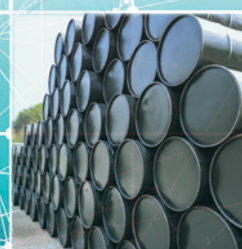




# Executive Authority During Energy Emergencies

A ROAD MAP FOR GOVERNORS





## EXECUTIVE SUMMARY

- **THE ISSUE:** An energy emergency, such as an electrical grid outage, pipeline disruption or fuel shortage, occurs when an actual or imminent severe energy supply interruption threatens the health, safety and well-being of a population.
- **THE ROLE OF STATES:** Governors are solely responsible for declaring a state of emergency. An energy emergency may require governors to execute their emergency powers to aid in response, restoration and recovery.
- **THE ROAD MAP:** The road map is a tool to help governors prepare in advance of an energy emergency and guide their decision making in the event of an energy emergency.
- **STEPS FOR STATES:** This road map will help governors:
  - Understand state and federal legal authorities,
  - Learn about key decision points,
  - Identify when to execute formal and informal actions and
  - Provide guidance on communication and coordination strategies.

## INTRODUCTION

- **How to use the road map:**
  - The road map is a tool that helps governors and their key advisors determine how to act when an event—whether caused by natural disaster, malicious actor, or human error—that causes an energy emergency.
  - The road map will help governors:
    - Understand state and federal legal authorities,
    - Learn about key decision points,
    - Identify when to execute formal and informal actions and
    - Provide guidance on communication and coordination strategies.
  - The road map is designed as a policy development tool, allowing a state to use all or portions of the road map as it applies to that state's unique situation. It should not replace the state's emergency response plan.
- **What to expect:**
  - States will find that the road map:
    - Helps contextualize energy emergencies and their consequences,
    - Outlines actions for governors to consider when faced with an energy emergency and
    - Provides appendices that include examples of past executive orders and actions.
- **How the road map was developed:**
  - The National Governors Association (NGA) hosted an experts' roundtable that included governors' energy advisors, homeland security advisors, emergency managers, federal officials and private sector representatives to develop the road map. During the roundtable, participants discussed the critical decision points that require governors' executive authority during an energy emergency. Participants also offered recommendations on strategies that governors' offices could take before, during and after an energy emergency.
  - The road map reflects recommendations from past NGA work on energy assurance and emergency management. The idea for this road map originated from a previous NGA learning lab in New Jersey. State participants at that meeting identified a need to learn more about the actions governors could take during an energy emergency.
  - For additional information about the road map, please contact Dan Lauf at [dlauf@nga.org](mailto:dlauf@nga.org) or Alisha Powell at [apowell@nga.org](mailto:apowell@nga.org).

# STEPS GOVERNORS CAN TAKE TO MANAGE AN ENERGY EMERGENCY

Governors can take four steps to manage energy emergencies in their state:

**STEP 1:** Outline the governor's existing authority.

**STEP 3:** Determine the execution of actions.

**STEP 2:** Identify the scope and scale of the event.

**STEP 4:** Coordinate and communicate with key stakeholders.

## BACKGROUND

### ■ What is an energy emergency?

- *Working definition:* An energy emergency, such as an electrical grid outage, pipeline disruption, or fuel shortage, occurs when an actual or imminent severe energy supply interruption threatens the health, safety and well-being of a population.
- 'Energy emergency' for many states may be a specific designation. At least 12 states give the governor the authority to declare an energy emergency that is distinct from the state's more typical state of emergency declaration. (See *Appendix C. Example Federal Regulation Exemption Request Waivers* on page 13 for details.)

### ■ What are the possible consequences of an energy emergency?

- Each energy emergency is unique. Different consequences necessitate different gubernatorial action.
- Table 1 on page 4 provides a list of actions that governors and their key advisors should consider:
  - These actions are listed by increasing severity and roughly correspond to an incident's size and scope.
  - The table is not holistic; rather, it covers the most notable consequences. Because all events and emergencies are unique, NGA suggests using this table as a decision-making guide in conjunction with the recommendations of state and local authorities.



