

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT
3301 Gun Club Road
West Palm Beach, Florida**

IN THE MATTER OF:

SFWMD ORDER NO. 2022-047-DAO

**EMERGENCY AUTHORIZATION FOR
REPAIRS, REPLACEMENT,
RESTORATION, AND CERTAIN OTHER
MEASURES MADE NECESSARY
BY TROPICAL STORM IAN**

**RECEIVED
DISTRICT CLERK'S OFFICE**

5:35 pm Sep 24, 2022

**SOUTH FLORIDA
WATER MANAGEMENT DISTRICT**



EMERGENCY FINAL ORDER

Under the authority of State of Florida Executive Order Nos. 22-218 and 22-219 ("the Executive Orders"), attached as Exhibit A, and section 120.569(2)(n), Florida Statutes, the South Florida Water Management District ("SFWMD"), enters this Order authorizing repairs, replacement, restoration, and other emergency measures to address impacts associated with Tropical Storm Ian ("the Storm").

FINDINGS OF FACT

1. On September 23, 2022, the Governor of Florida issued Executive Order 22-218 declaring a state of emergency in 24 counties based upon the serious threat to the public health, safety, and welfare posed by the Storm. On September 24, 2022, the Governor of Florida issued Executive Order 22-219 expanding the state of emergency to the entire State of Florida.

2. The Storm is expected to be a major hurricane with the potential to cause widespread damage and poses an immediate danger to the lives and property of persons within the SFWMD's jurisdiction. All of the SFWMD jurisdiction is covered by this Order and shall be referred to as the "Emergency Areas."

3. Executive Order 22-218 found that the special duties and responsibilities of some agencies in responding to disasters may require them to deviate from the statutes and rules they administer. Moreover, the Executive Order permits an agency, such as the SFWMD, to suspend the provisions of any regulatory statute prescribing the procedures for conducting state business, or the orders or rules of the agency, if strict compliance with the provisions of any such statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with the emergency.

4. The Florida Department of Environmental Protection ("DEP") may issue an Emergency Final Order regarding the Storm. DEP and SFWMD share regulatory authority over some of the activities addressed in DEP's Order. Should a conflict exist between this Order and DEP's Order, then DEP's Order shall control.

5. As a result of the Storm, immediate action by Florida's citizens and government is necessary to repair, replace, and restore structures, equipment, surface water management systems, works, and operations damaged by the Storm.

6. The SFWMD finds that the actions authorized under this Order are narrowly tailored to address the immediate need for action and are procedurally fair under the circumstances.

ULTIMATE FACTS AND CONCLUSIONS OF LAW

7. The District issues this Order to carry out the directives in the Executive Orders. Additionally, the SFWMD has authority to issue this Order under Sections 120.569(2)(n), 252.46, 373.119(2), and 373.439, Florida Statutes.

8. Based on the above findings of fact, and in order to protect the public's immediate health, safety, and welfare, it is both reasonable and appropriate that the suspension of statutes and rules described herein is required in order not to prevent, hinder, or delay necessary action in coping with the emergency.

ORDER

THEREFORE IT IS ORDERED that within the Emergency Areas, the following authorizations apply:

1. *Definitions*

a. For the purposes of this Order, the term "structures" includes the following when such structures are within the SFWMD's jurisdiction: utility infrastructure, including wastewater treatment plants, substations, lift stations, solid and hazardous waste facilities, utility lines (including transmission and distribution), poles, towers, support structures, cables, conduits, outfalls, intake structures, and pipelines; roads, bridges, culverts, driveways, sidewalks, bike paths, and other similar public and private infrastructure; public, private, and commercial habitable and non-habitable buildings, and structures ancillary to these buildings, such as garages, cabanas, storage sheds, bath houses, pools, and decks; piers (including docks, boardwalks, observation platforms, boat houses, and gazebos), and pilings; shore-stabilization structures, such as seawalls, bulkheads, revetments, breakwaters, and groins; and fences, signs and billboards; and buoys, navigational aids, and other channel markers.

b. For the purposes of this Order, the term "works" includes ditches, canals, drainage systems, ponds, swales, and other surface water conveyances; wet or

dry detention or retention areas, dams, weirs, dikes, and levees; and underdrains, outfalls, and associated water control structures.

2. *Environmental Resource, Dredge and Fill, SFWMD Right of Way Occupancy, and Other Surface Water Management Activities, and Coastal Construction Activities*

The following activities may be undertaken to repair, restore, or replace structures, land, works, and submerged contours to the configurations and conditions authorized or otherwise legally existing immediately prior to the Storm, subject to the limitations in this Order. This Order does not authorize the construction of structures that did not exist prior to the Storm, unless specifically authorized below.

