State of New York

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Department of State
Secretary of State

State of New York

Executive Chamber

No. 22

EXECUTIVE ORDER

TEMPORARY SUSPENSION OF PROVISIONS RELATING TO AGRICULTURAL AND NATURAL RESOURCE INFRASTRUCTURE RECOVERY AND THE IMMEDIATE CAPITAL NEEDS OF LOCAL FARMS AFFECTED BY THE STATE DISASTER EMERGENCY

WHEREAS, on August 25, 2011, I issued Executive Order Number 17 declaring a State disaster emergency in the Counties of Bronx, Kings, New York, Queens, Richmond, Nassau, Suffolk and contiguous areas in the State of New York; and

WHEREAS, on August 27, 2011 and continuing thereafter, Hurricane Irene and Tropical Storm Lee caused power outages and extensive flooding; damage to homes, businesses, farms and transportation infrastructure; destruction of crops and loss of livestock; and resulted in personal hardships, displacing families, including farm families, in many areas of the State; and

WHEREAS, on September 15, 2011, I issued Executive Order Number 21, amending Executive Order Number 17 to declare a State disaster emergency in additional counties affected by these weather events, including Albany, Broome, Chenango, Chemung, Clinton, Columbia, Delaware, Dutchess, Essex, Greene, Herkimer, Montgomery, Oneida, Orange, Otsego, Putnam, Rensselaer, Rockland, Saratoga, Schenectady, Schoharie, Sullivan, Tioga, Ulster, Warren, Washington and Westchester; and

WHEREAS, there is a need to address the devastation to farms caused by these disasters, assist farmers in rehabilitating farmland, prevent further degradation of natural resources through the implementation or repair of Emergency Conservation Best Management Practices, and address the immediate capital needs of farms, including the rehabilitation of farm buildings and the replacement of permanent fixtures and equipment; and

WHEREAS, on September 3, 2011, I announced the creation of an Agricultural and Community Recovery Fund ("ACRF") to help rebuild the agricultural industry in farming areas impacted by these disasters. The ACRF includes moneys from: (i) the Upstate Agricultural Economic Development Capital Fund for Soil and Water Conservation Districts to assist farmers in rehabilitating farmland damaged by natural disasters and to prevent further degradation of natural resources through the implementation or repair of Emergency Conservation Best Management Practices, (ii) the Community Development Block Grant program for on-farm operations and capital expenses, and (iv) such other funds that are made available at any time for purposes of this Order; and

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend and otherwise alter or modify specific provisions of any statute, local law, ordinance, orders, rules or regulations, or parts thereof, of any agency during a State disaster emergency, if compliance with such provisions would prevent, hinder or delay action necessary to cope with the disaster, hereby temporarily suspend or modify, for the period from the date of this Executive Order until further notice, the following laws:

1. Subdivisions (1), (2) and (4) of Section 16-s of Chapter 174 of the Laws of 1968, to the extent that the Commissioner of Agriculture and Markets is authorized to provide financial assistance to soil and water conservation districts, as defined by subdivision (1) of Section 3 of the Soil and Water Conservation Districts Law, for eligible activities as set forth in subdivision (2) of Section 16-s, pursuant to criteria developed by the Commissioner, in the event that the Commissioner determines it necessary to authorize the award of emergency contracts to Soil and Water Conservation Districts;

2. The appropriation language amended and reappropriated by Section 1 of Chapter 54 of the Laws of 2011 for the Upstate Agricultural Economic Development Fund as part of the New York State Urban Development Corporation ("UDC") Capital Projects Reappropriations for 2011-2012, to the extent that $5 million of the appropriation from the Upstate Agricultural Economic Development Fund to be suballocated to the Department of Agriculture and Markets and administered by the Commissioner of Agriculture and Markets for the ACRF shall not be subject to a plan submitted by the Chair of the Upstate Empire State Development Corporation and approved by the Director of the Budget;

3. Sections 142 and 143 of the Economic Development Law, to the extent that the Commissioner of Agriculture and Markets determines it necessary to waive any requirement to publish, in the State procurement opportunities newsletter or elsewhere, notice of procurement contract opportunities in relation to the provision of funds for Soil and Water Conservation Districts under the ACRF;

4. Subdivision (4-a) of Section 146 of the Executive Law, to the extent that (i) the Commissioner of Agriculture and Markets determines it necessary to waive any requirement to publish, in the State Register or elsewhere, notice of the availability of funds for Soil and Water Conservation Districts under the ACRF, and (ii) the chairperson of the Housing Trust Fund Corporation determines it necessary to waive any requirement to publish, in the State Register or elsewhere, notice of the availability of funds from the Community Block Grant Development program designated under the ACRF;

5. Section 112 of the State Finance Law, to the extent consistent with Article V, Section 1 of the State Constitution, and to the extent that the Commissioner of Agriculture and Markets determines it necessary to award emergency contracts;

6. Sections 139-j, 139-k and 163 of the State Finance Law, to the extent of allowing the Commissioner of Agriculture and Markets to purchase necessary commodities and contract for services without following the standard procurement process;

7. Section 21-2100 of the Village Law, to the extent of eliminating the seven-day minimum wait period before a public hearing can be conducted and any other notice requirement, thereby allowing the Housing Trust Fund Corporation and/or eligible applicants to expedite the delivery of Community Development Block Grant funds;

8. Title 21, Chapter L, Part 4243, of the New York Codes, Rules and Regulations, promulgated by the UDC for the Economic Development Fund established pursuant to Section 16-i of the New York State Urban Development Corporation Act, to the extent that the UDC determines it to be necessary to allow for modifications of existing agreements between the UDC and the Essex County Industrial Development Authority in order to provide loans to agricultural businesses located in Essex County and affected by the disasters; and

9. Subdivision (2) of Section 14.09 of the Parks, Recreation and Historic Preservation Law, to the extent of requiring the Commissioner of Parks, Recreation and Historic Preservation to undertake in an expedited fashion the required review as to whether an applicable project may have an adverse impact on any property that is listed on the National Register of Historic Places or on the State Register or is determined to be eligible for the State Register.

GIVEN under my hand and the Privy Seal of the State in the City of Albany this fifteenth day of September in the year two thousand eleven.

BY THE GOVERNOR

Secretary to the Governor