## NGA Work on Energy Assurance

- Over the past decade, NGA has produced several aids to improve state energy assurance.
- Consistent guidance for governors on energy assurance practices includes:
  - **Developing relationships among a broad group of stakeholders**, including the state energy office, the homeland security office and the emergency management agency,
  - **Identifying potential risks to infrastructure** by conducting routine threat and risk assessments to identify potential vulnerabilities before an event occurs,
  - **Updating energy assurance plans** to reflect new threats and hazards and ensure that they align with the state emergency management plan,
  - **Conducting trainings and exercises** to ensure that existing plans are sufficient and all stakeholders understand their role in emergencies and
  - **Ensuring that internal and external communications** are clear, consistent and have up-to-date information. Communications should include actions tailored to the specific audience that will help the response and recovery run smoothly.

**TABLE 1. ENERGY EMERGENCY RESPONSE TABLE**

## LOCAL

The disaster causes minor inconveniences to residents and businesses, but individuals are otherwise able to continue day-to-day life. The emergency response can be led and coordinated by local or private authorities with state support. If residents or businesses are aware of the emergency, they expect it to be resolved within a few hours. Example include: isolated power outages; minor damage to pipelines; and severe weather.

### Possible Consequences

- Short-term disruptions in energy services (for example, short brownouts, power outages)
- Poor traffic conditions
- Schools and businesses operating at reduced capacity

### Possible Considerations

- Monitoring conditions
- Having sub-cabinet officials communicating with local authorities and the public
- Engaging with private industry stakeholders
- Ordering a “soft open” of the emergency operations facility
- Reviewing of emergency plans
- Ordering cabinet officials to communicate with local authorities and the public

## STATE

The disaster causes some disruption to residents and businesses that forces individuals to make significant alterations to their day-to-day lives or persists for an extended period of time. The emergency requires state leadership and coordination with local or private support. Residents are likely aware of the emergency but expect the situation to be resolved in the immediate future. Examples include: prolonged severe weather (for example, cold wave, heat wave); far-reaching technical or infrastructural failure; and coordinated cyberattacks that target noncritical infrastructure.

### Possible Consequences

- Higher prices for gas and fuel or long lines at the gas station
- Public, commercial, industrial and school buildings temporarily closed
- Critical services (for example, hospitals, police departments) reliant on reserves or back-up generators
- Some environmental damage
- Crews deployed to remove debris or repair minor infrastructure damage
- Fuel deliveries temporarily halted or reduced
- Difficulty accessing cybernetworks on non-critical infrastructure
- Severe traffic and gridlock
- Residents report difficulties heating or cooling homes

### Possible Considerations

- Declaring a state of emergency
- Having governor's office lead communication with the public
- Fully opening emergency operations facility
- Activating emergency contingency plans
- Engaging with the federal government
- Suspending fuel carrier rules on hours of service or cargo weight
- Suspending other state regulations and statutes
- Requesting waivers from the federal government
- Facilitating restoration of service through debris removal, repair, etc.
- Using mutual aid agreements
- Activating the national guard

## FEDERAL

The disaster causes severe disruption for residents and businesses that makes day-to-day life impossible. A heightened state of alarm may persist for weeks if not months. State resources may not be enough to resolve the disaster and federal support is likely needed. State residents are very aware of the emergency and do not know if/when their lives will return to normalcy. Examples include: systematic power grid failure; international incident; and catastrophic failure of energy safety mechanisms.

### Possible Consequences

- Most public, commercial, industrial and school buildings closed for an indeterminate period
- Suppliers are unable to guarantee the continued flow of energy
- Major price hikes
- Significant environmental or infrastructural failure (for example, multiple pipeline ruptures, leaks, backed-up sewage)
- Providers unable to access networks due to coordinated or sophisticated cyber attack
- Public unrest or panic
- Problems reported nationally or internationally

### Possible Considerations

- Requesting for federal aid
- Coordinating resource allocation/distributing emergency resources
- Signing supplementary purchasing contracts
- Mandating reductions in state agency energy consumption
- Requesting reductions in public energy consumption
- Activating price gouging protections
- Establishing fuel rationing or monitoring
- Restricting the sale of energy resources
- Restricting vehicle usage
- Restricting hours and days of operation of public, commercial, industrial and school buildings
- Deploying the national guard for facility security
- Seizing energy supplies and other necessary resources
- Implementing evacuation/shelter in place plans