Any damage to authorized structures or works may be repaired to the design that was originally authorized by the SFWMD. Minor deviations to upgrade structures or drainage systems to current standards also are authorized.

a. *No Notice Required*

The following activities may be conducted without notification to the SFWMD and must be commenced before the expiration of this Order or any of its Amendments:

(1) Temporary and permanent repair or restoration of structures and works to the conditions, dimensions, and configurations that were authorized by the SFWMD or otherwise legally existing immediately prior to the Storm. The repair and restoration activities shall not result in any expansion, addition, or relocation of the existing works, structures or systems. However, the use of different construction materials or minor deviations to allow upgrades to current structural and design standards are not precluded. Nothing in this paragraph shall be construed as an exemption for any

party performing such repair or restoration to obtain after-the-fact permits or to modify the repair or restoration that was performed, as may be required by any federal agency.

(2) The restoration (regrading, dredging, or filling) by local, regional, and state governments of upland, wetland, works, and submerged land contours to the conditions and configurations that were authorized or otherwise legally existing immediately prior to the Storm, provided the restoration does not result in any expansion or addition of land or deepening of waters beyond that which existed immediately prior to the Storm, and subject to the following limits:

(a) The removal or deepening of plugs formerly separating canals from other waters is not authorized by this Order;

(b) In the case of dredging, all excavated material shall be deposited on a self-contained upland spoil site that is diked or otherwise sloped or designed to prevent any discharge into wetlands or other surface waters, except where such dredged material is used to restore bottom contours and shorelines, excluding sandy beaches fronting the Gulf of Mexico or the Atlantic Ocean, to the conditions existing immediately prior to the Storm. In addition, excavated material shall not be deposited in any location that would obstruct SFWMD operations and/or maintenance;

(c) In the case where upland or dredged material is placed in water to restore pre-existing conditions, only clean material (i.e., free from debris and pollutants) from the previous uplands may be used in the restoration, and no change (from pre-existing conditions) in the slope of the land or the type, nature, or configuration of any pre-existing shoreline stabilization materials is authorized. For example, sloping

revetments cannot be replaced with vertical seawalls, and rock riprap cannot be replaced with interlocking blocks;

(d) Best management practices and devices such as hay bales, mulch, and floating turbidity screens shall be used to prevent violations of state water quality standards for turbidity during the performance of restoration activities in accordance with the guidelines and specifications in The Florida Stormwater, Erosion, and Sediment Control Inspector's Manual (Florida Department of Environmental Protection and Florida Department of Transportation, Sixth Impression, July 2018) <http://www.floridadep.gov/dear/florida-stormwater-erosion>, and the State of Florida Erosion and Sediment Control Designer and Reviewer Manual (HydroDynamics Incorporated in cooperation with Stormwater Management Academy, July 2013) <https://www.fdot.gov/programmanagement/implemented/urlinspecs/flerosionsedimentmanual.shtm>). Best management practices shall also be used to prevent erosion and retain sediment of all newly established or restored exposed shorelines during and after the restoration activities, which may include methods such as planting of temporary and permanent vegetation and placing of clean natural rock or concrete rubble riprap;

(e) Any fill that is deposited to restore a former shoreline, and any riprap that is used to stabilize a shoreline, must not be placed any farther waterward than the toe of the slope of the shoreline that legally existed immediately prior to the Storm. If the pre-Storm shoreline was stabilized with a functioning seawall or riprap, the seawall or riprap may be restored at its former location or within 18 inches (if, within an aquatic preserve, then one foot) waterward of the location where the seawall or riprap legally existed immediately prior to the Storm, as measured from the face of the existing seawall

slab to the face of restored seawall slab or from the front slope of the existing riprap to the front slope of the restored riprap; and

(f) This shall not constitute authorization to fill submerged lands owned by the Board of Trustees of the Internal Improvement Trust Fund.

(3) Removal of debris, including sunken or grounded vessels, vegetation, and structural remains that have been deposited into waters, wetlands, or uplands by the Storm if such removal will not result in filling of wetlands or other surface waters or dredging that creates or expands surface waters. All removed materials must be deposited on self-contained uplands and must be managed in accordance with other provisions of this Order.

b. Field Authorization Required for *Environmental Resource, Dredge and Fill, SFWMD Right of Way Occupancy, and Other Surface Water Management Activities, and Coastal Construction Activities*

(1) SFWMD personnel may issue field authorizations for:

(a) the replacement of works or structures that are no longer intact;

(b) regrading, dredging, or filling of the contours of uplands, wetlands, works, and submerged bottoms, by parties other than local, regional, or state governments;

(c) removal of debris, including sunken or grounded vessels, vegetation, and structural remains, that has been deposited into waters, wetlands, or uplands by the Storm, and the removal of which requires filling of wetlands or other surface waters, or requires dredging that creates or expands wetlands or other surface waters. Any wetlands or other surface waters that are dredged or filled to affect such

removal must be restored to the contours and conditions that existed immediately prior to the Storm; and

(d) other activities SFWMD personnel determines, in writing or verbally, to have the potential to result in only minimal adverse individual or cumulative impact on water resources, water quality, and SFWMD's property interests, including rights of way.

