

**STATE OF FLORIDA
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT**

IN THE MATTER OF:

**SJRWMD F.O.R. NO. 2022-28
SJRWMD Order No. 2022-14**

**EMERGENCY AUTHORIZATION
FOR FLOOD RELIEF AND CERTAIN
OTHER MEASURES MADE NECESSARY
BY HURRICANE IAN**

EMERGENCY ORDER

Under the authority of sections 120.569(2)(n), 373.119(2) and 373.439 of the Florida Statutes, and following the guidance of the State of Florida Office of the Governor, Executive Order 22-218 issued on September 23, 2022, as amended by Executive Order 22-219, issued on September 24, 2022 (collectively, Executive Order), and sections 252.32(1)(b), 252.36, 252.363, and 252.46 of the Florida Statutes, St. Johns River Water Management District (District), by and through its Executive Director, enters this Emergency Order, making the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. The District, a special taxing district created by Chapter 373 of the Florida Statutes, is empowered to administer that Chapter and the rules promulgated thereunder.
2. The Governor of Florida issued the Executive Order, declaring that a state of emergency exists in the State of Florida (Emergency Area). The state of emergency is based upon the serious threat to the public health, safety and welfare posed by Hurricane Ian. Additionally, on September 24, 2022, the Florida Department of Environmental Protection entered an Emergency Final Order 22-2602, as amended by Amended Emergency Final Order

22-2602 (collectively, Department Order) authorizing emergency actions and suspending certain statutes and rules during the emergency and recovery.

3. Hurricane Ian currently has winds of 75 miles per hour and is expected to make landfall on the west coast of Florida. Hurricane watches and tropical storm warnings have been issued in the Emergency Area. There is a risk of dangerous storm surge, heavy rainfall, flooding, strong winds, hazardous seas, and potential for tornadic activity. Hurricane Ian poses a severe threat to the Emergency Area requiring immediate action to protect public health, safety, and welfare.

4. The Governor's Executive Order found that the special duties and responsibilities of some agencies in responding to disasters may require them to deviate from the regulatory statutes and rules they administer. The Executive Order permits an agency to suspend the provisions of any regulatory statute prescribing the procedures for conduct of 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.

5. The District's Executive Director finds that an emergency exists and that emergency authorization is required to address the need for immediate action within the Emergency Area.

6. District staff will spend extensive time addressing permitting and regulatory matters resulting from Hurricane Ian. District emergency activities in response to Hurricane Ian will include assignment of staff to emergency operations, performing field authorizations, and approving work necessary to address Hurricane Ian impacts within the Emergency Area. In addition, in the event that District office operations are suspended, District staff may not be able

to effectively address all hurricane-related impacts while at the same time also adequately addressing all existing and new permit (or variance) application review timelines for projects not related to Hurricane Ian in the timeframes required by Chapters 120 and 373 of the Florida Statutes, and the District's own rules.

7. The District finds that immediate, strict compliance with the provisions of the statutes, rules or orders noted in Paragraph 17 below would prevent, hinder, or delay necessary action in coping with the emergency.

ULTIMATE FACTS AND CONCLUSIONS OF LAW

8. This Emergency Order is issued under the authority of sections 120.569(2)(n), 373.119(2), and 373.439 of the Florida Statutes. This Emergency Order is further guided by the directives in the Executive Order, which was issued under the authority of article IV, section 1(a) of the Florida Constitution, and the Florida Emergency Management Act; the Department Order; and sections 252.32(1)(b), 252.36, and 252.46 of the Florida Statutes.

9. Based on the above findings of fact, and to protect the public's immediate health, safety and welfare interests, it is both reasonable and appropriate that the suspension and tolling of time requirements, notice requirements, and deadlines for action on applications for permits and other approvals should extend for 30 days while this Emergency Order is in effect. Tolling deadlines for 30 days will give the District staff time to address emergency hurricane impacts, yet result in as little delay as possible for pending applications. In addition, it is also both reasonable and appropriate to authorize temporary consumptive uses of water in the Emergency Area to address or alleviate flooding.