## STEP 1: Outline the Governor's Existing Authority

- In advance of an emergency or declaration, state officials should outline the governor's authority during an emergency, disaster, or energy emergency. This authority should be documented, updated and easy to access electronically and in hard copy for those in the governor's office who may need it. Doing so facilitates any executive action needed to respond to and recover from the emergency. Much of this information will already be included in the state's emergency management plan.
- Gubernatorial authority may include<sup>1</sup>:
  - **Declaration of emergency:** A common tool that governors execute when the state experiences a natural or manmade event and
  - **Declaration of an energy emergency:** A more specific tool that some governors possess that focuses on the energy sector in the governor's authority rather than a traditional emergency declaration. Importantly, the statutory authorities for an energy emergency may be different for a standard state of emergency and, in some cases, more expansive. Much of this information will be codified in the state's energy assurance plan.
- Typically, governors will declare an energy emergency after the triggering event; however, they may have the authority to declare an emergency before the event occurs if the event will impact citizens. The governor can make this declaration to ensure that energy and emergency response personnel, equipment and goods are in place and ready to be deployed.
- Governors who do not have the authority to declare energy emergencies and want to explore this path more can pursue legislation to establish that authority by:
  - Identifying the need for a law that allows for declaration,
  - Determining the consequences of not having such authority and
  - Working with the state legislature to introduce a bill that creates the governor's statutory authority to declare an energy emergency.
- Governors should also understand the impact of an emergency or energy emergency declaration on other jurisdictions and the private sector, including the lifting of federal regulations:
  - **Federal government:** For example, the U.S. Department of Transportation (USDOT), Environmental Protection Agency (EPA) and other agencies will waive certain regulations and restrictions in the event of a state emergency declaration, such as hours of service (HOS) and safety waivers for trucking governed by the Federal Motor Carrier Safety Administration (FMCSA). Officials should know how state and federal emergency declarations affect regulations to maximize their recovery capacity.
  - **Private sector and utility companies:** Utilities often depend on their peers across the country connected through mutual aid agreements. Under those agreements, utilities agree to share trucks, work crews and equipment with one another to more rapidly recover from utility outages. When these agreements are called on, work crews and equipment are often required to drive across state boundaries. If an emergency has been declared and certain restrictions are waived within a state, that waiver's authority may end at the state's border. Restrictions may still be in place in neighboring states that limit the ability of crews to move and respond. Emergency management and state police should coordinate with neighboring jurisdictions and national coordination mechanisms to get the word out about the emergency waivers to local law enforcement.
  - **Neighboring states:** Governors should understand how neighboring states will respond during an emergency declaration and whether they can work with their peers to create agreements that facilitate industry and governmental response. In addition, a state of emergency that the federal government or another state government declares may waive some restrictions in unaffected states for motor carriers and work crews traveling interstate in response to the emergency. Governors should be familiar with and enforce those exemptions to expedite response and recovery efforts in other jurisdictions.

### HAVE YOU CONSIDERED

- **Cataloging the governor's legal authority?**
- **Identifying the legal, regulatory and administrative policies in place that could slow down the response?**
- **Examining existing contract agreements and procurement procedures?**