(2) Field authorizations may be issued only to restore works, structures and property to authorized or otherwise legally existing conditions that existed immediately prior to the Storm, or to a more environmentally compatible design than existed immediately prior to the Storm, as determined by SFWMD in writing or verbally.

(3) Field authorizations may be requested by providing a notice to the local office of the SFWMD containing a description of the work requested, the location of the work, and the name, address, and telephone number of the owner or representative of the owner who may be contacted concerning the work. SFWMD staff may also issue field authorizations without prior notice. Field authorizations may include specific conditions for the construction, operation, and maintenance of the authorized activities. Failure to comply with the conditions of the field authorization may result in enforcement actions by SFWMD. SFWMD staff shall create and maintain written records of all field authorizations.

(4) Other activities not described above shall be regulated in accordance with Part IV of Chapter 373, Florida Statutes, and the rules adopted thereunder.

3. *Right of Way (ROW)*

The following activities may be conducted without prior notice to the SFWMD:

a. All encroachments on SFWMD ROWs authorized pursuant to Chapter 40E-6, Florida Administrative Code, may be replaced or repaired as necessary if the replacement and restoration activities do not result in any expansion, addition, or relocation of the authorized encroachments and comply with the provisions set forth in Section 2 of this Order.

b. Local, federal, and state governments in emergency vehicles may use the SFWMD ROWs for emergency access. Utility companies and local, state, and federal governments may access the ROWs to repair structures and to restore utilities during the term of this Order without any requirement for notice to the SFWMD.

c. Use of works upon the SFWMD right of way which are not authorized by the issuance of a Right of Way Occupancy Permit prior to the effective date of this Order shall be prohibited unless otherwise determined to be necessary as an emergency repair or restoration for the benefit of public health, safety and welfare by the Executive Director or his/her designee. In such case, the party proposing to perform the emergency repair or restoration (Applicant) shall contact the District and request issuance of a field authorization so that the appropriate emergency actions can be performed. The Applicant shall be responsible for complying with all terms of the field authorization, including, but not limited to, securing an after-the-fact Right of Way Occupancy Permit, obtaining Section 408 authorization from the U.S. Army Corps of Engineers, modifying the emergency actions if required to do so by SFWMD, federal or other agency permits, and documenting the emergency actions performed.

d. This Order does not authorize placing trash or debris, including vegetation, on any SFWMD ROW.

e. In the event any such repair or restoration occurs on the SFWMD right of way pursuant to paragraph 2.a., above, documentation shall be provided upon completion to the SFWMD which includes the party that performed the work, the dates work was performed, the scope of work performed and the materials and methods employed.

4. *Authorization to Use Submerged Lands Owned by the State*

Pursuant to Chapters 253, 258, Fla. Stat., and 62-330.075, Fla. Admin. Code, the SFWMD issues proprietary authorizations to use state-owned submerged lands when the ERP activity permitted by SFWMD occurs on land for which an environmental resource permit is issued by the SFWMD ("SLERP authorization").

a. Except as otherwise provided in this Order, authorization to use sovereign submerged lands is hereby granted for the repair, replacement, or restoration of the activities and structures located on submerged lands owned by the State when such activities have a previously issued SLERP authorization. This authorization is subject to the provisions and limitations of paragraph 2. above, and is only granted for activities for which a SLERP authorization was obtained prior to the Storm. The structures and activities authorized under this Order shall be repaired, restored, or replaced in the same location and configuration as was authorized in the SLERP authorization.

b. This Order does not authorize the reconstruction or repair of unauthorized structures that failed to qualify for the grandfathering provisions of Chapter 18-21, Florida Administrative Code.

5. *General Conditions*

a. All activities conducted under this Order shall be performed using appropriate best management practices. For activities conducted in or discharging to wetlands or other surface waters, best management practices include properly installed and maintained erosion and turbidity control devices to prevent erosion and shoaling, to control turbidity, to prevent violations of state water quality standards, and to protect the functions provided by wetlands and other surface waters to fish, wildlife, and listed species.

b. The authorizations in this Order shall not apply to structures and associated activities in the Emergency Areas that were not properly authorized by all applicable agencies before the passage of the Storm.

c. All activities shall be accomplished so as not to disturb marked marine turtle nests or known nest locations, or damage existing native salt-tolerant or submerged vegetation.

d. This Order does not convey any property rights or any rights or privileges other than those specified in this Order.

e. This Order serves as relief for the duration of the Order from the regulatory and proprietary requirements of the SFWMD only, and does not provide relief from the requirements of other federal, state, water management districts, and local agencies. This Order does not negate the need to obtain any other required permits or authorizations.

f. All structures that are rebuilt shall be rebuilt in accordance with all applicable local, state, and federal building standards and requirements of the Federal Emergency Management Act (FEMA).

g. It is recommended that, where possible, owners of property should maintain documentation (such as photos) of the condition of the structures or lands as they existed prior to initiating any activities authorized under this Order, and should provide such documentation if requested to do so.

h. This Order does not provide relief from any of the requirements of Chapter 471, Florida Statutes, regarding professional engineering.