10. The emergency has also created a reasonable and appropriate need for the District

to waive any statute or rule applicable to procuring supplies or services and to compensating employees as necessary to respond to the emergency created by Hurricane Ian.

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

11. Abrogation of time requirements, notice requirements, and deadlines for District actions

Any deadlines specified in statutes, rules, agreements, or District orders, under which the District is required by law to act within a specific time period, and under which failure by the District to timely act could result in any type of default that binds the District (including, for example, the time to request additional information on permit applications), are hereby suspended and tolled for a period of 30 days, provided such deadline had not expired as of the effective date of this Order, for each of the following offices:

a. Each District office that serves a geographic area that sustains any significant physical damage occurring as a direct result of Hurricane Ian. This includes District offices located outside the impacted area that perform any duties in the impacted area.

b. Each District office that has deployed staff to an impacted area to assist in hurricane relief efforts or to supplement the normal personnel in those impacted offices.

12. Extension of time for applicants, permittees, and respondents to comply with specified deadlines

For activities, systems, consumptive uses, water well construction permits, and water well contractor licenses in the Emergency Area regulated by the District, this Emergency Order extends by 30 days the time to comply with the following specified deadlines that occur during the effective period of this Emergency Order:

a. The time deadlines to conduct or report periodic monitoring or any other similar monitoring that is required by a permit, lease, easement, consent of use, letter of consent, consent order, consent agreement, administrative order, or other authorization under Chapters 253, 258, or 373, Florida Statutes, and rules adopted thereunder;

b. The time deadlines to file an application for modification (including a modification to extend the duration) or renewal of an existing permit, lease, easement, consent of use, letter of consent, or other authorization under Chapters 253, 258, or 373, Florida Statutes, and rules adopted thereunder;

c. The time deadlines to file an application for an operation permit under Chapter 373, Florida Statutes, and rules adopted thereunder;

d. The expiration dates for an existing permit, lease, consent of use, or other authorization under Chapters 253, 258, or 373, Florida Statutes, and rules adopted thereunder;

e. The time deadlines to obtain a permit for and commence construction of the initial phase of a system for which a conceptual permit was issued pursuant to Part IV of Chapter 373, Florida Statutes, and rules adopted thereunder.

The extension provisions of this paragraph do not apply to permits that are held by a permittee in significant noncompliance or are subject to a court order specifying an expiration date or buildout date that would conflict with the extensions granted in this paragraph.

13. Suspension of the effect of any statute, rule or order to ensure continuity of operations

To ensure the District is able to meet emergency response functions, the District hereby suspends the effect of any statute, rule, or order, including but not limited to, the applicable sections of Chapters 255 and 287, Florida Statutes, to the extent necessary to procure any and all

necessary supplies, commodities, services, temporary premises, and other resources, and to perform the following actions necessary to respond to the storm:

- a. Performing public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
- b. Soliciting and entering into contracts;
- c. Incurring obligations;
- d. Employing permanent and temporary workers;
- e. Utilizing volunteer workers;
- f. Renting equipment;
- g. Acquiring and distributing, with or without compensation, supplies, materials, and facilities; and
- h. Appropriating and expending public funds.

14. **Consumptive Uses of Water (including for pumping or diverting water)**

a. ***On-Site Discharges – No Notice Required.*** Internal movement of water from flooded areas within a project site to other areas within the same project site by the same owner shall be allowed in the Emergency Area during the course of this Emergency Order. No notice to the District is required. Examples of activities authorized by this paragraph include moving water from internal roadways, and parking lots, swales or other on-site areas to on-site surface water management ponds or lakes, or other areas on-site that would not directly discharge off-site. This Emergency Order does not authorize pumping or discharging of flood waters to off-site property, canals, or water bodies not completely on-site, other than through permitted facilities.

b. ***Off-Site Discharges by governmental entity – No Notice Required.*** Moving water from a flooded area that creates an ongoing emergency condition shall be allowed by state, regional, or

local governmental agencies from September 28, 2022 through October 12, 2022, without notice to the District. Examples of such an ongoing emergency condition include flooded roads and parking lots, flooded homes, and flooded essential buildings. If the emergency condition continues beyond October 12, 2022, and additional time, or any other authorizations are necessary, a general permit by rule pursuant to Rule 40C-2.042, F.A.C., may be available.

c. ***Other Emergency Authorizations.*** Moving water from a flooded area that creates an ongoing emergency condition may be authorized pursuant to Rule 40C-2.042, F.A.C., or Rule 62-330.360, F.A.C.

