-Hurricane permitted or registered condition without prior notice to MDEQ. Within 30 days of commencing the work of such repair or replacement, MDEQ must be notified in writing.

2. Air Pollution Sources

- a. MDEQ, on behalf of the Commission, authorizes the minor repair of any previously permitted stationary source of air pollution that was damaged by the Hurricane to restore it to its previously permitted condition without prior notice to MDEQ. Within 30 days of commencing such repairs, however, the permittee shall notify MDEQ in writing, stating the name of the facility, its location, the nature of the work, and the telephone number and/or e-mail address of the representative of the permittee to contact concerning the work. Minor repairs are repairs that would not constitute reconstruction under any definition of 40 CFR 60, 61 or 63 and that could not affect

(increase) either the actual emissions or the potential to emit any pollutant. Repairs that would constitute reconstruction under any definition of 40 CFR 60, 61 or 63, or repairs that could affect (increase) either the actual emissions or the potential to emit any pollutant are not authorized by this order.

- b. Those permittees whose operations were adversely affected by the Hurricane who elect to utilize temporary stationary sources such as boilers, compressors and other air emission equipment are hereby required to operate under the following conditions:
 - 1. The temporary unit must be rated at no more than the capacity of the permitted unit;
 - 2. The permittee can use the temporary unit only in lieu of the permitted unit;
 - 3. Emissions of any air pollutant from the temporary unit shall not exceed historical actual emissions from the permitted unit or the emission limits for the permitted unit;
 - 4. The temporary unit may be used for a maximum period of 120 days from the date of this Order;
 - 5. The permittee shall notify MDEQ within 10 days of bringing this unit online; and
 - 6. The permittee shall maintain a log of the hours of operation of the unit(s) and submit it to MDEQ within 30 days of the date the unit(s) is (are) taken offline.

If the permittee wishes to use the temporary unit for a longer period of time, the permittee should contact MDEQ for guidance on obtaining the required permits.

- c. Those permittees whose operations were adversely affected by the Hurricane who elect to utilize emergency generators are hereby required to operate under the following conditions:
 - 1. The emergency generator may be operated for a period of up to 60 days from the date of this order;
 - 2. Emergency generator means any internal combustion engine which operates as an electrical power source only when the primary power source has been rendered inoperative; and
 - 3. The permittee shall maintain a log of the hours of operation of the emergency generator and submit the log to MDEQ within 30 days of the date the emergency generator is taken offline.
- d. For air emissions sources that were adversely affected by the Hurricane such that an emergency condition as described in APC-S-6, Section III.G was created, or an upset

condition as described in APC-S-1, Section 10.1 was created, the initial notification requirement is hereby waived. All other requirements of the applicable regulation apply.

- e. All air emissions sources adversely affected by the Hurricane shall be operated as efficiently as possible. The requirements for continuous and/or routine sampling and analysis are hereby waived for a period of 30 days from the date of this Order.

3. Solid Waste Management

- a. Owners and operators of solid waste management facilities permitted by the Environmental Quality Permit Board before the Hurricane are hereby authorized to make all necessary repairs to the permitted facility to restore essential services and the functionality of storm water and leachate collection and management systems damaged by the Hurricane, without prior notice or authorization from MDEQ. Written notice of the repairs must be provided to MDEQ within 30 days of commencing the repairs.
- b. Requirements are hereby waived for permitted municipal solid waste landfills to obtain prior MDEQ approval of liner construction quality assurance ("QA") plans for new disposal cells for a period of 6 months. During this 6 month period, the QA plans must be submitted to MDEQ within 14 days of construction; however, MDEQ approval is not necessary prior to initiating use of the cell.
- c. Uncontaminated vegetative debris including trees, limbs, leaves, stumps and other vegetation generated as a result of the Hurricane may be disposed of by the following options:
 - 1. At permitted landfills and rubbish sites;
 - 2. At any emergency disposal site authorized by the MDEQ or at any authorized burn and chip sites developed through city and county governments and conducted in compliance with the MDEQ's Vegetative Debris Emergency Disposal Policy dated September 3, 2005 or any modifications thereto.
- d. Building and structural debris including concrete, brick, lumber, wood paneling, window glass, metal, shingles, wallboard, insulation, floor tile, carpet, engineered wood products and other similar materials may be disposed in a manner consistent with the MDEQ Building and Structural Emergency Debris Policy dated September 4, 2005, or any modifications thereto, including the following options:
 - 1. At permitted landfills and rubbish sites;
 - 2. Clean wood debris may be disposed through emergency burn sites established under the MDEQ Vegetative Debris Emergency Disposal Policy dated September 3, 2005, or any modifications thereto;

