

**ARKANSAS DEPARTMENT OF ENERGY & ENVIRONMENT,
DIVISION OF ENVIRONMENTAL QUALITY**

IN THE MATTER OF:

LIS: 23-026

BURNING of STORM GENERATED STRUCTURAL WOOD DEBRIS IN
ARKANSAS, CROSS, LONOKE, PULASKI, and STONE COUNTY, ARKANSAS

DATE: April 10, 2023

EMERGENCY ORDER OF THE DIRECTOR

The Director of the Arkansas Department of Energy & Environment, Division of Environmental Quality (DEQ or Division) has determined that emergency conditions exist as a result of debris from damage caused to structures due to high winds or tornadoes in Arkansas, Cross, Lonoke, Pulaski, and Stone County, Arkansas.

The debris from damage caused to structures presents an imminent and substantial endangerment to public health, safety, or welfare, and to the environment. Therefore, pursuant to authority provided by the Arkansas Solid Waste Management Act as set forth in Arkansas Code Annotated §8-6-201 *et seq.*; the Arkansas Water and Air Pollution Control Act as set forth in Ark. Code Ann. §8-4-101 *et seq.*; Ark. Code. Ann. §20-27-1001 *et seq.* Removal of Asbestos Materials, and the regulations promulgated thereunder; the Director makes the following Findings of Fact and authorizes the following remedial actions to be taken immediately to remedy the emergency conditions.

FINDINGS of FACT

1. On March 31, 2023, tornadoes and violent straight-line winds destroyed structures presenting a threat to human health and safety.
2. Affected areas are conducting emergency clean-up operations.

3. DEQ recognizes that the affected areas will not be able to comply with all of the regulatory requirements promulgated by the Arkansas Pollution Control and Ecology Commission (APC&EC) for air, asbestos, and solid waste.

4. Open burning by county governments to dispose of vegetative storm debris is addressed by Ark. Code Ann. §8-4-316, but there is no provision for the burning of structural debris resulting from storm damage.

Based on the facts and nature of this situation, the Director has determined that an emergency exists and issues the following order in accordance with Ark. Code Ann. §8-1-202(b)(3), §8-4-220, and §8-6-202.

ORDER of REMEDIAL ACTION

The Director orders the following actions regarding the burning of solid waste resulting from the storms described above may be taken:

1. The County Judge or Mayor may designate sites within their jurisdiction for the temporary operation of Air Curtain Incinerators (ACI). The location of these sites shall be provided to DEQ for written approval prior to the stockpiling or staging of structural debris. However, if staging commenced in response to emergency conditions without prior approval, DEQ must provide approval prior to the operation of any ACI under the terms of this order.

2. The County Judge or Mayor must designate a government representative (County or City) to oversee the debris management and ACI operations, within their respective jurisdiction. The representative's name and 24-hour contact information shall be provided to the DEQ Office of Land Resources.

3. ACI operations must be completed within one hundred twenty (120) days of this order.

4. Burning by use of the ACI shall be performed during daylight hours on Monday through Friday by designated personnel who shall remain on site during burning operations. However, no burning shall occur on state and federal holidays.

5. No burning shall be conducted within five hundred feet (500 ft.) of a residence, unless the owner provides written permission, or within one thousand feet (1,000 ft.) of a school. These distances are minimum requirements as the operation must be conducted in a manner so as not to create a nuisance.

6. Adequate firefighting personnel shall be available to respond to an emergency at any designated ACI site.

7. Structural and vegetative debris that was combined by the storm in such a way that it cannot be easily separated because of site removal by machinery, may be stockpiled/staged and burnt by use of the ACI together.

8. The addition of household or trade wastes not already mingled with the structural debris is prohibited.

9. Burning by use of the ACI of roofing material that has been physically removed from the decking or other related material is not authorized. Where possible, roofing sections that have attached shingles should be segregated for alternate disposal.

10. Disposal by burning is not authorized for metal, tires, petroleum products, roofing material, electronics (e-goods), appliances (white goods), plastics, insulation, hazardous household wastes, and regulated asbestos containing materials (RACM).

11. Material that is not authorized for burning is recommended to be placed into separate piles for recycling or alternate disposal in order to expedite disposal.

12. Structural debris piles must be of a manageable size to facilitate daylight burning and extinguishment should the operation become a nuisance or other problem presents.

13. All debris stockpiled/staged at a site must have sufficient distance between the ACI and the material to prevent fire spread to any other debris pile.

14. Material loaded by hand at the site of the storm damage is to be segregated into vegetative debris, structural debris, and other debris as appropriate. Unintentional mingling of this debris that cannot reasonably be avoided is acceptable.

15. Contractors or "for hire" individuals that are removing debris or performing restoration may not utilize the stockpile/staging or ACI sites authorized by this order unless hired by the County or City of jurisdiction to conduct debris removal only.

16. The Director may require relocation of the ACI sites and any or all burning previously authorized to be stopped in response to actual or potential violations of state or federal air quality standards in the impacted areas.

17. ACIs shall be operated in accordance with manufacturer's operator manual which shall be located at the site of use of the ACI.

18. ACI operators shall record the approximate daily number of tons incinerated in the ACI and shall maintain those records on site.

19. Use of an accelerant such as gas or diesel to start the incineration within the ACI is prohibited. A torch is recommended.

20. ACIs shall be operated with the following opacity limitations:

a. Opacity is not to exceed 10% during operation of the ACI, and

b. Opacity is not to exceed 35% during loading or startup. Startup is considered to be no longer than the first thirty (30) minutes after contents of the ACI have been ignited.

21. Ash generated from the burning of storm debris shall be properly stored as to not allow exposure to and run off from storm water, and shall be disposed of in a Class 1 landfill.

The Director orders the following actions may be taken regarding demolition and the disposal of asbestos containing materials:

1. Structures to be demolished in the affected areas that are subject to APC&EC Rule 22, Arkansas Asbestos Abatement Rule, shall not require an asbestos inspection prior to demolition. However, should an inspection not be completed all waste shall be handled and disposed of as if it contained RACM pursuant to APC&EC Rule 21.

2. For removal of RACM, a written notice of intent (NOI) shall be submitted to the Division electronically as early as possible, but not later than the following work day in accordance with APC&EC Rule 21.605.

Nothing in this order shall limit the rights of DEQ to issue further orders or pursue enforcement actions for remediation, penalties and/or costs from any party for violations.

DEQ is not authorized to waive compliance with the rules and regulations of any other state or federal agency therefore compliance with all other applicable federal, state or local statutes, rules, regulations or ordinances and orders must be complied with unless waived in writing by the issuing entity.

This order is effective immediately upon signature by the Director.

DATED THIS 10th DAY of April, 2023

A handwritten signature in blue ink, appearing to read "Caleb J. Osborne", written over a horizontal line.

Caleb J. Osborne, Director