15. **General Conditions**

All activities authorized under paragraph 14 shall be conducted in accordance with the following conditions and requirements:

- a. All activities shall be performed in a manner which minimizes adverse water quality and water quantity impacts.
- b. All activities shall be performed using 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, control turbidity, and prevent violations of state water quality standards and protect the functions provided by wetlands and other surface waters to fish, wildlife, and listed species.
- c. Entities operating under this Emergency Order shall immediately correct any erosion, shoaling, or water quality problems that result from the activities authorized under this Emergency Order.
- d. This Emergency Order does not convey any property rights or any rights or privileges other than those specified in this Emergency Order.

16. Other Authorizations Required

Nothing in this Emergency Order shall eliminate the necessity for obtaining any other federal, state, water management district, or local permits or other authorizations that may be required.

17. Suspension of statutes and rules

Pursuant to the authorities in Chapters 120 and 373 of the Florida Statutes, and guided by the authorities in the Executive Order, the Department Order, and Chapter 252 of the Florida Statutes, the following provisions of statutes and rules are hereby suspended for the activities authorized by this Emergency Order for the duration of this Emergency 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, provisions in Chapters 120, 161, 253, and 373, Florida Statutes, and Chapters 18-18, 18-20, 18-21, 40C-1, 40C-2, 40C-4 and 62-330, Florida Administrative Code;
- c. All application fee requirements and lease fee requirements (as provided in subsection C.9. of Department Order 22-2602), including, but not limited to, provisions in Chapters 161 and 373 of the Florida Statutes and Chapters 18-18, 18-20, 18-21, 40C-1, 40C-2, 40C-4, and 62-330 of the Florida Administrative Code, provided, however, that such lease fees shall be suspended only in proportion to the percentage loss of functionality of the total area under lease, and only for the duration of this Emergency Order unless otherwise provided in a field authorization or the Department Order. The duration of the suspension of lease under a field authorization may be extended on a written 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 or local government; and

d. Prohibitions for dredging and filling in waters approved or conditionally approved, for shellfish harvesting adopted under sections 403.061(29) and 373.414(9) of the Florida Statutes.

18. General limitation

The District issues this Emergency Order solely to address the emergency created by Hurricane Ian. This Emergency Order shall not be construed to authorize any activity within the jurisdiction of the District except in accordance with the express terms of this Emergency Order.

19. Additions to the Emergency Area

If the State of Florida Office of the Governor further amends the Executive Order to add or delete counties to or from the declared state of emergency or the Florida Department of Environmental Protection further amends the Department Order to add or delete counties to or from the Emergency Area defined therein, each county or portion of a county that lies within the District's jurisdictional boundaries is added to or deleted from the Emergency Area defined in paragraph 2 of this Emergency Order without the need for further action by the District.

20. Expiration

Upon execution by the Executive Director, this Emergency Order shall be effective September 24, 2022 and shall expire upon expiration or rescission of the Executive Order, as modified or extended, unless otherwise extended or terminated by the Executive Director or Governing Board.

DONE AND ORDERED on September 26, 2022, in Palatka, Florida.

ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT


MICHAEL A. REGISTER, P.E.
EXECUTIVE DIRECTOR

RENDERED September 26, 2022, in Palatka, Florida.


COURTNEY WALDRON
DISTRICT CLERK

NOTICE OF RIGHTS

Any party substantially affected by this Emergency Order No. 2022-14 (SJRWMD F.O.R. No. 2022-28) has the right to seek judicial review of it under section 120.68 of the Florida Statutes, by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure, with the Clerk of the District at 4049 Reid Street, Palatka, Florida 32177, 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 Emergency Order No. 2022-14 (SJRWMD F.O.R. No. 2022-28) is filed with the Clerk of the District.