



ASSISTANT ADMINISTRATOR FOR ENFORCEMENT AND COMPLIANCE ASSURANCE

WASHINGTON, D.C. 20460

Via E-Mail

Mr. Shawn Hamilton
Secretary
Florida Department of Environmental Protection
3900 Commonwealth Blvd.
Tallahassee, Florida 32399
shawn.hamilton@floridadep.gov

RE: No Action Assurance for the Use of Vapor Recovery Systems in Florida Related to Hurricane Milton

Dear Secretary Hamilton:

Subject to certain limitations described below, I am granting the State of Florida and the Florida Department of Environmental Protection's October 8, 2024 written request for a No Action Assurance (NAA) for the Use of Vapor Recovery Systems to facilitate the distribution of fuel to the areas of Florida impacted by Hurricane Milton.¹ This NAA is clearly necessary to serve the public interest and will help assure adequate fuel supply.

As referenced in your letter, Hurricane Milton threatens to have devastating impacts to multiple population centers in Florida, and planning is underway to address evacuation logistics, flooding, seaport and other transportation sector impacts and associated fuel supply interruptions. Due to potential operational issues resulting from Hurricane Milton, including the loss of power, damage to vapor recovery devices at fuel loading and unloading terminals, and/or the need to utilize fuel loading/unloading facilities that are not equipped with vapor recovery/combustion devices, an NAA is needed to allow the loading and unloading of fuel without the use of a vapor recovery device or vapor combustion device as required by the New Source Performance Standards (NSPS), the National Emission Standards for Hazardous Air Pollutants (NESHAP), and the Gasoline Terminal Vapor-Tight Control Procedure, a State-Implementation Plan (SIP)-approved requirement. *See* 40 C.F.R. Part 60 Subpart XX and XXa, and 40 C.F.R. Part 63 Subparts R, Y, CC, and BBBB, and any counterpart in the Florida SIP.

¹ By separate letter, I am simultaneously granting the State of Florida and the Florida Department of Environmental Protection's request for an NAA for the Loading of Tank Fuel Trucks at Petroleum Distribution Terminals. I am also continuing to closely monitor the situation in Florida and stand ready to grant an NAA for Roof Landings at Gasoline Storage Vessels should one be clearly necessary to serve the public interest.

In light of the emergency situation, the EPA will exercise its discretion not to pursue enforcement for violations of the vapor recovery requirements for fuel loading and unloading of the above referenced NSPS, NESHAP, and SIP provisions. These regulations apply only to bulk gasoline terminals, pipeline breakout stations, marine tank vessel loading operations, and gasoline loading racks, as those terms are defined in the regulations cited 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. Pursuant to this NAA, the EPA will not enforce violations of the NSPS and NESHAP applicable to these facilities in Florida, subject to the following conditions:

1. The owner/operator notifies the EPA prior to initiation of loading and unloading activities using this NAA (by phone or email listed below);
2. Vapor Recovery or combustion devices are used to the greatest extent practicable when available and operable;
3. Owners/operators continue to make best efforts to repair/replace the vapor recovery systems, in an expeditious manner or switch operations to facilities with operational vapor recovery/combustion devices as soon as practicable;
4. Owners/operators exercise good air pollution control practices as required by any and all applicable standards;
5. Owners/operators minimize, to the greatest extent practicable, loading operations near residential areas when vapor recovery/combustion devices are not in operation;
6. Owners/operators comply with all conditions imposed by State or local authorities on these emergency operations;
7. Along with the notice required under paragraph 1 above, owners/operators must provide the EPA with their best estimate of the projected hourly and daily VOC emissions rates from operation without vapor recovery/combustion devices; and
8. Owners/operators must keep records that demonstrate the daily volume of fuel loaded and unloaded without the use of vapor recovery/combustion devices.

Only those terminal operations with damaged or inoperable vapor recovery/combustion devices, or that are not equipped with otherwise required vapor recovery/combustion devices, may take action in accordance with the terms of this NAA, and only to the extent needed until the expiration of this NAA or at such time as vapor recovery/combustion controls are operable or available, whichever comes first. The EPA reserves the right to amend or revoke this NAA at any time.

This NAA is in effect commencing October 10, and terminates October 23, 2024, at 11:59 PM EDT. The EPA reserves the right to 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 NAA is intended to over-ride Florida state or local authorities.

The notifications identified above should be sent via email to Daniel Slade at slade.daniel@epa.gov or by phone at (404) 562-8837 and Todd Groendyke at groendyke.todd@epa.gov or by phone at (404) 562-8262 (a message left on voicemail is sufficient).

The issuance of an NAA for this period of time is in the public interest and demonstrates the EPA's commitment to address the very difficult circumstances caused by Hurricane Milton.

If you have any questions or if facilities in Florida need additional time to repair or replace their vapor recovery systems, please contact Mary E. Greene, Director, Air Enforcement Division at (202) 564-0254 or greenemary.e@epa.gov.

Sincerely,

David M. Uhlmann

cc: Jeaneanne Gettle, Acting EPA Region 4 Administrator
Jeff Koerner, Florida Department of Environmental Protection
Hastings Read, Florida Department of Environmental Protection