



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

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Charles D. Baker

Governor

Karyn E. Polito

Lieutenant Governor

Matthew A. Beaton

Secretary

Martin Suuberg

Commissioner

Severe Weather Emergency Declaration

March 2018 Nor'easter

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 the March 2018 Nor'easter on or about March 2, 2018.

Duration of the Declaration's Effect:

This Emergency Declaration shall be in effect from March 2, 2018 until April 2, 2018. Post-storm activities authorized under this Emergency Declaration must be completed by April 2, 2018; any activities not completed by this date will require the applicant to obtain either an Emergency Certification under 310 CMR 10.06, a Negative Determination of Applicability under 310 CMR 10.05(3)(b), or an Order of Conditions under 310 CMR 10.05(6) allowing the activity before continuing work.

Geographic Area of the Declaration's Effect:

The provisions of this Emergency Declaration only apply to the following coastal municipalities: Acushnet, Amesbury, Aquinnah, Barnstable, Berkley, Beverly, Boston, Bourne, Braintree, Brewster, Chatham, Chelsea, Chilmark, Cohasset, Danvers, Dartmouth, Dennis, Dighton, Duxbury, Eastham, Edgartown, Essex, Everett, Fairhaven, Fall River, Falmouth, Freetown, Gloucester, Gosnold, Hanover, Harwich, Hingham, Hull, Ipswich, Kingston, Lynn, Manchester, Marblehead, Marion, Marshfield, Mashpee, Mattapoisett, Milton, Nahant, Nantucket, New Bedford, Newbury, Newburyport, Norwell, Oak Bluffs, Orleans, Peabody, Pembroke, Plymouth, Provincetown, Quincy, Rehoboth, Revere, Rockport, Rowley, Salem, Salisbury, Saugus, Sandwich, Scituate, Seekonk, Somerset, Swampscott, Swansea, Tisbury, Truro, Wareham, Weymouth, Wellfleet, West Tisbury, Westport Winthrop, and Yarmouth

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.

TTY# MassRelay Service 1-800-439-2370

MassDEP Website: www.mass.gov/dep

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Severe Weather Emergency Declaration – March 2018 Nor’easter

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 **March 2018 Nor’easter** on or about March 2, 2018. The following **post-storm activities are allowed** by this Emergency Declaration without filing for a Determination of Applicability, 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 **March 2018 Nor’easter** on or about March 2, 2018;
- (b) The post-storm activities are necessary as a result of damage caused by the **March 2018 Nor’easter**;
- (c) any wetland resource areas altered while carrying out emergency actions authorized by this Emergency Declaration, 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 appropriate Regional Office of the Massachusetts Department of Environmental Protection prior to April 2, 2018; 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 March 2, 2018 (prior to the storm) and are necessary to protect public health or safety from damage caused by **March 2018 Nor’easter** on or about March 2, 2018;
- (f) the post-storm activities are completed by April 2, 2018;
- (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 March 2, 2018;
- (h) armoring of coastal dunes is prohibited; and
- (i) the post-storm activities are limited to, and do not exceed, what is described in the list below of post-storm activities allowed by this Emergency Declaration.

Post-Storm Activities:

Removal of objects and debris, including fallen trees, tree limbs, wood, 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. Debris shall be disposed of lawfully and 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 where the work is limited to the footprint of the structure that existed on March 2, 2018 and only if the cost of restoring the structure to its pre-storm condition does not exceed fifty percent (50%), as defined in 780 CMR 120G, of the market value of the structure immediately prior to the storm damage. Repairs that exceed 50% of the market value of the structure are not covered by this emergency declaration. Repairs that exceed 50% of the market value of the structure require the filing of a Notice of Intent and compliance with the flood elevation and other criteria specified in the Massachusetts State Building Code 780 CMR 120.G, and any applicable minimum requirements that are specified in the municipality’s flood plain management bylaw or ordinance that was adopted pursuant to the Federal Emergency Management Agency (FEMA) criteria specified at 44 CFR 60.3. Structures that have been displaced from their

Severe Weather Emergency Declaration – March 2018 Nor’easter

foundations are presumed to exceed 50% of the market value of the structure to be repaired. This presumption may be overcome upon a clear showing that the cost to repair the structure is less than or equal to 50% percent of the market value of the structure.

Repair to septic systems not requiring a variance of Title 5 (310 CMR 15.000) where damage to the septic system was caused by erosion due to March 2018 Nor’easter where notice is provided to the Board of Health. The installation of new tight tanks is not authorized by this Emergency Declaration.

Removal of debris necessary to clear a roadway or railway provided that any such debris may not be disposed of in a wetland resource area. Clean sediment (including cobbles) removed from roadways or railways near beaches should be replaced on the beach if possible. Removal of overwash fans, comprised of coastal beach, dune, and/or bank sediment, provided that any material located outside of the roadway footprint shall not be disturbed.

Repair, but not the expansion or realignment, of a roadway, bridge, causeway, or railway passing over or through a wetland resource area, dam, or culvert.

Repair, but not the expansion or realignment, of a culvert through which a stream or river flows, that is necessary to abate the emergency. If a culvert replacement is required, a Notice of Intent shall be filed within 90 days for the permanent replacement in compliance with the Stream Crossing Standards to the maximum extent practicable.

Removal of objects and debris blocking culverts, bridges, streams, or river channels to restore conditions existing on or prior to March 2, 2018. Stream restoration, including channel or bank stabilization, is not permitted under this Emergency Declaration. Also placement of riprap in resource areas is prohibited.

Repair of publicly owned wastewater or drinking water treatment plants.

Repair or replacement of utility lines, poles and pipes 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. The removal of damaged poles and broken lines located in wetlands is allowed provided the damaged lines and poles are removed from the wetlands using cranes on paved streets or adjacent upland areas.

Repair, but not the expansion, of manmade stormwater management structures such as catch basins, drainage pipes, swales, detention basins, and spillways.

Installation of temporary diversion structures to divert floodwaters or urban drainage.

Discharge of water pumped from flooded buildings to wetland resource areas, provided the discharge is not contaminated with oil or other toxic or hazardous material.

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 under 310 CMR 10.05(3)(b), or an Order of Conditions under 310 CMR 10.05(6), as applicable.

Severe Weather Emergency Declaration – March 2018 Nor'easter

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 March 2, 2018, 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

March 2, 2018

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.