6. *General Limitations*

The SFWMD issues this Order solely to address the emergency created by the Storm. This Order shall not be construed to authorize any activity within the jurisdiction of the SFWMD 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.

7. *Suspension of Statutes and Rules*

Pursuant to the authorities in the Executive Order, the following provisions of statutes and rules are hereby suspended for the activities authorized by this Order for the duration of this Order:

a. All requirements for permits, leases, consent of uses or other authorizations, including, but not limited to, provisions in Chapters 120, 161, 253, 258, 373, 376, and 403, Florida Statutes, and Rules adopted thereunder;

b. All notice requirements, including, but not limited to, notice provisions in Chapters 120, 161, 253, and 373, Florida Statutes, and Chapters 18-18, 18-20, 18-21, 40E-0, 40E-1, 40E-6, and 62-330, Florida Administrative Code;

c. All application fee, lease fee, and easement fee requirements, including, but not limited to, provisions in Chapters 161 and 373, Florida Statutes, and Chapters 18-18, 18-20, 18-21, 40E-1, 40E-2, 40E-6, and 62-330, Florida Administrative Code, provided, however, that such lease and easement fees shall be suspended only in proportion to the percentage loss of functionality of the total area under lease or easement, and only for the duration of this Order unless otherwise provided in a field authorization issued under paragraph 2 above. The duration of the suspension of lease and easement fees under a field authorization may be extended on a showing that contractors or supplies are not available to commence the necessary repairs or replacement, or if additional time is needed to obtain any required authorization from the U.S. Army Corps of Engineers; and

8. *Completion of Authorized Activities*

All activities authorized under this Order must be commenced before the expiration of this Order unless otherwise provided in a field authorization or permit. The deadline for commencement under any field authorization or permit issued under this Order may be extended on a showing that contractors or supplies are not available to commence the work, or if additional time is needed to obtain any required authorization from the U.S. Army Corps of Engineers. Any Environmental Resource Permit, Surface Water Management Permit, Dredge and Fill Permit, and /or Right of Way Occupancy Permit activities that require a field authorization must be completed by the expiration date of the field authorization; activities not completed by that expiration date are subject to the regulatory and proprietary authorizations required prior to the execution of this Order.

9. *Expiration Date*

This Order shall take effect immediately upon execution by the Executive Director of the SFWMD, and shall expire on November 22, 2022, unless otherwise extended or terminated by the Executive Director or Governing Board.

10. *Violation of Conditions of Emergency Final Order*

Failure to comply with any condition set forth in this Order shall constitute a violation of Chapters 120, 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

Any party substantially affected by this Order has the right to seek judicial review under section 120.68, Florida Statutes, by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure, with the Clerk of the SFWMD at 3301 Gun Club Road, West Palm Beach, Florida 33406, 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 SFWMD.

DONE AND ORDERED on this 24th day of September 2022, in West Palm Beach, Florida.

SOUTH FLORIDA WATER
MANAGEMENT DISTRICT

By:



Drew Bartlett
Executive Director

STATE OF FLORIDA

OFFICE OF THE GOVERNOR EXECUTIVE ORDER NUMBER 22-218 (Emergency Management – Tropical Depression Nine)

WHEREAS, as of 5:00 AM EDT on September 23, 2022, the National Hurricane Center reported that Invest 98L had strengthened into Tropical Depression Nine; and

WHEREAS, as of 11:00 AM EDT on September 23, 2022, Tropical Depression Nine was located 1,045 miles southeast of Key West, Florida; and

WHEREAS, the National Hurricane Center reported Tropical Depression Nine has maximum sustained winds of 35 miles per hour and is expected to intensify significantly over the weekend; and

WHEREAS, the National Hurricane Center predicts Tropical Depression Nine will approach Florida's Peninsula at or near major hurricane strength and could affect South Florida and portions of the Florida Keys as early as Monday; and

WHEREAS, there is a risk of dangerous storm surge, heavy rainfall, flash flooding, strong winds, hazardous seas, and the potential for isolated tornadic activity for the Florida Keys and much of Florida's Peninsula; and

WHEREAS, the threat posed by Tropical Depression Nine requires that timely precautions are taken to protect the communities, critical infrastructure, and general welfare of Florida; and

WHEREAS, as Governor, I am responsible to meet the dangers presented to Florida and its people by this emergency.

