



Florida Department of Environmental Protection

BOB MARTINEZ CENTER
2600 BLAIR STONE ROAD
TALLAHASSEE, FLORIDA 32399-2400

RICK SCOTT
GOVERNOR

CARLOS LOPEZ-CANTERA
LT. GOVERNOR

CLIFFORD D. WILSON III
INTERIM SECRETARY

December 5, 2014

via electronic mail

Michelle L. Baker, M.B.A.
County Administrator
8731 Citizens Drive
New Port Richey, Florida 34654-5598

RE: Approval of Specified Materials for
Recycling and Reuse of Treated Bottom Ash Residue from the
Pasco County Resource Recovery Facility, WACS ID No. 45799

Dear Ms. Baker

The Department has completed our review of your August 14, 2014, request for approval for recycling and reuse of the above referenced bottom ash materials under the provisions of Section 403.7045(5), Florida Statutes (F.S.). Your letter transmitted the results of use case analyses in the report, "Pasco County Use Case Scenarios to Examine the Recycling of Waste to Energy Ash in Road Construction Applications," which was prepared for the Pasco County Utilities Department by Dr. Timothy Townsend at the University of Florida.

The Department appreciates the time and care which your utilities department, and your Solid Waste Director, Mr. John Power, have taken to meet with the Department on several occasions during the preparation of the use case analyses and corresponding report that were provided with your request.

Based on our review of your August 14, 2014, application requesting the Department's authorization to utilize bottom ash from facilities owned or operated by you, Pasco County is hereby authorized and allowed to perform the proposed recycling or reuse activities in accordance with Section 403.7045(5), F.S., and the conditions of this Department Order.

Specified Materials:

The following material or materials (Specified Materials) are allowed for recycling or reuse within Pasco County by, or under the direction of, the Pasco County Utilities Department:

- Bottom Ash Residue as defined in Rule 62-701.200(7)(a), F.A.C., from the Pasco County Resource Recovery Facility (Facility), a waste-to-energy facility as defined in Section 403.7061(4), F.S. (bottom ash), and

- Any product or construction material, including asphalt or concrete, which contains bottom ash as referenced herein.

Required Treatment:

The Specified Materials for recycling and reuse shall be conditioned, by or under the direction of the Pasco County Utilities Department, in accordance with the following procedure:

Prior to recycling and reuse under this Order, bottom ash will be aged for a minimum period of 3 months. Aging will be conducted on top of or in a lined Class I landfill cell. During the entire treatment period, ash piles shall be no greater than 20 feet in height.

Specified Uses:

The recycling and reuse of the above specified materials are limited to, and only approved for, the following specified uses where the Specified Materials shall be as required herein:

1. Covered use as a road base course, where bottom ash residue from the Facility has been screened to remove large pieces of waste materials (>3/4 inch), and the road base course will be completely covered by a pavement layer;
2. Encapsulated use as a replacement for up to 50%, by weight, of the customarily used aggregate in Portland cement concrete pavement, where bottom ash residue from the Facility has been screened to remove large pieces of waste materials (>3/4 inch) and the fine fraction of the ash (<3/8 inch); and
3. Encapsulated as an aggregate in hot mix asphalt pavement, where bottom ash residue from the Facility has been screened to remove large pieces of waste materials (>3/4 inch) and the fine fraction of the ash (<3/8 inch).

Recycling and Reuse Conditions:

In accordance with the Department's approval allowing recycling and reuse of the Specified Materials, including bottom ash, as requested by the Pasco County Utilities Department (County), the County shall implement the recycling and reuse controls specified herein. The following controls and conditions are binding upon the County and are enforceable under Chapter 403, F.S:

1. Bottom ash shall be treated by conditioning, prior to recycling and reuse, in accordance with this Order.
2. The County shall not allow recycling, reuse, or disposal of the Specified Materials in any manner inconsistent with the requirements of Chapter 62-701, F.A.C., or this Order.
3. Bottom ash shall not be placed within 3 feet of groundwater, or 15 feet of wetlands or natural water bodies, or within 100 feet of a potable well that is being used or might be used for human or livestock water consumption.
4. When utilized as road base, the placement of the bottom ash shall not extend beyond the outside edge of the pavement. Bottom ash remaining outside the edge of the pavement after

