

EXECUTIVE ORDERS

Executive Order No. 102: Continuing the Suspension or Modification of Certain Provisions of Law and Regulations.

WHEREAS, on October 26, 2012, I issued Executive Order Number 47, declaring a disaster emergency in all 62 counties in the State of New York; and

WHEREAS, Section 29-a of the Executive Law authorizes the suspension, alteration or modification of statutes, local laws, ordinances, orders, rules or regulations, or parts thereof, if compliance with such provisions would prevent, hinder or delay action necessary to cope with a disaster emergency; and

WHEREAS, on October 31, 2012, I issued Executive Order Number 50 to suspend statutory and regulatory provisions to facilitate transportation infrastructure recovery; and

WHEREAS, on November 20, 2012, I issued Executive Order Number 79 to suspend statutory and regulatory provisions relating to state contracts and the repair of state facilities; and

WHEREAS, on April 24, 2013, I issued Executive Order Number 98 to continue the declaration of a disaster as ordered by Executive Order Number 47 for the Counties of Bronx, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Sullivan, Ulster and Westchester for ninety days; and

WHEREAS, on May 24, 2013, I issued Executive Order Number 100 to continue the suspension and modification of certain statutory and regulatory provisions ordered by Executive Order Numbers 50 and 79 as continued by Executive Order Numbers 98, 97, 94, 91, 87 and 81; and

WHEREAS, Section 29-a of the Executive Law provides that no suspension of laws shall be made for a period in excess of thirty days, provided, however, that upon reconsideration of all of the relevant facts and circumstances, the suspension may be extended for additional thirty-day periods;

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, and after having reconsidered all of the relevant facts and circumstances, do hereby order that the suspension and modification of statutory and regulatory provisions ordered by Executive Order Numbers 50 and 79, as continued by Executive Order Number 100, shall be continued through July 23, 2013. The continuation of Executive Order Number 50 shall be effective as of June 23, 2013.

(L.S.) GIVEN under my hand and the Privy Seal of the State in the City of Albany, this twenty-eighth day of June in the year two thousand thirteen.

BY THE GOVERNOR
/S/ Andrew M. Cuomo
/s/ Lawrence Schwartz
Secretary to the Governor

Executive Order No. 103: Declaring a Disaster in the Counties of Broome, Chenango, Clinton, Delaware, Essex, Franklin, Herkimer, Madison, Montgomery, Oneida, Otsego, Tioga, Schoharie, St. Lawrence and Warren.

WHEREAS, on June 27, 2013 and continuing thereafter, severe

storms and flooding disrupted public transportation and utility service, and threatened public health and safety systems within the Counties of Broome, Chenango, Clinton, Delaware, Essex, Franklin, Herkimer, Madison, Montgomery, Oneida, Otsego, Tioga, Schoharie, St. Lawrence and Warren; and

WHEREAS, this event has caused flooding, damaged public and private property, including homes, apartments and businesses, damaged and downed trees and washed out roadways and will continue to pose a threat to public health and safety;

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York, do hereby find that a disaster has occurred to which the affected local governments are unable to respond adequately. Therefore, pursuant to the authority vested in me by the Constitution of the State of New York and Section 28 of Article 2-B of the Executive Law, I hereby declare a State Disaster Emergency effective June 28, 2013 within the territorial boundaries of the Counties of Broome, Chenango, Clinton, Delaware, Essex, Franklin, Herkimer, Madison, Montgomery, Oneida, Otsego, Tioga, Schoharie, St. Lawrence and Warren; and

FURTHER, pursuant to Section 29 of Article 2-B of the Executive Law, I direct the implementation of the State Disaster Preparedness Plan and authorize, effective June 28, 2013, the Division of Homeland Security and Emergency Services, the State Office of Emergency Management, the Department of Health, the Department of Transportation, the State Police, the Division of Military and Naval Affairs, the Department of Environmental Conservation, the Department of Corrections and Community Supervision, the Public Service Commission, the Office of Fire Prevention and Control, the Office of Temporary and Disability Services, the Office for the Aging, the Office for People with Developmental Disabilities, the Office of Parks, Recreation and Historic Preservation, the Office of General Services, the State University of New York, the Thruway Authority, the American Red Cross and other State agencies as necessary, to take appropriate action to protect State property and to assist affected local governments and individuals in responding to and recovering from this disaster, and to provide such other assistance as necessary to protect the public health and safety.