NOW, THEREFORE, I, RON DESANTIS, as Governor of Florida, by virtue of the authority vested in me by Article IV, Section 1(a) of the Florida Constitution and by the Florida

Emergency Management Act, as amended, and all other applicable laws, promulgate the following Executive Order, to take immediate effect:

Section 1. Because of the foregoing conditions, which are projected to constitute a major disaster, I declare that a state of emergency exists in Brevard, Broward, Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, Hillsborough, Indian River, Lee, Manatee, Martin, Miami-Dade, Monroe, Okeechobee, Osceola, Palm Beach, Pasco, Pinellas, Polk, Sarasota, and St. Lucie Counties.

Section 2. I designate the Director of the Division of Emergency Management as the State Coordinating Officer for the duration of this emergency and direct him to execute the State's Comprehensive Emergency Management Plan and other response, recovery, and mitigation plans necessary to cope with the emergency. Pursuant to section 252.36(1)(a), Florida Statutes, I delegate to the State Coordinating Officer the authority to exercise those powers delineated in sections 252.36(6)-(12), Florida Statutes, which he shall exercise as needed to meet this emergency, subject to the limitations of section 252.33, Florida Statutes. In exercising the powers delegated by this Executive Order, the State Coordinating Officer shall confer with the Governor to the fullest extent practicable. The State Coordinating Officer shall also have the authority to:

A. Invoke and administer the Emergency Management Assistance Compact ("EMAC") (sections 252.921-252.9335, Florida Statutes) and other compacts and agreements existing between the State of Florida and other states, and the further authority to coordinate the allocation of resources from such other states that are made available to Florida under such compacts and agreements so as to best meet this emergency.

B. Seek direct assistance and enter into agreements with any and all agencies of the federal government as may be needed to meet this emergency.

C. Direct all state, regional, and local governmental agencies, including law enforcement agencies, to identify personnel needed from those agencies to assist in meeting the response, recovery, and mitigation needs created by this emergency, and to place all such personnel under the direct command and coordination of the State Coordinating Officer to meet this emergency.

D. Direct the actions of any state agency as necessary to implement the Federal Emergency Management Agency's National Disaster Recovery Framework.

E. Designate Deputy State Coordinating Officers and Deputy State Disaster Recovery Coordinators, as necessary.

F. Suspend the effect of any statute, rule, or order that would in any way prevent, hinder, or delay any mitigation, response, or recovery action necessary to cope with this emergency. In accordance with section 252.3611(1), Florida Statutes, any such order, declaration, or other action shall specify each statute or rule being amended or waived, if applicable, and the expiration date for the order or action.

G. Enter orders as may be needed to implement any of the foregoing powers. The requirements of sections 252.46 and 120.54(4), Florida Statutes, do not apply to any such orders issued by the State Coordinating Officer. No such order shall remain in effect beyond the expiration of this Executive Order, including any extension thereof.

Section 3. I order the Adjutant General to activate the Florida National Guard, as needed, to deal with this emergency.

Section 4. I find that the special duties and responsibilities resting upon some state, regional, and local agencies and other governmental bodies in responding to this emergency may require them to suspend or waive certain statutes, rules, ordinances, and orders they administer. Therefore, I issue the following authorizations:

A. Pursuant to section 252.36(6)(a), Florida Statutes, the Executive Office of the Governor may suspend all statutes and rules affecting budgeting to the extent necessary to provide budget authority for state agencies to cope with this emergency. The requirements of sections 252.46 and 120.54(4), Florida Statutes, do not apply to any such suspension issued by the Executive Office of the Governor. No such suspension shall remain in effect beyond the expiration of this Executive Order, including any extension thereof.

B. Each state agency may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of that agency, if strict compliance with the provisions of any such statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with the emergency. This includes, but is not limited to, the authority to suspend any and all statutes, rules, ordinances, or orders which affect leasing, printing, purchasing, travel, and the condition of employment and the compensation of employees. For the purposes of this Executive Order, "necessary action in coping with the emergency" means any emergency mitigation, response, or recovery action: (1) prescribed in the State Comprehensive Emergency Management Plan ("CEMP"); or (2) ordered by the State Coordinating Officer or designee. In accordance with section 252.3611(1), Florida Statutes, any agency order, declaration, or other action suspending a statute or rule shall specify each statute or rule being amended or waived, if applicable, and the expiration date for the order or action. The requirements of sections 252.46 and 120.54(4), Florida Statutes, shall not apply to any such suspension issued by a state agency. No such suspension shall remain in effect beyond the expiration of this Executive Order, including any extension thereof.

C. In accordance with section 252.38(3), Florida Statutes, each political subdivision within the State of Florida may waive the procedures and formalities otherwise required of the political subdivision by law pertaining to:

1) Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;

2) Following local procurement and contracting policies;

3) Entering into contracts; however, political subdivisions are cautioned against entering into time and materials contracts without a ceiling as defined by 2 CFR 200.318(j) or cost plus a percentage of cost contracts prohibited by 2 CFR 200.324(d);

4) Incurring obligations;

5) Employment of permanent and temporary workers;

6) Utilization of volunteer workers;

7) Rental of equipment;

8) Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and

9) Appropriation and expenditure of public funds.