## STEP 2: Identify the Scope and Scale of the Event

- **When an emergency occurs or is imminent, the scope and scale of the problem will dictate the response required. Governors, in coordination with the state's emergency management authorities, should determine whom on their staff and within industry to convene to adequately respond to the emergency and work with those individuals to understand:**
  - **Consequences of the emergency:** What was the impact? Was the impact limited to the electric sector, or were there cascading effects in other sectors? Has infrastructure been compromised that will hinder recovery efforts?
  - **Geographic impact:** How widespread is the emergency? Is it limited to one utility service territory or several? Can the state map the affected critical assets and layer those geographic data over utility outage data? Does the outage cross state lines? If so, will the state be competing with other states for resources?
  - **Affected population:** Whom does the energy emergency affect? Are the customers primarily in the residential sector, the commercial sector, or a combination? Does the event affect multiple utilities? What are the critical, lifeline assets affected, and what impact will their outages have on the health and safety of residents?
  - **Outage duration:** How long will the energy emergency last? Will power be out for hours, days, weeks, or longer? Is there sufficient access to backup generation? Do backup generators have an adequate stock of fuel to continue to operate throughout the duration of the outage? Can other utilities, such as water, wastewater and telecommunications, continue to operate through the outage? What private sector entities need to be engaged to estimate the duration and impacts of the outage resulting from the event? Depending on the duration of the emergency, what powers does the governor have to implement restoration actions after the event?
- **When the scope, scale and recovery needs of the emergency have been determined, it is critical to assess the existing regulations and restrictions that will impede recovery and response efforts:**
  - Suspension of carrier rules (for example, HOS, road weight restrictions, the need to stop at weigh stations)<sup>2</sup>
  - Toll waivers for utility and emergency response crews
  - Fuel rationing:
    - Priority access for emergency personnel and utility crews
    - Rationing for the public in times of shortage
  - Protections against price gouging
  - Pollution control regulations:
    - By waiving certain fuel standards, the federal government can ensure that an adequate supply of fuel is available, especially for emergency operations and the lifeline sectors.<sup>3</sup>

### HAVE YOU CONSIDERED

- Identifying which statutes will require waivers to support the response and recovery?
- Identifying any gaps the state has that will require additional external support?
- Developing a restoration prioritization list and socializing that list to the appropriate parties?



- Additional pollution control regulations:
  - Suspend permitting and other restrictions for air emissions and wastewater discharge.
- Access and credentialing:
  - Site access restrictions
  - Volunteer access and credentials
  - Out-of-state access and credentials
  - Equipment and supply access

### STEP 3: Determine the Execution of Actions

- When the scope, scale and nature of the event have been determined, governors can work with their staff and industry to determine a response. These actions, such as fuel and permit waivers, may include movement of people and goods; transportation of restoration and recovery equipment; allowing for adverse environmental impacts that may not otherwise be tolerable; and the deployment of communications, emergency response and other support services.
- Governors have a few options for how to act in the event of an energy emergency:
  - Formal action:
    - Declare a state of emergency or an energy emergency (if the governor has that authority).
    - Issue an executive order or other, equivalent executive directive.
  - Informal action:
    - Soft open an emergency operations center from which personnel can monitor conditions but which is not in an activation mode.
    - Issue public service announcements.
    - Work with unaffected states or establish interstate coordination.
    - Leverage relationships with state officials, other governors, businesses, etc.
    - Work with the media.
    - Delegate responsibility to state agencies.
  - No action:
    - Although this road map focuses heavily on governors' use of executive action, some events may not warrant an emergency declaration. Governors may still want to take some type of informal action, however.
    - In this instance, governors should continue to monitor the situation and determine whether they need to reevaluate the state's role in response and recovery if the circumstances change.

#### HAVE YOU CONSIDERED

- Developing executive order templates?
- Implementing feedback mechanisms to share information with local governments so that they can stay abreast of the situation?



#### ENERGY WAIVER LIBRARY<sup>4</sup>

During energy emergencies, regulatory assistance (or a "waiver") is often used to expedite restoration when the situation warrants. Temporarily waiving enforcement of certain safety, environmental and statutory requirements, when appropriate, can accelerate response efforts, restoring power and moving fuel more quickly to affected citizens. DOE consolidated and verified resources from across the federal government to create this central location for common waivers and special permits used for energy response, including background on the waiver or special permit, examples of past use, links to previously issued waivers, and an appropriate point of contact from whom to request such waivers should the need arise.