- construction shall be removed and recycled in a manner consistent with this Order or placed in a permitted Class I lined landfill.
5. When utilized as road base, placement of the pavement shall be completed as soon as practicable after placement of the bottom ash.
 6. When bottom ash is utilized as a road base course, only dense-graded asphalt mixes shall be placed as the overlying pavement layer with a 4-inch or greater as-built thickness.
 7. The roadway shall be placed and maintained following generally accepted road construction practices consistent with those utilized in Pasco County at the time of the issuance of this Order.
 8. When removed from service, asphalt or concrete products containing bottom ash as aggregates shall be managed as construction and demolition debris, recycled or reused in a manner consistent with this Order, or placed in a permitted Class I lined landfill.
 9. When removed from service, bottom ash that has been used as a base course shall be recycled or reused in a manner allowed under this Order, or placed in a permitted Class I lined landfill.
 10. Fugitive dust emissions from the storage, processing, transport or placement of bottom ash shall be controlled by wetting.
 11. Ash used as an aggregate in asphalt and concrete shall be stored on site at batch plants for a period of no more than 120 hours. Loads shall be covered with a tarp, or a similar protective cover, during transportation and ash will not be transported during periods of inclement weather. Following batching of the concrete or asphalt products, the unused ash shall be recovered and either used in a subsequent allowed construction project or placed in a Class I lined landfill.
 12. The County shall comply with the following record keeping requirements:
 - a. Whenever not the owner, the County shall receive written notice, from the owner or duly authorized agent of the owner (Owner) of the property where the Specified Materials are to be placed, providing the County express authorization for the placement of the Specified Materials, detailing the Owner's authorized placement dates, placement locations, and the maximum quantities of bottom ash that may be recycled or reused, or otherwise placed, on the Owner's property;
 - b. The County may receive such notices from Owner's electronically;
 - c. The County shall provide and maintain records detailing the actual placement dates, locations, quantities, the nature of recycling or reuse including the types of associated construction materials (i.e., road base course, concrete pavement, or asphalt pavement) where the Specified Materials were placed, and the dates and disposition whenever any Specified Materials are removed from service;
 - d. Notices and records shall be maintained in a centralized record storage system accessible from the Facility, and also in association with the particular construction project records for any related road construction project that utilizes the Specified Materials; and
 - e. Such notices and records shall be maintained by the County for a period of not less than 30 years after the removal of the Specified Materials from service.
 13. Recycling and Reuse of the Specified Materials, and associated construction activities, shall be conducted in a manner that does not cause or contribute to violations of state water quality standards. Performance-based erosion and sediment control best management practices shall be implemented and maintained immediately prior to, during, and after construction as

needed to stabilize all disturbed areas, including material storage, staging, and processing areas, to prevent adverse impacts to the water resources and adjacent lands. Erosion and sediment control measures shall be installed and maintained in accordance with the State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Florida Department of Environmental Protection and Florida Department of Transportation June 2007), available at www.dep.state.fl.us/water/wetlands/docs/erp/FLERosionSedimentManual_6_07.pdf, and the Florida Stormwater Erosion and Sedimentation Control Inspector's Manual (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008), available at www.dep.state.fl.us/water/nonpoint/docs/erosion/erosion-inspectors-manual.pdf.

14. The County shall immediately notify the Department in writing upon, or at least within 5 business days of, becoming aware of any condition, test result, or other information indicating that recycling or reuse of the Specified Materials, in accordance with this Order, may cause or contribute to violations of state water quality standards.
15. Upon reasonable notice to the County, Department staff or agents with proper identification shall have permission to enter, inspect, sample and test as the Department may claim needed to verify compliance with the requirements of Chapter 403, F.S., and this Order.

Uses other than as specified herein are not approved under this Order. Where ash from the Facility, or related materials, may be used or placed in a manner that does not comply with the Conditions of this Order, such materials shall be managed as a solid waste subject to the requirements of Chapter 62-701, F.S.

Administrative Rights

The Department's Order shall become final unless a timely petition for an administrative hearing is filed under sections 120.569 and 120.57, F.S., within **21** days of receipt of this Order. Persons who have filed such a petition may seek to mediate the dispute and choosing mediation will not adversely affect the right to a hearing if mediation does not result in a settlement. The procedures for petitioning a hearing and pursuing mediation are set forth below.

Persons affected by this Order have the following options:

- A. If you choose to accept the Department's decision regarding the Order, you do not have to do anything. This Order is final and effective as of the date on the top of the first page of this Order.
- B. If you choose to challenge the decision, you may do the following:
 1. File a request for an extension of time to file a petition for hearing with the Department's Agency Clerk in the Office of General Counsel within **21** days of receipt of this Order. This request should be made if you wish to meet with the Department in an attempt to resolve any disputes without first filing a petition for hearing or negotiate an agreement to mediate; or
 2. File a petition for administrative hearing with the Department's Agency Clerk in the Office of General Counsel within **21** days of receipt of this Order.

In addition to requesting an administrative hearing, any petitioner may elect to pursue mediation under Section 120.573, F.S., and must negotiate an agreement to mediate within **10** days after the deadline for filing a petition.

How to Request an Extension of Time to File a Petition for Hearing

For good cause shown, pursuant to Rule 62-110.106(4), F.A.C., the Department may grant a request for an extension of time to file a petition for hearing. Such a request must be filed (received) by the Agency Clerk in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida, 32399-3000, within **21** days of receipt of this Order. Petitioner, if different from the applicant, shall mail a copy of the request to the applicant at the time of filing. Failure to file a petition within this time period shall waive the right of anyone who may request an administrative hearing under Sections 120.569 and 120.57, F.S.

