

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In re:

**EMERGENCY AUTHORIZATION FOR
PROTECTION OF MAJOR STRUCTURES
IN ST. JOHNS COUNTY MADE NECESSARY
BY HURRICANE IRMA**

OGC NO. 17-1001

EMERGENCY FINAL ORDER

Under Sections 120.569(2)(n), 252.36, and 252.46, Florida Statutes, and upon consideration of the State of Florida Executive Order No. 17-235 and the following findings of fact, the State of Florida Department of Environmental Protection (Department) enters this Emergency Final Order (Order), including Findings of Fact and Conclusions of Law, 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 (hereinafter “the Hurricane”).

FINDINGS OF FACT

1. Hurricane Irma made landfall on the State of Florida on September 10, 2017, and caused catastrophic damage across the full width of the peninsula, including catastrophic damage to homes and other structures located on the coast of St. Johns County. As a result, many homes and other major structures are uninhabitable, and are in danger of collapse. Currently, additional Tropical Storms, including those presently formed, have the potential to increase that damage and render these properties even more vulnerable to further damage or collapse. Immediate action is warranted to protect coastal homes and structures in St. Johns County, between Department Reference Monuments R-6 and R-117, which shall constitute the area covered by this Emergency Final Order. This area shall herein be referred to as the “Emergency Area.”

2. By State of Florida Executive Order No. 17-235, the Governor declared that a state of emergency exists throughout the State of Florida, based upon the serious threat to the public health, safety and welfare posed by the Hurricane.

3. The Department finds that the Hurricane created a state of emergency threatening the public health, safety, welfare, and property throughout the Emergency Area. As a result of the emergency, immediate action by Florida's citizens and government may be necessary to protect coastal structures and homes damaged by the Hurricane.

4. The Department finds that an emergency authorization is required to address the need for immediate action because the normal procedures for obtaining the necessary authorizations would not result in sufficiently timely action to address the emergency.

5. The Department finds that immediate, strict compliance with the provisions of the statutes, rules, or orders noted within this Order would prevent, hinder, or delay necessary action in coping with the emergency, and that the actions authorized under this order are narrowly tailored to address the immediate need for action and are procedurally appropriate under the circumstances.

CONCLUSIONS OF LAW

1. Based on the findings recited above, it is hereby concluded that the emergency caused by the Hurricane poses an immediate danger to the public health, safety, or welfare and requires an immediate order of the Department.

2. Under State of Florida Executive Order No. 17-235, and Sections 120.569(2)(n), 252.36, and 252.46, Florida Statutes, the Secretary, or designee, of the Department is authorized to issue this Emergency Final Order.

3. Suspension of statutes and rules as noted within this Order is required so as not to prevent, hinder, or delay necessary action in coping with the emergency.

THEREFORE, IT IS ORDERED:

A. COASTAL ARMORING FOR MAJOR STRUCTURES LOCATED IN THE EMERGENCY AREA:

The following rules are waived for major structures that have become vulnerable as defined in subsection 62B-33.002(63), Florida Administrative Code (F.A.C.), as a result of the Hurricane and that are located within the Emergency Area (regardless of the location of such a major structure relative to the Coastal Construction Control Line specified in Rule 62B-26.019, F.A.C.):

1. Rules 62B-33.002(17)(b)1.; 62B-33.002(43) and 62B-33.0051(1)(a)1., F.A.C., requiring that a structure be “eligible” in order to apply for a permit for coastal armoring; and
2. Rule 62B-33.0085, F.A.C.; regarding payment of fees for processing an application for new permits, permit modifications, permit renewals, and permit extensions for coastal armoring.

Further, any Petition filed under the provisions of Section 120.542, F.S., but not yet acted on by the Department, for waiver of the requirements set forth in 1., above, for structures located in the Emergency Area, are rendered moot by the provisions of this Emergency Final Order, and those petitioners may proceed with a permit application for coastal armoring or related structure under Rule 62B-33.0051, F.A.C.

This Emergency Final Order does not waive the requirement to obtain a permit under Rule 62B-33.0051, F.A.C. The Department intends to expedite issuance of such permits in the Emergency Area upon receipt of a complete application. Permits for coastal armoring seeking relief as specified above must be applied for by no later than the expiration of this Order, unless this Order is modified or extended. Permits to keep in place temporary armoring under local permits issued by St. Johns County under Department Emergency Final Order No. 17-0989, must be submitted within 60 days of installation.

B. GENERAL PROVISIONS

1. General Limitations

The Department issues this Emergency Final 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 Department except in accordance with the express terms of this Order. Under no circumstances shall anything contained in this Order be construed to authorize the repair, replacement, or reconstruction of any type of unauthorized or illegal structure, habitable or otherwise. This Order does not convey any property rights or any rights or privileges other than those specified in this Order.

2. Suspension of Statutes and Rules

Within the Emergency Area, the requirements and effects of statutes and rules which conflict with the provisions of this Order are suspended to the extent necessary to implement this Order.

3. Other Authorizations Required

This Order only provides relief from the specific regulatory and proprietary requirements addressed herein for the duration of the Order, and does not provide relief from the requirements of other federal, state, water management districts, and local agencies. This Order therefore does not negate the need for the property owner to obtain any other required permits or authorizations, nor from the need to comply with all the requirements of those agencies. This Order does not provide relief from any of the requirements of Chapter 471, Florida Statutes, regarding professional engineering.

Activities subject to Federal consistency review that are emergency actions necessary for the repair of immediate, demonstrable threats to public health or safety are consistent with the Florida Coastal Management Program if conducted in strict conformance with this Order.

4. Expiration Date

This Emergency Final Order shall take effect immediately upon execution by the Secretary of the Department, or designee, and shall expire on October 4, 2017, unless modified or extended by further order.

5. Violation of Conditions of Emergency Final Order

Failure to comply with any condition set forth in this Order shall constitute a violation of a Department Final Order under Chapters 161, 253, 258, 373, 376, and 403, Florida Statutes, and enforcement proceedings may be brought in any appropriate administrative or judicial forum.

NOTICE OF RIGHTS

Pursuant to Section 120.569(2)(n), Florida Statutes, any party adversely affected by this Order has the right to seek an injunction of this Order in circuit court or judicial review of it under Section 120.68, Florida Statutes. Judicial review must be sought by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure, with the 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.

DONE AND ORDERED on this 18th day of September 2017, in Tallahassee, Florida.

FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION



For:

Noah Valenstein, Secretary
3900 Commonwealth Blvd
Tallahassee, FL 32399-3000

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



CLERK

09/18/2017
DATE