D. All agencies whose employees are certified as disaster service volunteers within the meaning of section 110.120(2)(d), Florida Statutes, may, in accordance with section 110.120(3), Florida Statutes, release any such employees for such service as requested by the employee to meet this emergency.

E. The Secretary of the Florida Department of Transportation (DOT) may:

1) Waive the collection of tolls and other fees and charges for the use of the Turnpike and other public highways, to the extent such waiver may be needed to provide emergency assistance or facilitate the evacuation of the affected counties;

2) Manage the flow of traffic or close any and all roads, highways, and portions of highways as may be needed for the safe and efficient transportation of evacuees to those counties

that the State Coordinating Officer may designate as destination counties for evacuees in this emergency;

3) Suspend enforcement of the registration requirements pursuant to section 316.545(4), Florida Statutes, for commercial motor vehicles that enter Florida to provide emergency services or supplies, to transport emergency equipment, supplies or personnel, or to transport FEMA mobile homes or office style mobile homes into or from Florida;

4) Waive by special permit the warning signal requirements in the Utility Accommodations Manual to accommodate public utility companies from other jurisdictions which render assistance in restoring vital services; and

5) Waive the size and weight restrictions for divisible loads on any vehicles transporting emergency equipment, services, supplies, and agricultural commodities and citrus as recommended by the Commissioner of Agriculture, allowing the establishment of alternate size and weight restrictions for all such vehicles for the duration of the emergency. The DOT shall issue permits and such vehicles shall be subject to such special conditions as the DOT may endorse on any such permits.

Nothing in this Executive Order shall be construed to allow any vehicle to exceed weight limits posted for bridges and like structures, or relieve any vehicle or the carrier, owner, or driver of any vehicle from compliance with any restrictions other than those specified in this Executive Order, or from any statute, rule, order, or other legal requirement not specifically waived or suspended herein or by supplemental order by the State Coordinating Officer.

F. The Executive Director of the Department of Highway Safety and Motor Vehicles (DHSMV) may:

1) Suspend enforcement of the registration requirements pursuant to sections 316.545(4) and 320.0715, Florida Statutes, for commercial motor vehicles that enter Florida to

provide emergency services or supplies, to transport emergency equipment, supplies or personnel, or to transport FEMA mobile homes or office style mobile homes into or from Florida;

2) Waive the hours-of-service requirements for such vehicles;

3) Suspend the enforcement of the licensing and registration requirements under the International Fuel Tax Agreement (IFTA) pursuant to chapter 207, Florida Statutes, and the International Registration Plan (IRP) pursuant to section 320.0715, Florida Statutes, for motor carriers or drivers operating commercial motor vehicles that are properly registered in other jurisdictions and that are participating in emergency relief efforts through the transportation of equipment and supplies or providing other assistance in the form of emergency services;

4) Waive fees for duplicate or replacement vessel registration certificates, vessel title certificates, vehicle license plates, vehicle registration certificates, vehicle tag certificates, vehicle title certificates, handicapped parking permits, replacement drivers' licenses, and replacement identification cards and to waive the additional fees for the late renewal of or application for such licenses, certificates, and documents due to the effects of adverse weather conditions; and

5) Defer administrative actions and waive fees imposed by law for the late renewal or application for the above licenses, certificates, and documents, which were delayed due to the effects of adverse weather conditions, including in counties wherein the DHSMV has closed offices, or any office of the County Tax Collector that acts on behalf of the DHSMV to process renewals has closed offices due to adverse weather conditions.

Recordkeeping and other applicable requirements for existing IFTA and IRP licensees and registrants are not affected by this Executive Order. The DHSMV shall promptly notify the State Coordinating Officer when the waiver is no longer necessary.

G. In accordance with section 465.0275(2), Florida Statutes, pharmacists may dispense up to a 30-day emergency prescription refill of maintenance medication to persons who reside in an area or county covered under this Executive Order and to emergency personnel who have been activated by their state or local agency but who do not reside in an area or county covered by this Executive Order. In accordance with section 465.019(4)(b), Florida Statutes, a hospital that operates a Class II or Class III institutional pharmacy located in an area or county covered under this Executive Order may prescribe and dispense a supply of a medicinal drug lasting up to 72 hours.

H. All state agencies responsible for the use of state buildings and facilities may close such buildings and facilities in those portions of the State affected by this emergency, to the extent necessary to meet this emergency. I direct each state agency to report the closure of any state building or facility to the WebEOC system utilized by the Division of Emergency Management. Under the authority contained in section 252.36, Florida Statutes, I direct each county to report the closure of any building or facility operated or maintained by the county or any political subdivision on a daily basis to the WebEOC system. Furthermore, I direct the Secretary of the Department of Management Services to:

- 1) Maintain an accurate and up-to-date list of all such closures; and
- 2) Provide that list daily to the State Coordinating Officer.