## STEP 4: Coordinate and Communicate with Key Stakeholders

### ■ Coordinating activity across sectors and groups is a significant undertaking. Governors will need to consider how to coordinate in several ways:

- Federal-state coordination through FEMA regions and appropriate federal agencies
- Interstate coordination through mutual aid agreements and waiver exemptions:
  - **Emergency Management Assistance Compact (EMAC)**,<sup>5</sup> which is a mutual aid agreement among the 50 states, the District of Columbia, Guam, Puerto Rico and the U.S. Virgin Islands that enables the sharing of personnel, equipment and commodities to states impacted by disasters
  - Electric utility mutual assistance agreements:
    - **Regional Mutual Assistance Groups (RMAG)**<sup>6</sup> are regional groups that coordinate mutual aid assistance among investor-owned utilities by providing restoration workers and logistics coordination across utility service territories to facilitate restoration efforts within an affected region.
    - Mutual assistance for public power utilities is coordinated through the American Public Power Association's Utilities Mutual Aid Regions. In addition, a national mutual aid agreement is in place for more than 2,000 public power and
    - For more information, see the National Association of Regulatory Utility Commissioners report, *Regional Mutual Assistance Groups: A Primer*.<sup>7</sup>
  - Working with unaffected states
  - Working with neighboring states to ensure that exemptions are implemented to achieve their intended effect
- Intrastate coordination between state and local agencies as well as those agencies that are outside of emergency management, such as:
  - State departments responsible for weights and measures, as they may have information about transportation fuel availability,
  - The state environment department to issue fuel and other relevant waivers, and
  - State energy offices and utility regulators to coordinate with the electric sector.
- Ensure that transportation waivers are left in place long enough to allow work crews providing mutual assistance to return.
- Private sector coordination (utility companies)
- Non-governmental coordination (for example, volunteers)

### ■ Create a communication plan:

- Communication is key to ensuring that all parties involved are aware of the current state of affairs. Governors should incorporate the following components into the communication plan:
  - Identify communication methods:
    - Identify a clear communication chain.
  - Tailor the message that governors or their representatives send to stakeholders:
    - Coordinate and unify the message with the private sector and the federal government.
    - Communicate with constituents.
    - Ensure that information provided aligns with public records law.
  - Spread the message:
    - Leverage the Joint Information Center
    - Use social media

## HAVE YOU CONSIDERED

- Developing a crisis communication protocol?
- Identifying alternative communication methods in case traditional means are inoperable?
- Sharing anticipated needs and priorities with partners, including the federal government, neighboring states, the private sector and nongovernmental organizations?





## Appendix A. Example Executive Orders

### PROCLAMATION OF DISASTER AND ENERGY EMERGENCY

**WHEREAS**, because of extreme low temperatures, high winds, high demand for propane during a late harvest season, and record high demand for propane throughout the upper Midwest portions of the United States, the demand for propane in Iowa is at an all-time high within the state of Iowa; and

**WHEREAS**, as a result, citizens throughout the State of Iowa are at risk of losing access to propane for purposes of heating their homes, thereby creating a significant risk of imminent harm to their personal health and safety and creating an energy emergency within our state; and

**WHEREAS**, this energy emergency threatens the peace, health, and safety of citizens of the State of Iowa and provide legal justification for the issuance of a Proclamation of a State of Disaster and Energy Emergency pursuant to Iowa Code § 29C.6(1); and

**WHEREAS**, these propane shortages have been of a continuing nature and have required me to issue two prior Proclamations of Disaster Emergency, one on December 18, 2013 and a second on January 10, 2014, in order to temporarily waive certain hour of service requirements under Iowa Code § 321.449 for the drivers of commercial motor vehicles transporting propane. This was done to speed the transport of needed propane throughout the state of Iowa. Despite these prior efforts the risks to Iowa homeowners remain significant and unabated.

**NOW, THEREFORE, I, TERRY E. BRANSTAD**, Governor of the State of Iowa, by the power and authority vested in me by the Iowa Constitution Art. IV, §§ 1, 8 and Iowa Code § 29C.6(1), and all other applicable laws, do hereby proclaim a **STATE OF DISASTER EMERGENCY AND ENERGY EMERGENCY** for the entire state of Iowa, and do further specifically **ORDER** and **DIRECT** the following:

**SECTION ONE.** As required by Iowa Code § 29C.6(1), (10) and 42 U.S.C. § 5170 in cases of Presidential Disaster Declarations, this Proclamation of Disaster Emergency activates the disaster response and recovery aspect of the Iowa Homeland Security and Emergency Management Department's Iowa Emergency Response Plan and those additional response plans applicable to the counties affected by this disaster and authorizes the use and deployment of all available state resources, supplies, equipment, and materials as are reasonably necessary to assist those citizens located in the disaster county.