3. Uncontaminated concrete debris and salvageable metal materials is encouraged to be collected for recycling, where possible; or
4. By alternate means of disposal specifically approved by the MDEQ under this Emergency Order.
- e. Household garbage, putrescible wastes, bulk food wastes, and other similar wastes shall be disposed in a permitted municipal solid waste landfill. Alternative means of disposal will be considered by the MDEQ for approval on a case by case basis under this emergency Order when requested by the city or county government.
- f. Household hazardous wastes and conditionally exempt business generated hazardous wastes may be disposed in a municipal solid waste landfill or through emergency hazardous waste collection efforts of local governments, the U.S. EPA, the MDEQ or other authorized emergency response agencies.
- g. Animal carcasses shall generally be disposed by one of the following methods:
 1. At permitted municipal solid waste landfills;
 2. Where disposing of individual small animal carcasses, by on-site burial;
 3. Where disposing of large animal carcasses or individual farm animal carcasses, disposal should be conducted in a manner consistent with the Mississippi Board of Animal Health animal burial policies;
 4. Where disposing of large amounts of animal carcasses, persons should coordinate directly with the Mississippi Board of Animal Health and/or the MDEQ; or
 5. Where proposing alternate means of disposal, such persons should coordinate directly with the MDEQ.
- h. Scrap motor vehicles, white goods and other salvageable metal materials should be considered for storage and ultimate delivery to appropriate metals recycling facilities.
- i. **Ash residues from the combustion of Hurricane debris (other than vegetative debris)** shall be disposed in a municipal solid waste landfill. Alternatively, upon appropriate characterization and determination by the MDEQ, the ash may be approved for beneficial soil amendment uses or other disposal means.
- j. MDEQ will consider requests for exceptional disposal practices only after MDEQ collaboration with county, city, State, and Federal authorities. MDEQ is not authorizing any burning of any solid wastes by private individuals, companies, or public entities, except in accordance with local, county, city, or State and Federal requirements.

4. Hazardous Waste Management

Due to the unforeseen and uncontrollable circumstances created by the Hurricane, MDEQ on behalf of the Commission, authorizes a 90 day extension for all hazardous waste generators within the Emergency Areas affected by the Hurricane for the storage of their hazardous wastes on site.

5. Asbestos

MDEQ, on behalf of the Commission, waives the requirement for prior notification for emergency demolition or emergency cleanup of asbestos-containing material resulting from the Hurricane. However, the person responsible for such work shall notify the MDEQ in writing no later than the next business day after commencing such demolition or cleanup. The notification shall be consistent with the information required in a State of Mississippi Demolition/Renovation Notification Form. Asbestos-containing material shall be disposed of accordingly. Burning of asbestos waste is prohibited.

6. Underground Storage Tanks

The Commission Underground Storage Tank ("UST") Regulations UST-2, § 280.31 require UST systems to provide continuous corrosion protection, which is dependant upon an electrical current, to the metal component of the tanks and piping that contain petroleum products and that are in contact with the ground. Due to the electricity outage in the Emergency Areas, MDEQ, on behalf of the Commission, waives this requirement for each facility for the period of time that electricity was not available at that facility during the Hurricane and its aftermath.

7. General Conditions

- a. This Emergency Order does not convey any property rights or any rights or privileges other than those specified in this order.
- b. This Emergency Order only serves as relief for the duration of the Order from the regulatory and proprietary requirements of MDEQ and does not provide relief from the requirements of other federal, state, and local agencies and water management districts.

8. General Limitations

MDEQ, on behalf of the Commission, issues this Emergency Order solely to address the emergency created by the Hurricane. This Order shall not be construed to authorize any activity within the jurisdiction of the MDEQ or the Commission except in accordance with the express terms of this Order.

9. New Permit Deadlines for Permittees Adversely Affected by the Hurricane

Due to the extensive damage caused by the Hurricane in the counties of Clarke, Copiah, Covington, Forrest, George, Greene, Hancock, Harrison, Hinds, Jackson, Jasper, Jefferson Davis, Jones, Lamar, Lauderdale, Lawrence, Lincoln, Marion, Newton, Pearl River, Perry, Pike, Rankin, Scott, Simpson, Smith, Stone, Walthall, and Wayne, MDEQ has determined that most testing and reporting conditions of permits cannot be accomplished by the applicable due dates. Therefore, the following conditions shall apply to all permittees located in these counties:

- a. An application for renewal of the permit must be submitted by 180 days from the original due date for submittal of the renewal application if the original due date is between August 27, 2005, and December 31, 2005.
- b. Any Discharge Monitoring Report (“DMR”) that would be due between August 27, 2005, and December 31, 2005, must be submitted by January 30, 2006. Any DMR for a period when sampling and/or analysis was waived shall clearly contain in the comments section an explanation for the lack of data.
- c. Any other reports that would be due between August 27, 2005, and December 31, 2005, must be submitted by January 30, 2006.
- d. For those testing requirements in air permits with due dates between August 27, 2005, and December 31, 2005, stack testing must be performed and reports submitted within 180 days of the due date currently in the permit.

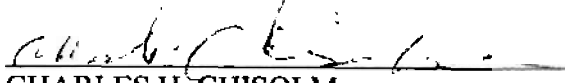
Permittees in other areas of the state may enter into agreement with the conditions of this section of the Order by providing written notification to MDEQ that the permittee has been adversely affected by the Hurricane. Such notification shall include as a minimum a brief description of the nature of the effects of the Hurricane on the permittee, the anticipated resumption of normal operations, and the specific conditions of this section of the Order with which the permittee agrees.

Permittees adversely affected by the Hurricane may request on a case-by-case basis an extension for any of the deadlines specified in their permits.

This Emergency Order shall take effect immediately upon execution by the Executive Director of MDEQ. This Order may be amended by the Executive Director or cancelled or superseded by the Commission as required to abate the emergency.

SO ORDERED this the ¹⁴13 day of September, 2005.

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

By: 
CHARLES H. CHISOLM
EXECUTIVE DIRECTOR OF THE
MISSISSIPPI DEPARTMENT OF
ENVIRONMENTAL QUALITY