I. All state agencies may abrogate the time requirements, notice requirements, and deadlines for final action on applications for permits, licenses, rates, and other approvals under any statutes or rules under which such applications are deemed to be approved unless disapproved in writing by specified deadlines. All such time requirements that have not yet expired as of the date of this Executive Order are suspended and tolled to the extent necessary to meet this emergency.

J. All agencies shall implement Selected Exempt Services (SES) Extraordinary Payment Plans and Career Service Regular Compensatory Leave Payment Plans for:

1) All essential agency personnel who are required to work extraordinary hours when state-owned or state-operated facilities are closed in response to an emergency condition. Employees who are eligible to receive extraordinary pay under the agency's activated plan shall accrue special compensatory leave credits for work performed during facility closures up to the number of hours in the employee's established workday. For these employees, any additional time worked beyond the employee's established workday during facility closures will result in extraordinary pay;

2) All agency personnel who are assigned to the State Emergency Operations Center and are required to work extraordinary hours; and

3) All agency personnel who are deployed throughout the state in response to an emergency condition and are required to work extraordinary hours.

K. All state agencies may waive the forty-day time limit to issue a warrant pursuant to section 215.422(3)(a)-(b), Florida Statutes. This waiver applies to invoices and reimbursement requests arising from this emergency that were received, inspected, and approved by the agency prior to the expiration of this Executive Order, including any extension thereof. This waiver of section 215.422(3)(a)-(b), Florida Statutes, and all waivers based upon this waiver shall expire upon the expiration of this Executive Order, including any extension thereof.

L. The provisions of section 934.50, Florida Statutes, excluding subsection (4), are waived for state and local agencies conducting emergency operations arising from the state of emergency for the limited purpose of capturing aerial evidence concerning the amount of damage sustained to private and public property; to assist in search, rescue, and recovery activities; and prevent imminent danger to life or serious damage to property.

Section 5. All public facilities, including elementary and secondary schools, community colleges, state universities, and other facilities owned or leased by the state, regional or local governments that are suitable for use as public shelters shall be made available at the request of the local emergency management agencies to ensure the proper reception and care of all evacuees. Under the authority contained in section 252.36, Florida Statutes, I direct the Superintendent of each public school district in the State of Florida to report the closure of any school within its district to the Commissioner of the Florida Department of Education. Furthermore, I direct the Commissioner of the Department of Education to:

- A. Maintain an accurate and up-to-date list of all such closures; and
- B. Provide that list daily to the State Coordinating Officer.

Section 6. I find that the demands placed upon funds specifically appropriated to state and local agencies for disaster relief or response are unreasonably great and that such funds may be inadequate to pay the costs of coping with this emergency. In accordance with section 252.37(2)(b), Florida Statutes, I direct that sufficient funds be made available, as needed, by transferring and expending moneys from the Emergency Preparedness and Response Fund created under section 252.3711, Florida Statutes.

In accordance with section 252.37(2)(a), Florida Statutes, state agencies responding to this emergency must first spend funds specifically appropriated for disaster relief or response. If no specifically appropriated funds exist, or if funds specifically appropriated are exhausted, state agencies are authorized to spend funds from the Emergency Preparedness and Response Fund through the procedures outlined in Memorandum No. 22-046, Emergency Preparedness and Response.

Section 7. All state agencies entering emergency orders, emergency rules, or other emergency actions in response to this emergency shall advise the State Coordinating Officer

contemporaneously or as soon as practicable thereafter, and, pursuant to section 252.36(3)(b), Florida Statutes, shall submit the order or declaration to the Division of Administrative Hearings within five days of issuance.

Section 8. Medical professionals and workers, social workers, and counselors with good and valid professional licenses issued by states other than the State of Florida may render such services in Florida during this emergency for persons affected by this emergency with the condition that such services be rendered to such persons free of charge, and with the further condition that such services be rendered under the auspices of the American Red Cross or the Florida Department of Health.

Section 9. Pursuant to section 501.160, Florida Statutes, it is unlawful and a violation of section 501.204, Florida Statutes, for a person to rent or sell or offer to rent or sell at an unconscionable price within the area for which the state of emergency is declared, any essential commodity including, but not limited to, supplies, services, provisions, or equipment that is necessary for consumption or use as a direct result of the emergency.

Section 10. Under the authority contained in sections 252.36(6)(a), (g), and (m), Florida Statutes, I direct that, for the purposes of this emergency, the term “essentials”, as defined by section 252.359(2), Florida Statutes, shall be the same as and no more expansive than the term “commodity”, as defined by section 501.160(1)(a), Florida Statutes (hereinafter referred to collectively or alternatively as “essential commodities”). Accordingly, any person who delivers essential commodities to a location in the area(s) declared to be under a state of emergency by this Executive Order, and when necessary to ensure that those commodities are made available to the public, may travel within evacuated areas and exceed curfews, provided the State Coordinating Officer determines, after consultation with the appropriate Emergency Support Function(s), that:

A. Law enforcement officials in the declared area(s) can provide adequate security to protect the essential commodities from theft;

B. The weight of a delivery vehicle will not jeopardize the structural integrity of any roadway or bridge located within the declared area;

C. Delivery vehicles will not negatively impact evacuation activities in the declared area(s); and

D. Delivery vehicles will not negatively impact any response or recovery activities occurring within the declared area(s).