**SECTION TWO.** This **STATE OF DISASTER EMERGENCY AND ENERGY EMERGENCY** shall be effective immediately, shall continue for thirty (30) days, and shall expire on March 2, 2014, at 11:59 p.m., unless sooner terminated or extended in writing by me. Iowa Code § 29C.6(1).

**IN TESTIMONY WHEREOF**, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed at Des Moines, Iowa this thirty-first day of January in the year of our Lord Two Thousand Fourteen.

\_\_\_\_\_  
TERRY E. BRANSTAD  
GOVERNOR

**ATTEST:**

\_\_\_\_\_  
MATT SCHULTZ  
SECRETARY OF STATE

EXECUTIVE ORDER  
No. 2014 - 1

STATE OF ENERGY EMERGENCY  
WAIVER OF REGULATIONS RELATING TO MOTOR CARRIERS AND DRIVERS  
TRANSPORTING PROPANE AND HEATING OIL

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the state of Michigan in the Governor; and

WHEREAS, Section 3 of 1982 PA 191, MCL 10.83, authorizes the Governor to declare a State of Energy Emergency upon notification of an impending energy emergency by the Energy Advisory Committee, or upon the Governor's own initiative, if the Governor finds that an energy emergency exists or is imminent; and

WHEREAS, regional propane inventories are 33 percent below the five-year average, and approximately 40 percent below this time last year, causing product allocations and restricted fill volumes for some customers, and

WHEREAS, a shift in the polar vortex has brought uncharacteristically severe winter weather, including subzero temperatures, heavy snowfall, and reduced visibility resulting in hazardous road conditions and more frequent equipment failures for propane and heating oil transporters, causing drivers to reach maximum weekly driving and on-duty limits more quickly than normal; and

WHEREAS, the inclement weather is causing longer driving times and working hours, and increased effort to deliver individual loads, making it difficult for propane and heating oil transporters in Michigan to meet demand and comply with federal and state hours-of-service regulations and requirements contained within 49 CFR Part 395, and adopted in Public Act 181 of 1963, MCI 480.11 a; and

WHEREAS, it is in the best interests of the state of Michigan to provide for the safe transportation of propane and heating oil within this state, and that appropriate measures be taken in response to this energy emergency to assure that propane and heating oil supplies can be delivered to protect the health, safety, and welfare of Michigan residents and visitors; and

WHEREAS, Federal Motor Carrier Safety Administration regulations found at 49 CFR 390.23, and Michigan Public Act 181 of 1963, MCI 480.11 a, provide the Governor

with the authority to exempt motor carriers and drivers transporting propane and heating oil within Michigan from the hours-of-service regulations and requirements specified in 49 CFR Part 395 and MCI 480.11 a, to address transportation needs arising from the impact of this energy emergency;

NOW, THEREFORE, I, Richard D. Snyder, Governor of the state of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and 1982 PA 191, MCI 10.81 to 10.87, order the following:

