

STATE OF VERMONT

EXECUTIVE DEPARTMENT

ADDENDUM 9 TO EXECUTIVE ORDER 03-23

[EXTENDED ENVIRONMENTAL REGULATORY RELIEF]

WHEREAS, on Sunday, July 9, 2023, the Governor issued Executive Order 03-23, Declaration of State of Emergency, Guard Call-Out and Activation of Emergency Operations Plan for the State of Vermont in Response to Anticipated Storm-Related Damage (“Emergency Declaration”), declaring a state of emergency for the State of Vermont in response to the July 2023 severe storm (“Flood of 2023”); and

WHEREAS, on July 10, 2023 the President declared that an emergency exists in the State of Vermont; and

WHEREAS, once it became clear flood damage and mudslides from a storm in the Killington area July 7, 2023 and excessive rain, flooding, water runoff, erosion and resulting damages statewide during the period July 9-11, 2023, were not going to be isolated incidents, but rather part of series of events which would continue throughout the coming week, with widespread flooding, repeated flash flooding, water runoff, erosion and mudslides due to inundated soils and slope instability, statewide, the Governor, in consultation with FEMA, requested a Presidential Declaration of a Major Disaster for the period July 7, 2023 and continuing; and

WHEREAS, on July 14, 2023 the President issued a Major Disaster Declaration based on flooding beginning on July 7, 2023, and continuing (the “Major Disaster Declaration”); and

WHEREAS, the scope and severity of the Flood of 2023 may exceed that of Hurricane Irene in 2011; and

WHEREAS, the current emergency demands swift and continued action to achieve the necessary hazard mitigation, provide critical support response and emergency recovery efforts to preserve public safety and property in Vermont; and

WHEREAS, I have determined it is necessary to extend existing emergency regulatory relief to continue to assure the availability of material for the use by the State and towns for road repair and reconstruction.

NOW THEREFORE, pursuant to the authority vested in me as Governor of the State of Vermont and Commander-in-Chief, Vermont National Guard by the Constitution of the State of Vermont, Chapter II, Section 20, and pursuant to the emergency powers set forth in 20 V.S.A. §§ 8, 9 and 11 and other laws and the Emergency Management Assistance Compact, 20 V.S.A. Chapter 4:

IT IS HEREBY ORDERED:

1. Section 1 of Addendum 1 to this Emergency Declaration is hereby rescinded and reissued to read as follows:

In accordance with 20 V.S.A. §§ 8, 9 and 11, I hereby waive Act 250 Land Use Permit conditions on gravel pit and rock quarry extraction, asphalt plants and concrete plants, including operating hours, noise and blasting, crushing, limits on area, rate, depth, or volume of extraction, and related trucking to assure availability of material for the use of the State or towns, or contractors on behalf of the State or towns, for purposes of this Emergency Declaration.

The Natural Resources Board (the “Board”) through the Chair, District Commissions and District Coordinators shall allow gravel pits and rock quarries, permitted and unpermitted, to be accessed consistent with this Emergency Declaration to assure availability of material for the use of the State or towns, or contractors on behalf of the State or towns, on demand as set forth in this Emergency Declaration.

- a. Where there is gravel or rock fill needed for Severe Storm 2023 remediation or recovery that cannot reasonably be met from permitted sources, as determined in the sole discretion the Agency of Transportation, the Agency of Transportation shall implement this waiver without further action from the Board, District Coordinators or District Commissions.
 - b. The Board shall issue instructions and guidance for State and town contractors for the purpose of documenting the use of materials from gravel pits, quarries, asphalt plants, and concrete plants in accordance with this Emergency Declaration.
 - c. This Emergency Declaration shall not be construed to waive any other applicable laws or other applicable existing Land Use Permit conditions relating to gravel pits and quarries, permitted and unpermitted and asphalt plant and concrete plant operations.
 - d. Upon the expiration of this Emergency Declaration, but not later than January 15, 2024, all gravel pits, rock quarries, asphalt plant and concrete plant operations must come into compliance with all applicable Act 250 permitting requirements, including permitted hours, extraction limits or other conditions. All operations, permitted and unpermitted, shall return to pre-emergency operations and conditions, including removal of any temporary infrastructure and reclamation of all operation areas utilized in accordance with this Emergency Declaration, to standards prescribed by the Board, which may extend full reclamation based on seasonal considerations.
2. Pursuant to the powers granted to the Governor in 20 V.S.A. §§ 8, 9 and 11 and other provisions of law, I shall from time-to-time issue recommendations, directives and orders as circumstances may require.

This Executive Order shall take effect upon signing and shall continue in full force and effect until the Governor, in consultation with DPS/VEM, shall assess the emergency and determine whether to amend or rescind this Order.



WITNESS my name hereunto subscribed and the Great Seal of the State of Vermont hereunto affixed at Montpelier this 14th day of December, 2023.

A handwritten signature in blue ink, reading "Philip B. Scott", is written over a horizontal line.

Philip B. Scott
Governor

By the Governor:

A handwritten signature in black ink, reading "Brittney L. Wilson", is written over a horizontal line.

Brittney L. Wilson
Secretary of Civil and Military Affairs

EXECUTIVE ORDER 03-23 – Addendum 9