After consulting with the appropriate Emergency Support Function(s), and after consulting with local officials, the State Coordinating Officer may dictate the routes of ingress, egress, and movement within the declared area(s) that drivers must follow when delivering essential commodities.

Provided he or she is actually delivering medications, any person authorized to deliver medications under chapter 893, Florida Statutes, qualifies as a person delivering essential commodities.

In order to qualify as a person delivering essential commodities under this section, a person must be in the process of delivering essential commodities only. If an individual is transporting both essential and non-essential commodities, then this section shall not provide any authorization for that individual to enter into or move within the declared area(s).

Section 11. Consistent with Executive Order 80-29, nothing in this Executive Order shall prevent local jurisdictions in any area not declared to be under a state of emergency by this Executive Order from taking prompt and necessary action to save lives and protect the property of their citizens, including the authority to compel and direct timely evacuation when necessary.

Section 12. I authorize the Florida Housing Finance Corporation to distribute funds pursuant to section 420.9073, Florida Statutes, to any county, municipality, or other political subdivision located within the area(s) declared to be under a state of emergency by this Executive Order. The authority of the Florida Housing Finance Corporation to distribute funds in connection with this emergency shall expire six months after the expiration of this Executive Order, including any extension thereof.

Section 13. All actions taken by the Director of the Division of Emergency Management with respect to this emergency before the issuance of this Executive Order are ratified.

Section 14. This Executive Order is effective immediately and shall expire sixty (60) days from this date unless extended.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed, at Tallahassee, this 23rd day of September 2022.



RON DESANTIS, GOVERNOR

ATTEST:



SECRETARY OF STATE

DEPARTMENT OF STATE
TALLAHASSEE, FL
2022 SEP 23 PM 3:18

FILED

STATE OF FLORIDA

OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NUMBER 22-219

(Amending Executive Order 22-218, Emergency Management – Tropical Depression Nine)

WHEREAS, on September 23, 2022, I issued Executive Order 22-218 and declared a state of emergency exists for several counties in Florida's Peninsula and the Florida Keys due to Tropical Depression Nine; and

WHEREAS, as of 11:00 PM EDT on September 23, 2022, Tropical Depression Nine strengthened into Tropical Storm Ian, with maximum sustained winds of 40 miles per hour; and

WHEREAS, as of 8:00 AM EDT on September 24, 2022, Tropical Storm Ian was approximately 855 miles southwest of Key West, Florida; and

WHEREAS, Tropical Storm Ian is forecasted to become a major hurricane before making landfall along Florida's West Coast; and

WHEREAS, the Florida Division of Emergency Management, working together with the National Hurricane Center to evaluate weather predictions, has determined there is a continuing risk of dangerous storm surge, heavy rainfall, flash flooding, strong winds, hazardous seas, and isolated tornadic activity for Florida's Peninsula and portions of the Florida Big Bend, North Florida, and Northeast Florida; and

WHEREAS, the threat posed by Tropical Storm Ian requires that timely precautions are taken to protect the communities, critical infrastructure, and general welfare of Florida; and

WHEREAS, as Governor, I am responsible to meet the dangers presented to Florida and its people by this emergency.

NOW, THEREFORE, I, RON DESANTIS, as Governor of Florida, by virtue of the authority vested in me by Article IV, Section 1(a) of the Florida Constitution and by the Florida

Emergency Management Act, as amended, and all other applicable laws, promulgate the following Executive Order, to take immediate effect:

Section 1. Section 1 of Executive Order 22-218 is amended to read as follows:

Because of the foregoing conditions, which are projected to constitute a major disaster, I declare a state of emergency exists in the State of Florida.

Section 2. Except as amended herein, Executive Order 22-218 is ratified and reaffirmed.

Section 3. This Executive Order is effective immediately and shall expire upon the expiration of Executive Order 22-218.

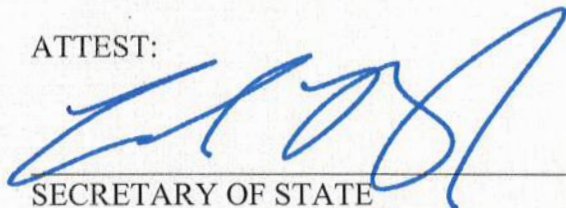


IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed, at Tallahassee, this 24th day of September, 2022.



RON DESANTIS, GOVERNOR

ATTEST:



SECRETARY OF STATE

2022 SEP 24 PM 12:38
DEPARTMENT OF STATE
TALLAHASSEE, FL

FILED