

STATE OF WEST VIRGINIA

EXECUTIVE DEPARTMENT

At Charleston

EXECUTIVE ORDER NO. 7-17

By the Governor

WHEREAS, Hurricane Irma has caused an emergency of national scope making it necessary to expedite the movement of vehicles, food, clothing, equipment, building materials, relief workers and supplies needed to assist in this emergency which would impact commerce traveling through the State of West Virginia;

WHEREAS, the uninterrupted supply of medical supplies, electricity, fuel, oil, diesel oil, gasoline, kerosene, propane, liquid petroleum gas, food, water, livestock, poultry feed, to residential and commercial establishments is essential during and after Hurricane Irma and any interruption in the delivery of those commodities and building materials threatens the public welfare, safety and well-being; and

WHEREAS, West Virginia has been requested to render mutual aid to assist in the Hurricane Irma federal and state disaster response and West Virginia will assist in any way out of an abundance of care and concern for our friends, neighbors and relatives in Florida, Georgia, South Carolina, Alabama, Mississippi, North Carolina, Tennessee, the Commonwealth of Puerto Rico and the territory of the U. S. Virgin Islands in the emergency conditions resulting from Hurricane Irma; and

WHEREAS, based on the Emergency Declaration Issued by the USDOT (“USDOT Declaration of Emergency”) in advance of Hurricane Irma, drivers responding to provide “direct assistance” to an “emergency,” as defined in 49 CFR 390.5 and declared by the Federal Motor

Carrier Administration or a governor, are exempt from applicable regulations in all States on their route to the emergency, even though those States may not be involved in the emergency or identified in the USDOT Declaration of Emergency; and

WHEREAS, based on the Federal Motor Carrier Regional Emergency Declaration issued September 7, 2017, motor carriers and drivers providing direct assistance to the emergency in the Affected States and jurisdictions based on Hurricane Irma are granted emergency relief from federal regulations found in 49 CFR Part 390 through 399 and West Virginia laws found in §§17E-1-1, *et seq.*, 11-6G-2, *et seq.*(IRP), and 11-14B-1, *et seq.* (IFTA); 17A-2B-1-1, *et seq.* (Motor Carrier Regulations), 17C-16-1, *et seq.* (Inspection and Load), 17C-17-1, *et seq.* (Size, Weight, Load) , 17C-17A-1, *et seq.* (Coal Resource Roads) and 17C-17B-1, *et seq.* (Public Service Commission). Direct assistance terminates when a driver or commercial motor vehicle is used in interstate commerce when not directly assisting the emergency relief effort; and

WHEREAS, nothing contained in this Declaration of Emergency shall be construed as an exemption from the controlled substances and alcohol use and testing requirements (49 CFR Part 382), the commercial driver's license requirements (49 CFR Part 383), the financial responsibility (insurance) requirements (49 CFR Part 387), the hazardous material regulations (49 CFR Parts 100-180), or any other portion of the regulations not specifically authorized pursuant to 49 CFR §390.23. Motor carriers or drivers currently subject to an out-of-service order are not eligible for the relief granted by this Declaration of Emergency until they have met the applicable conditions for its rescission and the order has been rescinded by the Federal Motor Carrier Safety Administration; and

WHEREAS, based on the Federal Motor Carrier Safety Administration (FMCSA) Notice of Enforcement Discretion Determination issued September 6, 2017, the FMCSA has determined not to enforce the Temporary Operating Authority Registration fee provisions of 49 CFR 360.3T(d)(2) and (O)(6) against those Motor carriers requesting Temporary Operating Authority Registration to provide direct assistance to emergency relief efforts. This relief is not authorized to motor carriers whose operating authority registration is revoked; and

WHEREAS, section six, article five, chapter fifteen of the Code of West Virginia authorizes the Governor to suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders, rules or regulations of any state agency, if strict compliance therewith would in any way prevent, hinder or delay necessary action in coping with the emergency; and

WHEREAS, section six, article five, chapter fifteen of the Code of West Virginia authorizes the Governor to perform and exercise such other functions, powers, duties as are necessary to promote and secure the safety and protection of the civilian population; and

WHEREAS, section five, article five, chapter fifteen authorizes the governor to use emergency powers to provide for the rendering of mutual aid among political subdivisions of the state with other states and to cooperate with the federal government with respect to the carrying out of emergency services.

NOW, THEREFORE, I, JIM JUSTICE, by the virtue of the authority vested in me as Governor of the State of West Virginia, do hereby **DECLARE** and **ORDER** that:

1. A state of emergency exists due to Hurricane Irma requiring relief from the International Registration Plan (IRP) and International Fuel Tax Agreement (IFTA) requirements imposed upon the transporters of relief supplies, including food, water, medicine, emergency medical or fire services, petroleum, petroleum products and other commodities. This relief extends to any utility vehicle responding to affected areas in response to power restoration, emergency or fire services and debris removal. This Order shall only apply to those truck and service vehicles involved in the transportation of goods, the restoration of utilities, emergency or fire services and debris removal as part of the emergency relief effort;

2. All State agencies shall waive all economic requirements normally associated with interstate motor transportation, for all vehicles providing relief supplies, emergency medical and fire services, power restoration and debris removal for the affected areas. Specifically, these motor

carriers are authorized to travel through West Virginia without the payment of permit fees for oversized/overweight vehicles;

3. All State agencies shall waive the requirements for commercial motor vehicles regarding IRP and the IFTA registration requirements for those providing direct relief to the affected areas;

4. All State agencies will waive the size and weight restrictions for loads on any vehicles transporting emergency equipment, services, supplies and agricultural commodities, consistent with their authority pursuant to federal law, for the duration of this Executive Order;

5. Nothing in this Order shall be construed to allow any vehicle to exceed weight limits posted for bridges and like structures;

6. Nothing in this Order shall be construed to waive any other restrictions other than those specified in this Order. This Order does not exempt any other Commercial Driver License (CDL) issuance and safety requirements, drug and alcohol restrictions while driving, hazardous material restrictions or requirements, or insurance requirements; and

7. This Order shall be effective from September 13, 2017 and shall remain in effect consistent with the effective date of the USDOT Declaration of Emergency or until 12:01 AM E.S.T., October 6, 2017, whichever is earlier.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.

DONE at the Capitol in the City of
Charleston, State of West Virginia,
this the thirteenth day of September, in
the year of our Lord, Two Thousand
Seventeen, and in the One Hundred
Fifty-Fifth year of the State.

Jim Justice
GOVERNOR

By the Governor



Mac Warner
SECRETARY OF STATE