1. Motor carriers and drivers transporting propane and heating oil to address transportation issues arising from the severe weather, heavy snowfall and difficult driving conditions in Michigan, are exempt from compliance with MCI 480.11 a and any other applicable state statute, order, or rule substantially similar to MCI 480.11 a, and 49 CFR Part 395. Any such provision of a state statute, order, or rule pertaining to the hours-of-service is suspended. This exemption and suspension applies to all highways in Michigan, including the national system of interstate and defense highways.
2. This order applies only to propane and heating oil. No other petroleum products are covered by the exemption and suspension under this Order.
3. No motor carrier or driver operating under the terms of this order shall require or allow an ill or fatigued driver to operate a motor vehicle. Any driver who informs a carrier that he or she needs immediate rest shall be given at least ten consecutive off-duty hours before the driver is required to return to work.
4. Nothing in this Order shall be construed as an exemption from applicable controlled substances and alcohol use and testing requirements (49 CFR Part 382 and similar state statute, order, or rule), the commercial driver's license requirements (49 CFR Part 383 and any similar state statute, order, or rule), the financial responsibility requirements (49 CFR Part 387 and any similar state statute, order, or rule), driver qualifications (49 CFR Part 391), driving of commercial motor vehicles (49 CFR Part 392), equipment, parts, and accessories necessary for the safe operation of vehicles (49 CFR Part 393), applicable size and weight requirements, or any portion of federal and state regulations not specifically identified.
5. Motor carriers or drivers currently subject to an out-of-service order are not eligible for the exemption and suspension until the out-of-service order expires or the conditions for rescission have been satisfied.
6. The Michigan Department of State Police requires that drivers for motor carriers operating under the Declaration of Energy Emergency must have a copy of the Declaration of Energy Emergency in their possession.
7. Upon expiration of this order, or when a motor carrier or driver ceases to provide direct assistance to the emergency relief effort, a driver that has had at least 34

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consecutive off-duty hours must be permitted to start his or her on-duty hours and 60/70-hour clock at zero.

The Commercial Vehicle Enforcement Division of the Michigan Department of State Police shall coordinate state compliance with this Order. This Order is effective upon filing and remains in effect for the duration of the emergency or 11:59 p.m. EDT, Friday, January 31, 2014, whichever is less.



Given under my hand and the Great  
Seal of the State of Michigan this  
10th day of January in the  
Year of Our Lord, Two Thousand and  
Fourteen

RICHARD D. SNYDER  
GOVERNOR

BY THE GOVERNOR:

GRETCHEN JOHNSON  
SECRETARY OF STATE

FILED WITH SECRETARY OF STATE  
ON 1/30/2014 AT 2:40 P.M.

3





JOHN R. KASICH  
GOVERNOR  
STATE OF OHIO

# PROCLAMATION

## AMENDING STATE OF ENERGY EMERGENCY WAIVER OF REGULATIONS, TO EXTEND RELIEF RELATING TO MOTOR CARRIERS AND DRIVERS TRANSPORTING PROPANE AND HEATING OIL

**WHEREAS**, Section 4935.03 of the Ohio Revised Code authorizes the Governor to declare a state of energy emergency, in consultation with the chairperson of the public utilities commission, if the Governor finds that an energy emergency exists or is imminent, and, at the end of any thirty-day emergency, authorizes the Governor to issue another declaration extending the emergency; and

**WHEREAS**, regional propane inventories are low, causing product allocations and restricted fill volumes for some customers; and

**WHEREAS**, the inclement weather is causing longer driving times and working hours, and increased effort to deliver individual loads, making it difficult for propane and heating oil transporters in Ohio to meet demand and comply with federal and state hours-of-service regulations and requirements contained within 49 CFR Part 395 and in Rule 4901:2-5-02 of the Ohio Administrative Code; and

**WHEREAS**, it is in the best interests of the State of Ohio to provide for the safe transportation of propane and heating oil within this state, and that appropriate measures be taken in response to this energy emergency to assure that propane and heating oil supplies can be delivered to protect the health, safety, and welfare of Ohio citizens and visitors; and

**WHEREAS**, Federal Motor Carrier Safety Administration regulations found at 49 CFR 390.23, and Rule 4901:2-5-02 of the Ohio Administrative Code, provide the Governor with the authority to exempt motor carriers and drivers transporting propane and heating oil within Ohio from the hours-of-service regulations and requirements specified in 49 CFR Part 395 and Rule 4901:2-5-02 of the Ohio Administrative Code, to address transportation needs arising from the impact of this energy emergency; and

**NOW, THEREFORE**, I, John R. Kasich, Governor of the State of Ohio, hereby declare that the energy emergency previously declared on January 18, 2014, shall be extended for all eighty-eight counties in the State justifying the authorization of such personnel of state departments and agencies as are necessary, in accordance with Sections 5502.22 and 5502.28 of the Ohio Revised Code, to assist all counties in protecting the lives, safety, health, and property of its citizens. I hereby also authorize as needed, in state active duty status, those personnel and units of the Ohio National Guard as designated by the Adjutant General, pursuant to Section