IN ADDITION, this declaration satisfies the requirements of 49 C.F.R. § 390.23(a)(1)(A), which provides relief from Parts 390 through 399 of the Federal Motor Carrier Safety Regulations (FMCSR). Such relief from the FMCSR is necessary in order to hasten the movement of utility power restoration crews into New York State.

FURTHER, I have designated Jerome M. Hauer, Commissioner of the State Division of Homeland Security and Emergency Services, as the State Coordinating Officer for this event.

(L.S.) GIVEN under my hand and the Privy Seal of the State in the City of Albany, this twenty-eighth day of June in the year two thousand thirteen.

BY THE GOVERNOR
/S/ Andrew M. Cuomo
/s/ Lawrence Schwartz
Secretary to the Governor

Executive Order No. 104: Temporary Suspension of Provisions Relating to Transportation Infrastructure Recovery for the State Disaster Emergency.

WHEREAS, on June 28, 2013 I issued Executive Order No. 103 declaring a disaster emergency in the Counties of Broome, Chenango, Clinton, Delaware, Essex, Franklin, Herkimer, Madison, Montgomery, Oneida, Otsego, Tioga, Schoharie, St. Lawrence and Warren;

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 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, for the period from the date of this Executive Order until further notice, the following laws:

Section 38(1), (2) and (3) of the Highway Law and Article 4-C of the Economic Development Law, in the event that the Commissioner of Transportation determines it necessary to authorize the award of emergency contracts and/or to combine design and construction services in contracts and to use such services when needed;

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 Transportation determines it necessary to add additional work, sites and time to State contracts or award emergency contracts;

Section 136-a of the State Finance Law, to the extent that the Commissioner of Transportation determines it necessary to combine design and construction services in one contract and/or to obtain design and construction inspection services;

Section 163 of the State Finance Law, to the extent of allowing the Commissioner of Transportation to purchase necessary commodities and materials without following the standard procurement process;

Article 8 of the Environmental Conservation Law, and Part 15 of Title 17 and Part 617 of Title 6 of the New York Code of Rules and Regulations, to the extent that the Commissioner of Transportation determines that work is immediately necessary for the replacement, rehabilitation, or reconstruction of structures; and

Part F of Chapter 56 of the Laws of 2011, to the extent of allowing the Commissioner of Transportation to award design-build and best value contracts without following the prescribed procurement process.

(L.S.) GIVEN under my hand and the Privy Seal of the State in the City of Albany, this first day of July in the year two thousand thirteen.

BY THE GOVERNOR
/S/ Andrew M. Cuomo
/s/ Lawrence Schwartz
Secretary to the Governor

Executive Order No. 105: Temporary Suspension of Provisions Relating to State Contracts and for the Repair of State Facilities for the State Disaster Emergency.

WHEREAS, on June 28, 2013, I issued Executive Order Number 103, declaring a disaster emergency in the Counties of Broome, Chenango, Clinton, Delaware, Essex, Franklin, Herkimer, Madison, Montgomery, Oneida, Otsego, Tioga, Schoharie, St. Lawrence and Warren;

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 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, for the period from the date of this Executive Order until further notice, the following laws:

Section 3 of the Public Buildings Law, to the extent the Commissioner of General Services determines it necessary to lease space for relocation and support of ongoing operations of State agencies, departments, commissions, boards and officers;

Section 9(2) and (4) of the Public Buildings Law, to the extent the Commissioner of General Services determines it necessary to authorize the award of emergency contracts and/or to combine design and construction services in contracts and/or to use such contracts and services when needed at a value above three hundred thousand dollars;

Sections 135 and 136-a of the State Finance Law, to the extent the Commissioner of General Services determines it necessary to combine design and construction services in one contract and/or to obtain design and construction inspection services;

Section 163 of the State Finance Law, to the extent that the Commissioner of General Services may enter into contracts and purchase necessary commodities, services, technology and materials without following the standard procurement processes;

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 General Services determines it necessary to add additional work, sites and times to State contracts, to award leases for relocation and support of state operations under Public Buildings Law Section 3, to award emergency contracts under Public Buildings Law Section 9, to award emergency contracts for professional services under Section 136-a of the State Finance Law and to award emergency contracts for commodities, services, technology and materials pursuant to Section 163 of the State Finance Law;

Section 112 of the State Finance Law, to the extent that the New York State Thruway Authority or the Canal Corporation determines it necessary to add additional work, sites and times to contracts of the Authority or the Corporation or to award emergency contracts;

Article 4-C of the Economic Development Law, and Section 359 of the Public Authorities Law, to the extent that the New York State Thruway Authority or the Canal Corporation determines it necessary to authorize the award of emergency contracts;

