



Department of Environmental Protection

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Severe Weather Emergency Declaration

Barnstable County Tornado/Wind Damage on July 23, 2019

Pursuant to the authority granted by M.G.L. c. 131, § 40, as amended by Chapter 238 of the Acts of 2012 (see Appendix A) in order to protect the health or safety of the residents of the Commonwealth, I declare a Severe Weather Emergency in the aftermath of Wind Damage from the Barnstable County Tornado and Severe Thunderstorm that occurred on or about July 23, 2019.

Duration of the Declaration's Effect:

This Emergency Declaration shall be in effect from July 24, 2019 until August 24, 2019. Post-storm activities authorized under this Emergency Declaration must be completed by August 24, 2019; any activities not completed by this date will require the applicant to obtain a written Emergency Certification under 310 CMR 10.06 or obtain a Negative Determination of Applicability or Order of Conditions allowing the activity before continuing.

Geographic Area of the Declaration's Effect:

The provisions of this Emergency Declaration shall only apply to the following municipalities: Harwich and Yarmouth.

Conditions:

By this Emergency Declaration, I suspend the standard permitting and emergency certification provisions contained at 310 CMR 10.00 for the activities described herein, in order to allow for post-storm recovery efforts necessary to protect public health and safety from damage caused by the Wind Damage from the Barnstable County Tornado and Severe Thunderstorm that occurred on or about July 23, 2019. The following **post-storm activities are allowed** by this Emergency Declaration without filing a Notice of Intent or requesting an Emergency Certification, provided that:

- (a) the post-storm activities are necessary to protect public health and safety from damage caused by the Wind Damage from the Barnstable County Tornado and Severe Thunderstorm that occurred on or about July 23, 2019;

- (b) The post-storm activities are necessary as a result of damage caused by Wind Damage from the Barnstable County Tornado and Severe Thunderstorm that occurred on or about July 23, 2019;
- (c) any wetland resource areas altered by post-storm recovery activities, as defined below, are restored to their pre-storm conditions;
- (d) written notification is mailed by post, emailed, or hand delivered to, and received by, the conservation commission of the municipality in which the post-storm activities are to be performed and the Massachusetts Department of Environmental Protection Southeast Regional Office Wetlands Program prior to August 23, 2019; the written notification to each agency must indicate that the other agency has been notified.
- (e) the written notification provides a detailed description of the post-storm activities performed or to be performed and certifies that the post-storm activities are limited to those necessary to restore conditions existing on July 23, 2019 (prior to the storm) and are necessary to protect public health or safety from damage caused by Wind Damage from the Barnstable County Tornado and Severe Thunderstorm that occurred on or about July 23, 2019;
- (f) the post-storm activities are completed by August 24, 2019;
- (g) the post-storm activities do not include any work on any structures that were previously condemned as uninhabitable by a local or state building official on or prior to July 23, 2019; and
- (h) the post-storm activities are limited to, and do not expand beyond, what is described in the list below of post-storm activities allowed by this Emergency Declaration.

Post-Storm Activities Authorized by This Declaration:

Removal of storm debris in Wetland Resource Areas, including fallen trees, tree limbs, wood, utility poles, plaster, foundation materials, motor vehicles, refuse, and plant or animal matter, but only if removal does not require filling, dredging, or excavating a wetland resource area. Storm debris may not be disposed of in any wetland resource area.

Repair, stabilizing, and shoring up, but not expanding, of any building, foundation, or other structure located in a Wetland Resource Area damaged by wind or the tornado from the July 23, 2019 storm, where the work is limited to the footprint of the structure that existed on July 23, 2019.

Removal of storm debris necessary to clear a roadway or railway located in a Wetland Resource Area provided that any such storm debris may not be disposed of in a wetland resource area.

Repair or replacement of utility lines, poles and pipes located in Wetland Resource Areas including, but not limited to, electrical, sewer, water, gas, and telecommunications, provided swamp mats are used for repairs in vegetated wetlands, including salt marsh and bordering vegetated wetlands where practicable.

Any other storm-related activities not authorized by this Emergency Declaration require the request for and receipt of an Emergency Certification (310 CMR 10.06), a Negative Determination of Applicability, or an Order of Conditions, as applicable.

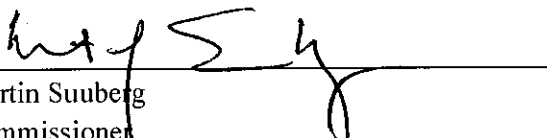
Enforcement:

This Emergency Declaration does not affect MassDEP's ability to enforce any rule or regulation that is not altered by said Emergency Declaration. Any activities undertaken beyond the scope of this Emergency declaration constitute a violation of the Wetlands Protection Act, G.L. c. 131, s. 40, and could subject persons conducting or directing such activities to enforcement by MassDEP. If you have questions about whether the activities you are proposing exceed the scope of this Emergency Declaration, you should contact your local conservation commission or the appropriate regional office of MassDEP. The provisions of this Emergency Declaration do not apply to property or activities for which an enforcement order was issued on or prior to July 23, 2019, or to property or activities subject to an enforcement order issued while this Emergency Declaration is in effect.

Notification:

This Emergency Declaration has been sent electronically to all conservation commissions in the geographic area subject to the severe weather emergency. The Emergency Declaration will also be available through the MassDEP web site, MassDEP ListServe, Massachusetts Association of Conservation Commissions, and the Association of Massachusetts Wetland Scientists.

PLEASE NOTE: The provisions of this Emergency Declaration pertain only to the Wetlands Protection Act. This Emergency Declaration does NOT suspend the requirements of any other statute or regulation, including but not limited to, Waterways (G.L. c. 91, 310 CMR 9.00), 401 Water Quality Certification (314 CMR 9.00), the Massachusetts Clean Waters Act (G.L. c. 21, §§ 26-53), Inland/Coastal Restriction Orders (310 CMR 12.00 and 310 CMR 13.00), or federal or municipal law.



Martin Suuberg
Commissioner

7/24/19

Date

Appendix A

Chapter 238 of the Acts of 2012 – Section 50: The twenty-sixth paragraph of said section 40 of said chapter 131, as so appearing, is hereby further amended by adding the following 5 sentences: The permitting and emergency provisions in this paragraph shall not apply to severe weather emergencies as declared by the commissioner of environmental protection following a destructive weather event requiring widespread recovery efforts, debris cleanup or roadway or utility repair. A severe weather emergency declaration shall allow for emergency related work to occur as necessary for the protection of the health or safety of the residents of the commonwealth. A severe weather emergency declaration by the commissioner shall describe the types of work allowed without filing a notice of intent, any general mitigating measures to condition the work that may be required in performing such work, any notification or reporting requirements, the geographic area of the declaration's effect and the period of time the declaration shall be in effect which, in no event, shall be longer than 3 months unless extended by the commissioner. A severe weather emergency declared by the commissioner shall be sent electronically to all conservation commissions in the geographic area of the severe weather emergency and shall be made widely available to the general public through appropriate channels for emergency communications. A declaration of a severe weather emergency by the commissioner shall not impact the department's ability to enforce any general or special law or rule or regulation that is not altered by the commissioner's declaration.