

STATE OF TENNESSEE

EXECUTIVE ORDER

BY THE GOVERNOR

No. 4

**AN EMERGENCY ORDER SUSPENDING PROVISIONS OF CERTAIN LAWS AND RULES IN
ORDER TO PROVIDE NECESSARY RELIEF TO VICTIMS OF RECENT STORMS AND
FLOODING**

WHEREAS, from April 25, 2011 to April 28, 2011, tornadoes, severe storms, heavy rains, strong straight-line winds, flash flooding and other flooding swept through West, Middle and East Tennessee resulting in catastrophic conditions throughout much of the state, affecting every county in some way, and

WHEREAS, many Tennesseans have lost their lives in this devastating weather and subsequent events and many more Tennesseans have suffered significant personal injuries and property damage, with many residents rendered homeless or unable to return to their homes, and

WHEREAS, in order to minimize further suffering, those directly impacted by this devastating weather must have access to goods and services in the most effective and efficient manner without interruption, and

WHEREAS, in response to these emergency conditions, the Tennessee Emergency Management Plan was activated on April 26, 2011, thereby declaring an emergency in Tennessee, and

WHEREAS, pursuant to federal law, the Federal Motor Carrier Safety Administration recognizes the exemption from certain regulations provided pursuant to Title 49, Code of Federal Regulations 390.23. This exemption includes all of 49 CFR Parts 390-399 and applies only to carriers or drivers who are providing direct assistance for emergency relief, and

WHEREAS, Tennessee Code Annotated Section 58-2-107(e)(1) provides that during a state of emergency, the Governor is authorized to "suspend the provisions of any law, order, rule or regulation prescribing the procedures for the conduct of state business or the orders or rules or regulations of any state agency, if strict compliance of any such law, order, rule or regulation would in any way prevent, hinder or delay necessary action in coping with the emergency"; and

WHEREAS, in order to provided needed assistance to those Tennesseans impacted by devastating weather events on April 25, 26, 27 and 28, 2011 and cascading events thereafter, I have determined that it is necessary to suspend certain parts of the law or regulation; and

WHEREAS, the provisions of Tenn. Code Ann. Section 55-7-201 et seq. and Tenn. Comp. R and Regs, Chapter 1680-7-1 are hereby suspended to authorize and permit vehicles carrying appropriate identification and transporting emergency equipment, services or supplies for or in behalf of the Tennessee Emergency Management Agency, Federal Emergency Management Agency or the Emergency Management Agencies of any State to carry loads in excess of otherwise lawful

maximum weight, height, length and width limits, subject to the following conditions:

1. A maximum gross vehicle weight for vehicles equipped with five (5) weight-bearing axles with outer bridge spans of not less than fifty-one (51) feet shall not exceed ninety five thousand (95,000) pounds, a height of thirteen and one-half (13.5) feet, a width of fourteen (14) feet and a length of one hundred (100) feet long, except on a bridge with a posted weight limit.
2. Travel is limited to daylight hours beginning thirty (30) minutes after sunrise and ending thirty (30) minutes before sunset.
3. Transporters are responsible for ensuring they have proper oversize signs, markings, flags and escorts as defined by State of Tennessee's Department of Transportation's rules and regulations for overweight and over-dimensional movements on Tennessee highways.

Any request by such vehicles for a special permit to transport loads in excess of the foregoing weight, height, length and width limits or other restrictions shall be given expedited consideration and may be approved within the discretion of the Tennessee Department of Transportation's Office of Overweight and Over-Dimensional Permits. The Commissioner of Transportation shall have the authority to waive any otherwise applicable permit fees related to such a request.

NOW THEREFORE, I, Bill Haslam, Governor of Tennessee, by virtue of the powers and authority vested in me by the Tennessee Constitution and law, including but not limited to Tenn. Code Ann. Section 58-2-107(b), do hereby declare a state of emergency in Tennessee and suspend the provisions of Tenn. Code Ann. Section 55-4-121 and Tenn. Code Ann. Section 67-3-1202 to the extent necessary to exempt motor carriers that are supporting relief efforts from the requirement of obtaining fuel or trip permits for travel in the State of Tennessee. Notwithstanding this paragraph (2) all such vehicles must be properly registered through their base jurisdiction. A copy of this Executive Order should be retained for audit purposes; and notwithstanding this Executive Order, all motor carriers must abide by all other state and federal motor carrier safety rules and regulations not specifically made inapplicable by this Executive Order. None of the exemptions provided by this Executive Order apply to carriers not directly involved in emergency relief operations, and carriers that have an out-of-service order may not take advantage of the exemptions provided herein.

WHEREAS, the provisions of part 395 of Title 49 of the Code of Federal Regulations limit the hours that commercial operators may drive; and

WHEREAS, Section 390.23 of Title 49 of the Code of Federal Regulations provides for the temporary suspension of these hours of service limitations when the governor of a state has declared the existence of an emergency, and

WHEREAS, the developing disruption in the supply of petroleum products, including fuel, and emergency management supplies, including food and water, caused by flooding, tornadoes and other severe weather effects has resulted in my determination that a state of emergency exists in the State of Tennessee.

NOW THEREFORE, I, Bill Haslam, Governor of the State of Tennessee, by virtue of the powers and authority vested in me by the Tennessee Constitution and law, including but not limited to Tenn. Code Ann. Section 58-2-107(b), do hereby declare a state of emergency in Tennessee.

1. This state of emergency is being declared for the limited purpose of, in accordance with 49 CFT section 39.23 as adopted by Tenn. Comp. R. & Regs, Chapter 1340-6-1-20, providing a temporary exemption from the federal rules and regulations in 49 CFR, Part 395, limiting the hours of service for the operator of a commercial motor vehicle providing transportation of petroleum products, including fuel, emergency equipment, emergency supplies or food and water during this state of emergency.
2. Nothing in this Order shall be construed as an exemption from the Commercial Driver's License requirements in 49 CFR section 383, The financial requirements in 49 CFR section 387 or applicable federal size and weight limitations.
3. No motor carrier operating under the terms of this Order shall require or allow an ill or fatigued driver to operate a motor vehicle. A driver who notifies a motor carrier that he or she needs immediate rest shall be given at least 10 consecutive hours off-duty before the driver is required to return to service.
4. The exemption authorized in paragraph (1) shall remain in effect for fifteen (15) days or until the emergency conditions cease to exist.

IN WITNESS WHEREOF, I have subscribed my signature and caused the Great Seal of the State of Tennessee to be affixed this 29th day of April, 2011

this 29th day of April, 2011.



Bill Haslam, Governor

Attest:



Secretary of State

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