Section 359-a and Section 2879 of the Public Authorities Law to the extent of allowing the New York State Thruway Authority and the Canal Corporation to purchase necessary goods and services without following the standard procurement processes;

Article 27 of the Environmental Conservation Law, and Part 360 of Title 6 of the New York Codes, Rules and Regulations, to the extent the New York State Thruway Authority or the Canal Corporation determines it immediately necessary to create new upland disposal sites for emergency dredging; and

Article 8 of the Environmental Conservation Law, and Part 15 of Title 17 and Part 617 of Title 6 of the New York Codes, Rules and Regulations, to the extent that the Commissioner of General Services, the New York State Thruway Authority or the Canal Corporation determines that work is immediately necessary for the replacement, rehabilitation, or reconstruction of structures and facilities.

(L.S.) GIVEN under my hand and the Privy Seal of the State in the City of Albany, this first day of July in the year two thousand thirteen.

BY THE GOVERNOR
/S/ Andrew M. Cuomo
/s/ Lawrence Schwartz
Secretary to the Governor

Executive Order No. 106: Designation Pursuant to Section 6 and Subdivision 8 of Section 63 of the Executive Law.

WHEREAS, individuals who are elected, appointed and hired to serve as public officials hold their positions in trust for the People of the State; and

WHEREAS, abuse of office by public officials and misconduct while in office, criminal or otherwise, undermines the trust of the People and diminishes the ability of government to function; and

WHEREAS, the laws, regulations, and procedures involving our electoral process, including the nomination of candidates, and the financing of campaigns and elections, must further the public trust and promote democracy and the accountability of elected officials to the voters and the selection of ethical public servants; and

WHEREAS, it is critical that the laws, regulations and procedures regulating conduct by public officials, the electoral process and financing of campaigns are strong, effective and comprehensive, and are fairly and vigorously enforced to promote public confidence in State government; and

WHEREAS, the New York State Board of Elections is vested with the authority to oversee the electoral process and to enforce election laws, including those related to campaign finance and the disclosure of contributions and expenditures; the New York State Division of the Budget is charged with carrying out the Executive's constitutional obligations with respect to the State's multi-billion dollar budget; and every State department, board, bureau, or commission is obligated to administer State contracts, grants, programs and funding streams in the best interest of the People of New York State, free from improper influence; and

WHEREAS, the Executive has the obligation under N.Y. Const. Art. IV, § 3 to report to the Legislature periodically on the "condition of the state, and recommend such matters to it as he or she shall judge expedient," and to "take care that the laws are faithfully executed"; and

WHEREAS, it is my judgment that it is of compelling public importance that weaknesses in such existing laws, regulations and procedures be further investigated and addressed so as to guard against further abuses, ensure accountability, reduce the influence of money in politics, and restore public trust in New York State government;

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by the laws of the State, and by the Constitution, including the authority pursuant to N.Y. Const. Art. IV, § 3 to report to the Legislature periodically on the "condition of the state, and recommend such matters to it as he or she shall judge expedient," and to "take care that the laws are faithfully executed," and pursuant to Section Six and Subdivision Eight of Section Sixty-Three of the Executive Law, do hereby:

I. Appoint a Commission to be known as the Commission to Investigate Public Corruption with twenty-five members, who shall be Kathleen Rice, William J. Fitzpatrick, Milton L. Williams, Jr., J. Patrick Barrett, Richard Briffault, Daniel J. Castleman, Derek P. Champagne, Eric Corngold, Kathleen B. Hogan, Nancy Hoppock, Seymour W. James Jr., David Javdan, Robert Johnson, David R. Jones, Lance Liebman, Joanne M. Mahoney, Gerald F. Mollen, Makau W. Mutua, Benito Romano, Frank A. Sedita, III, P. David Soares, Kristy Sprague, Betty Weinberg Ellerin, Peter L. Zimroth and Thomas P. Zugibe as Special Commissioners to investigate the management and affairs of any department, board, bureau or commission of the State, or any political subdivision of the State, and weaknesses in existing laws, regulations, and procedures, regarding the matters set forth below. Robert M. Morgenthau shall be Special Counsel to the Commission. Joseph A. D'Amico, Raymond W. Kelly and Barbara Bartoletti shall be Special Advisers to the Commission.

