

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In re:

**EMERGENCY ORDER DUE TO
THE EFFECTS OF COVID-19**

OGC NO. 20-0239

FIFTH AMENDED AND RESTATED EMERGENCY FINAL ORDER

The State of Florida Department of Environmental Protection (Department) enters this Fifth Amended and Restated Emergency Final Order (Order), including Findings of Fact and Conclusions of Law, in response to the imminent and immediate danger to the public health, safety, and welfare of the citizens of the State of Florida caused by the Novel Coronavirus Disease 2019 (hereinafter "COVID-19"). This Fifth Amended and Restated Emergency Final Order restates, amends and extends the provisions of the Emergency Final Order due to the effects of COVID-19 issued on April 1, 2020, May 8, 2020, May 29, 2020, July 7, 2020 and September 4, 2020.

FINDINGS OF FACT

1. Novel Coronavirus Disease 2019 (COVID-19) is a severe acute respiratory illness that can spread among humans through respiratory transmission and presents with symptoms similar to those of influenza.

2. In late 2019, a new and significant outbreak of COVID-19 emerged in China. Since the initial outbreak, COVID-19 has now been detected in more than 100 locations internationally, including the United States. As a result, the World Health Organization has declared COVID-19 a pandemic.

3. Positive cases of COVID-19 have been detected in the state of Florida. On March 1, 2020, pursuant to the Governor's Executive Order number 20-51 the State of

Florida's Surgeon General and State Health Officer declared a Public Health Emergency exists in the State of Florida as a result of COVID-19. The Governor also directed the Director of the Division of Emergency Management to activate the State Emergency Operations Center to Level 1 to provide a coordinated response to the COVID-19 emergency.

4. By State of Florida Executive Order Nos. 20-52, 20-114, 20-166, 20-213, and 20-276 the Governor declared that a state of emergency exists throughout the state of Florida (Emergency Area).

5. The Department finds that the effects of COVID-19 create a state of emergency posing an imminent danger to the public health, safety, welfare, and property throughout the Emergency Area. As a result of the emergency, immediate action is necessary.

6. In accordance with recommendations from the Centers for Disease Control and Prevention (CDC) and other health organizations, many employees of companies and government entities, are working remotely to minimize the risk of spreading COVID-19. On March 16, 2020, President Trump and the CDC issued the 15 days to Slow the Spread guidance advising individuals to adopt far reaching social distancing measures such as working from home and avoiding gatherings of more than 10 people.

7. COVID-19 may cause disruption in supply chains and the labor force, thereby impacting the ability of many regulated entities to meet certain regulatory deadlines. Therefore, the Department finds that it is appropriate to extend certain regulatory deadlines by 30 days to accommodate disruptions. This Order does not provide relief from any other regulatory requirements including those of other federal,

state, or local agencies. This Order likewise does not provide relief from the Department's compliance and enforcement activities. The Department will continue to carry out all inspections, testing, data and file reviews and other compliance verification activities to ensure full compliance with regulatory and pollution prevention requirements, including the pollution notification requirement under Section 403.077, Florida Statutes. In the event of noncompliance with any such requirements, the Department will continue to fully execute its compliance and enforcement duties.

8. The Department finds that in-person public meetings and hearings pose a potential risk and should not be held during the term of this Order. Instead, public meetings and hearings held by electronic means is a safe method to encourage public engagement while protecting public health.

9. 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 COVID-19 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 Nos. 20-52, 20-114, 20-166, 20-213, and 20-276 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 Order.

3. Suspension of statutes, rules, agreements or Department orders as noted within this Order is required so as not to prevent, hinder, or delay necessary action in coping with the emergency. However, this Order is limited to the items specified below and does not provide relief from the Department's compliance and enforcement activities. The Department will continue to carry out all inspections, testing, data and file reviews and other compliance verification activities to ensure full compliance with regulatory and pollution prevention requirements, including the pollution notification requirement under Section 403.077, Florida Statutes. In the event of noncompliance with any such requirements, the Department will continue to fully execute its compliance and enforcement duties.

THEREFORE, IT IS ORDERED:

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

Extension of Time to Comply with Specified Deadlines

For facilities and activities regulated by the Department in the Emergency Area, this Order extends by 30 days the time to comply with the following specified deadlines that occur between the date of issuance of this Order and the expiration of this Order (a.- f. below). However, as specified above, this Order does not provide relief from any other regulatory requirements including those of other federal, state, or local agencies. This Order likewise does not provide relief from the Department's compliance and enforcement activities. The Department will continue to carry out all inspections, testing, data and file reviews and other compliance verification activities to ensure full compliance with

regulatory and pollution prevention requirements, including the pollution notification requirement under Section 403.077, Florida Statutes. In the event of noncompliance with any such requirements, the Department will continue to fully execute its compliance and enforcement duties.

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 161, 253, 258, 373, 376, 377, 378, or 403, Florida Statutes, and rules adopted thereunder, except for public notices of pollution under Section 403.077, Florida Statutes, and monitoring and reporting required under federally-mandated air permit conditions pursuant to 40 C.F.R. Parts 60, 61, 63, and 75.

b. The time deadlines to respond to and complete the cleanup of mineral oil dielectric fluid (MODEF) discharges from electric power generation, transmission, and distribution facilities within the Emergency Area.

c. The time deadlines to file an application for an extension of permit duration or renewal of an existing permit, lease, easement, consent of use, letter of consent, or other authorization under Chapters 161, 253, 258, 373, 376, 377, 378, or 403, Florida Statutes, and rules adopted thereunder, except for air permits issued under Title V of the Clean Air Act.

d. The time deadlines to file an application for an operation permit under Chapters 161, 253, 258, 373, 376, 377, or 403, Florida Statutes, and rules adopted thereunder, except for air permits issued under Title V of the Clean Air Act.

e. The expiration date for an existing permit, lease, consent of use, or other authorization under Chapters 161, 253, 258, 373, 376, 377, 378, or 403, Florida Statutes, and rules adopted thereunder, except for air permits issued under Title V of the Clean Air Act.

f. 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.

Public Meetings and Hearings

The Department shall conduct all public meetings or hearings during the term of this Order only by electronic means, including, but not limited to, the use of webinar or telephone to encourage public engagement while protecting public health. The Department shall not hold any in-person public meetings or hearings during the term of this Order.

Applicability to Delegated Programs

The provisions of this Order apply in those cases where a water management district, local government or other entity is acting for the Department in accordance with a delegation agreement, operating agreement or contract. Such water management district, local government or other entity shall comply with the terms of this Order to the extent that it is acting as an agent of the Department. This Order does not apply in those cases where a water management district, local government or other entity is acting under its own independent authority.

Expiration Date

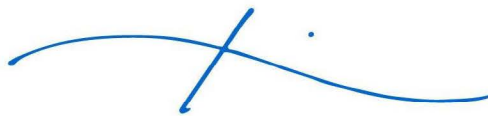
This Order shall take effect immediately upon execution by the Secretary of the Department, or designee, and shall expire on January 2, 2021, unless modified or extended by further order.

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 by mail at 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 30 days after this Order is filed with the Clerk of the Department.

DONE AND ORDERED on this 4th day of November 2020, in Tallahassee, Florida.

FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION



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.

Sea Crandall
CLERK

November 4, 2020
DATE