

DEC 21 2000

EXECUTIVE ORDER

00-21

Rebecca McDowell Cook
SECRETARY OF STATE

WHEREAS, the recent period of extremely cold temperatures, and adverse winter weather conditions have increased the necessity and public demand for propane (also known as liquefied petroleum gas or LP gas) within this state; and

WHEREAS, this period of inclement weather has made it unusually difficult for commercial transporters of propane to make consistent and timely deliveries of propane by motor vehicles on the public highways in Missouri, which are needed to supply the public demand for propane; and

WHEREAS, the safety and welfare of the inhabitants of this state require that motor carriers for hire and private carriers by motor vehicles which are transporting propane be allowed more rapid and efficient travel to meet this public demand for propane within the state; and

WHEREAS, this requirement for more rapid and efficient transportation would be facilitated by the temporary suspension of certain usual and necessary regulator limitations on the hours of service of drivers of commercial motor vehicles while transporting propane during this period; and

WHEREAS, 49 CFR Section 390.23 of the Federal Motor Carrier Safety Regulations provides that a Governor of a State may declare an emergency thereby exempting motor carriers or drivers operating a commercial vehicle from Parts 390 through 399 of the Federal Motor Carrier Safety Regulations (49 CFR 390.23); and

WHEREAS, the requirements of 49 CFR Sections 395.3(a) and 395.3(b) are also made applicable to the drivers of commercial motor vehicles operating in this state under Section 307.400, RSMo 1994, and the rules promulgated by the director of the Missouri Department of Public Safety under 11 CSR 30-6.010;

WHEREAS, several retail and wholesale transporters and suppliers in Missouri have provided documentation to the State of Missouri through the Missouri Propane Gas Association as evidence to support propane supply interruptions regarding the availability and/or delivery of propane at various locations within Missouri and sources outside Missouri; and,

WHEREAS, the Missouri propane gas industry has requested relief from the requirements of 49 CFR Section 395.3(a) and 395.3(b) of the Federal Motor Carrier Safety Regulations for motor carriers while providing propane to customers in the state of Missouri as emergency relief actions;

NOW THEREFORE, I, Roger B. Wilson, Governor of the State of Missouri, by virtue of the authority vested in me by the Constitution and laws of the State of Missouri, hereby suspend the requirements of Section 307.400, RSMo 1994, and the rules promulgated by the Director of the Missouri Department of Public Safety under 11 C.S.R. 30-6.010

1. A state of emergency exists that requires relief from regulations incorporated in Missouri and Federal Statutes and Regulations pertaining to hours of service for motor carriers and drivers of commercial motor vehicles, while transporting propane (49 CFR, Part 395).
2. I further direct that this exemption applies only to those motor carriers providing direct assistance to the emergency relief effort. Direct assistance terminates when a driver or commercial motor vehicle is used in interstate commerce to transport cargo not destined for the emergency relief effort or when the carrier dispatches such driver to another location to begin operations in commerce.

3. I further direct the Missouri State Highway Patrol, its officers and commercial vehicle inspectors, the enforcement personnel of the Missouri Division of Motor Carrier and Railroad Safety within the Missouri Department of Economic Development, and any other officers of this state or any political subdivisions of this state, to suspend their enforcement of 49 C.F.R. Section 395.3 with reference only to drivers of commercial motor vehicles while transporting propane within this state; and
4. I further direct that this suspension order shall not apply with reference to any driver while that driver, or the employer of that driver, has been placed out of service as provided by law, and nothing contained herein shall be construed as an exception from the Controlled Substances and Alcohol Use and Testing requirement (49 CFR 382), Commercial Driver's License requirements in 49 CFR, Part 383, the Financial Responsibility requirements in 49 CFR Part 387, or applicable Size and Weight requirements; and
5. That nothing herein shall be construed to relieve motor carriers and drivers from regulations pertaining to qualifications of drivers, driving of commercial motor vehicles, or parts and accessories necessary for the safe operation of vehicles.
6. No motor carrier operating under the terms of this emergency order shall require or allow a fatigued or ill driver to operate a motor vehicle. A driver who informs a carrier that he or she needs immediate rest shall be given at least eight consecutive hours off-duty before the driver is required to return to service.
7. Upon the expiration of the effective date of this emergency, or when a driver has been relieved of all duty and responsibility to provide direct assistance to the emergency effort, a driver that has had at least 24 consecutive hours off-duty shall be permitted to start his or her on-duty status hours and 60/70 hour clock at zero.
8. Enforcement personnel of the Missouri Division of Motor Carrier and Railroad Safety within the Missouri Department of Economic Development, and any other officers of this state or any political subdivisions of this state, to suspend their enforcement of 49 CFR Sections 395.3(a) and 395.3(b) with reference only to drivers of commercial motor vehicles while transporting propane within this state.
9. This state of emergency declaration and subsequent suspension order shall not apply with reference to any driver while that driver, or the employer of that driver, has been placed out of service as provided by law; and during the emergency period, all motor carriers enjoying relief under this Executive Order shall implement the safety countermeasures as outlined by the Division of Motor Carrier and Railroad Safety and which shall be kept at all times in the cab of the commercial motor vehicle along with a copy of this Order.

This Order shall be effective for the period December 20, 2000, through the duration of the declared emergency period (as defined in 49 CFR. 390.5) or 15 days (12:00 a.m., January 4, 2001) , whichever is less. The duration of the emergency shall be determined based upon daily information from the propane industry which reflects the status of propane supplies and deliveries at both the bulk terminal and retail distribution levels to the Missouri Department of Natural Resources' Energy Center through the Missouri Propane Gas Association.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 21st day of December, 2000.

Roy Blunt
GOVERNOR

ATTEST:

Rebecca M. Daell Cook
SECRETARY OF STATE