

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In re:

**EMERGENCY AUTHORIZATION FOR
REPAIRS, REPLACEMENT,
RESTORATION, AND CERTAIN
OTHER MEASURES MADE NECESSARY
BY HURRICANE IRMA**

OGC NO. 17-0989

SECOND AMENDED EMERGENCY FINAL ORDER

Pursuant to the authority granted to me by 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, I hereby find that the emergency conditions set forth in Emergency Final Order dated September 5, 2017, and amended on September 10, 2017, issued in response to the imminent or immediate danger to the public, health, safety, and welfare of the citizens of the State of Florida resulting from the devastation wrought by Hurricane Irma (the Hurricane) continue to exist throughout the State of Florida and that the Emergency Final Order must be amended, as provided below, to ensure that the state can respond to the emergency conditions. All other terms of Emergency Final Order No. 17-0989, issued on September 5, 2017, and amended on September 10, 2017, remain the same.

FINDINGS OF FACT

1. 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.

2. On September 5, 2017, the Department of Environmental Protection (Department) issued an Emergency Final Order, amended on September 10, 2017, finding that the Hurricane was an imminent and immediate danger to the public health, safety and welfare to the citizens of the State of Florida.

3. On September 10, 2017, Hurricane Irma made landfall in the Florida Keys and southwest Florida and traveled the length of the state causing catastrophic damage across Florida. The Hurricane caused significant damage in all six of the Department's regulatory districts.

4. The Department finds that the Hurricane has 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 is necessary to repair, replace, and restore structures, equipment, surface water management systems, works, and other systems damaged by the Hurricane.

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 Second Amended 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 the Emergency Final Order is Amended as follows:

1. Paragraph C.3.b.(6) is amended to read: (6) Restoration of a damaged dune system using beach compatible sand from an upland source.

All fill material shall be sand that is similar to the pre-Hurricane beach sand in both coloration and grain size and be free of debris, rocks, clay, organic matter or other foreign matter. In general, beach-compatible fill material will be predominately quartz sand of a

mean grain size diameter greater than 0.25 mm and a moist Munsell color-value/chroma of 6/1 or lighter with similar quantity of shell as the existing beach. No sand may be obtained from the beach, near shore, or below mean high water seaward of the CCCL without specific written authorization from the Department.

2. Paragraph D.7. is amended to read: For each of the following offices, any deadlines specified in statutes, rules, agreements, or Department orders, under which the Department is required by law to take action within a specified time period, and under which failure by the Department to timely take such action could result in any type of default binding on the Department, are hereby suspended and tolled until October 4, 2017, provided such deadline had not expired as of September 5, 2017 (the date the Emergency Final Order was issued):

a. Each Department office and delegated local program that sustains within its geographic boundaries any significant physical damage occurring as a direct result of the Hurricane. This includes Department offices located outside the impacted area that perform any of their duties in the impacted area.

b. Any office of the Department not directly impacted by the Hurricane if that office has deployed staff to any Department district office or delegated local program specified above, or to any Water Management District office in an impacted area, to assist in Hurricane relief efforts or to supplement the normal staff in those impacted offices.

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, 3900 Commonwealth Boulevard, Mail Station #35, 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 (30) days after this Order is filed with the Clerk of the Department.

DONE AND ORDERED on this 15th day of September 2017, in Tallahassee, Florida.

FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION



for:
Noah Valenstein, Secretary
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

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



CLERK

DATE:

09/15/2017