II. The Commission shall:

a. Investigate the management and affairs of the State Board of Elections, including but not limited to (i) determining whether the Board is fulfilling its obligation under the Election Law to administer the election process and oversee election campaign practices and campaign financing practices, (ii) examining the Board's interactions with outside individuals and entities, including candidates, donors, and committees, to determine compliance with applicable State laws, (iii) examining the statutory structure, composition, authority, and staffing of the Board, including but not limited to organizational structures and the roles of the Board of Elections, the Attorney General, the United States Attorneys and District Attorneys, and (iv) examining compliance with and the effectiveness of campaign finance laws; and make recommendations to reform any weaknesses uncovered in existing State laws, regulations and procedures;

b. Investigate weaknesses in existing laws, regulations and

procedures relating to the regulation of lobbying, including but not limited to examining compliance by organizations and other persons engaged in lobbying and other attempts to influence public policies or elections, including tax-exempt organizations under Section 501(c) of the Internal Revenue Code, with the requirements of existing State laws administered by the Joint Commission on Public Ethics, and the sufficiency of such requirements; and make recommendations to reform any weaknesses uncovered in existing State laws, regulations and procedures; and

c. Investigate weaknesses in existing laws, regulations and procedures relating to addressing public corruption, conflicts of interest, and ethics in State Government, including but not limited to criminal laws protecting against abuses of the public trust; and make recommendations to reform any weaknesses uncovered in existing State laws, regulations and procedures.

III. Kathleen Rice, William J. Fitzpatrick and Milton L. Williams, Jr., are hereby designated Co-Chairpersons of the Commission.

IV. Pursuant to Subdivision Eight of Section Sixty-Three of the Executive Law, I direct that the Attorney General inquire into the matters set forth in this Order, that I find involve public peace, public safety, and public justice, and request that the Attorney General do so by appointing those of the above named Commissioners who are attorneys as Deputy Attorneys General and delegating to such Deputy Attorneys General the authority to exercise the investigative powers that are provided for in an investigation pursuant to such Subdivision Eight Sixty-Three.

V. I hereby give and grant to the Commissioners all the powers and authority that may be given or granted to persons appointed under authority of Section Six and Subdivision Eight of Section Sixty-Three of the Executive Law, including the powers to subpoena and enforce the attendance of individual witnesses, both public and private, to administer oaths and examine witnesses under oath, and to require the production of any books or papers deemed relevant or material; provided, however, that (1) the Co-Chairpersons shall unanimously approve any subpoena prior to its issuance; and (2) the Co-Chairperson shall unanimously approve such procedures and rules as they believe necessary to govern the exercise of the powers and authority given or granted to the Commissioners pursuant to such Section Six and Subdivision Eight of Section Sixty-Three, including rules designed to provide transparency while protecting the integrity of the investigation and rights to privacy.

VI. If in the course of its inquiry the Commission obtains evidence of a violation of existing laws, such evidence shall promptly be communicated to the Office of the Attorney General and other appropriate law enforcement authorities, and the Commission shall take steps to facilitate jurisdictional referrals where appropriate. The Superintendent of the Division of State Police shall, as appropriate, authorize the Attorney General, pursuant to the provisions of Subdivision Three of Section Sixty-Three of the Executive Law, to conduct an investigation of any indictable offense or offenses arising out of any activity that is the subject of an inquiry by the Commission, and to prosecute the person or persons believed to have committed the same and any crime or offense uncovered by such investigation or prosecution or both, including but not limited to, appearing before and presenting all such matters to a grand jury. The Commission shall cooperate with prosecutorial agencies to avoid jeopardizing ongoing investigations and prosecutions.

VII. Every department, board, bureau, and commission of the State, including but not limited to State agencies, shall provide to the Commission every assistance and cooperation, including use of State facilities, which may be necessary or desirable for the accomplishment of the duties or purposes of this Order.

VIII. The Commission shall issue a preliminary policy report on or before December 1, 2013, setting forth its initial findings and making such recommendations as required by this Order for the express purpose of consideration and enactment of statutory reforms by the Governor and the Legislature in the 2014 legislative session. The Commission shall further issue an additional report or reports on or before January 1, 2015, or on or before a date to be determined. All such reports must be approved by a majority of the Commissioners that includes all of the Co-Chairpersons.

IX. The Commission shall conduct public hearings around the State to provide opportunities for members of the public and interested parties to comment on the issues within the scope of its work.

(L.S.)

GIVEN under my hand and the Privy Seal of the State in the City of Albany, this second day of July in the year two thousand thirteen.

BY THE GOVERNOR

/S/ Andrew M. Cuomo

/s/ Lawrence Schwartz

Secretary to the Governor