How to File a Petition for Administrative Hearing

A person whose substantial interests are affected by this Order may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed (received) by the Agency Clerk in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, MS 35, Tallahassee, Florida, 32399-3000, within **21** days of receipt of this Order. Petitioner, if different from the applicant, shall mail a copy of the petition to the applicant at the time of filing. Failure to file a petition within this time period shall waive the right of anyone who may request an administrative hearing under Sections 120.569 and 120.57, F.S.

Pursuant to Subsection 120.569(2), F.S., and Rule 28-106.201, F.A.C., a petition for administrative hearing shall contain the following information.

- a) The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any, the site owner's name and address, if different from the petitioner, the DEP facility number, and the name and address of the facility;
- b) A statement of when and how the petitioner received notice of the Department's action or proposed action;
- c) An explanation of how each petitioner's substantial interests are or will be affected by the Department's action or proposed action;
- d) A statement of the disputed issues of material fact, or a statement that there are no disputed facts;
- e) A concise statement of the ultimate facts alleged, including a statement of the specific facts the petitioner contends warrant reversal or modification of the Department's action or proposed action;
- f) A statement of the specific rules or statutes the petitioner contends requires reversal or modification of the Department's action or proposed action; and

- g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Department's action or proposed action.

How to Pursue Mediation

In addition to requesting an administrative hearing, any petitioner may elect to pursue mediation. The election may be accomplished by filing with the Department a mediation agreement with all parties to the proceeding (i.e., the applicant, the Department, and any person who has filed a timely and sufficient petition for hearing). The agreement must contain all the information required by Rule 28-106.404, F.A.C. The agreement, signed by all parties, must be received by the Agency Clerk in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida, 32399-3000 within **10** days after the deadline for filing a petition, as set forth above. Choosing mediation will not adversely affect the right to a hearing if mediation does not result in a settlement.

Pursuant to Rule 28-106.404, F.A.C., an agreement to mediate must include the following.

- (i) The name, address, and telephone number of the persons who may attend the mediation, (also the DEP facility number, the name and address of the facility if applicable);
- (ii) The name, address, and telephone number of the mediator agreed to by the parties;
- (iii) How the costs and fees associated with the mediation will be allocated (the Department will not pay any of the costs of mediation);
- (iv) The agreement of the parties regarding the confidentiality of discussions and documents introduced during mediation to the extent authorized by law;
- (v) The date, time, and place of the first mediation session;
- (vi) The name of the party's representative who shall have authority to settle or recommend settlement; and
- (vii) The signature of the parties.

As provided in Section 120.573, F.S., the timely agreement of all parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, F.S., for holding an administrative hearing and issuing a final order. Unless otherwise agreed by the parties, the mediation must be concluded within sixty days of the execution of the agreement. If mediation results in settlement of the administrative dispute, the Department must enter a final order incorporating the agreement of the parties. Persons seeking to protect their substantial interests that would be affected by such a modified final decision must file their petitions within **21** days of receipt of this notice, or they shall be deemed to have waived their right to a proceeding under Sections 120.569 and 120.57, F.S. If mediation terminates without settlement of the dispute, the Department shall notify all parties in writing that the administrative hearing processes under Sections 120.569 and 120.57, F.S., are resumed.

This Order is final and effective as of the date on the top of the first page of this Order. Timely filing a petition for administrative hearing postpones the date this Order takes effect until the

Ms. Michelle L. Baker
Recycling and Reuse of Treated Bottom Ash Residue from the
Pasco County Resource Recovery Facility, WACS ID No. 45799
December 5, 2014
Page 7 of 7

Department issues either a final order pursuant to an administrative hearing or mediation settlement.

Judicial Review

Any party to this Order has the right to seek judicial review of it under Section 120.68, F.S., by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the Agency Clerk of the Department in the Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, 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 thirty days after this order is filed with the clerk of the Department (see below).

Questions

The Department appreciates your work efforts to define the conditions under which the referenced materials may be safely reused in Pasco County. Any questions regarding the Department's approval of your request should be directed to Tim Bahr at (850) 245-8790, or Richard Tedder at (850) 245-8735. Questions regarding legal issues should be referred to Brynna Ross, Office of General Counsel, at (850) 245-2242. Contact with any of the above does not constitute a petition for administrative hearing, a request for a time extension to file a petition for hearing or an agreement to mediate.

Sincerely,

 for

Jorge R. Caspary, P.G., Director
Division of Waste Management
Florida Department of Environmental Protection

FILING AND ACKNOWLEDGMENT FILED, on this date, pursuant to §120.52 Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

Clerk

Date