5923.21 of the Ohio Revised Code, to assist counties as provided in this Proclamation. Those units and personnel will act pursuant to the orders issued on my behalf by the Adjutant General, and through her, the commanding officers of the units of the Ohio National Guard to take whatever actions are necessary to assist local authorities in the protection of the lives, safety, health, and property of the citizens of the impacted areas. The Adjutant General shall provide for all transportation, services, equipment and supplies necessary for the designated units of the Ohio National Guard.

Motor carriers and drivers transporting propane and heating oil to address transportation issues arising from the severe weather, heavy snowfall, and difficult driving conditions in Ohio, are exempt from compliance with Rule 4901:2-5-02 of the Ohio Administrative Code and 49 CFR Part 395 – and any such provision of a state statute, order, or rule pertaining to the hours-of-service is suspended.

This order applies only to propane and heating oil. No other petroleum products are covered by the exemption and suspension under this Proclamation.

This Proclamation does not alter a carrier's duty to monitor its drivers, to maintain records of duty status and to ensure that drivers are not ill, fatigued, impaired, or otherwise unable to operate a commercial motor vehicle safely. Nothing in this order shall be construed as an exemption from applicable controlled substances and alcohol use and testing requirements (49 CFR Part 382 and similar state statute, order, or rule), the commercial driver's license requirements (49 CFR Part 383 and any similar state statute, order, or rule), the financial responsibility requirements (49 CFR Part 387 and any similar state statute, order, or rule), driver qualifications (49 CFR Part 391), driving of commercial motor vehicles (49 CFR Part 392), equipment, parts, and accessories necessary for the safe operation of vehicles (49 CFR Part 393), applicable size and weight requirements, or any portion of federal and state regulations not specifically identified.

Motor carriers subject to the exemption authorized by this Proclamation should carry a copy of this Proclamation with them or have ready access to a copy.

This Proclamation does not require the implementation of the Department of Administrative Services Directive HR-D-11 (dated September 1, 2009) or the Department of Administrative Services' "Weather (Public Safety) Procedure" (revised February 12, 2007). Accordingly, classified and unclassified exempt employees' obligation to travel to and from work is not to be limited as a result of this Proclamation.

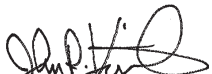
I also hereby authorize, pursuant to Section 4935.03 of the Ohio Revised Code and Rule 4901:5-29-03 of the Ohio Administrative Code, the Public Utilities Commission to continue to monitor regional propane and heating oil inventories and, if necessary, to implement Rules 4901:5-29-02 and 4901:5-29-04 of the Ohio Administrative Code.

I issued this Proclamation extending the emergency on February 14, 2014, and it took effect immediately. It will remain in full force and effect until March 1, 2014. Termination or extension of this energy emergency shall be determined by the Executive Director of the Emergency Management Agency in coordination with the Public Utilities Commission.

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IN WITNESS WHEREOF, I have hereunto subscribed my name at Columbus, Ohio, on the 14<sup>th</sup> day of February, 2014.



  
John R. Kasich, Governor

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## Appendix B. List of Notable Executive Orders

State	Order or Proclamation	Date	Activates Emergency Response Plans	Suspends Fuel Carrier Rules on HOS	Suspends Fuel Carrier Rules on Loads or Cargo	Activates Protection Against Price Gouging	Establishes Fuel Rationing or Monitoring	Orders National Guard Assistance
GA	EO 08.31.05.01 <sup>8</sup>	August 31, 2005	-	-	-	Yes	-	-
IN	EO 03-3 <sup>9</sup>	January 24, 2003	-	Yes	-	-	-	-
IN	EO 14-02 <sup>10</sup>	January 29, 2014	-	-	Yes	-	-	-
IA	Proc 12-18-13 <sup>11</sup>	December 18, 2013	-	Yes	-	-	-	-
IA	Proc 01-31-14 <sup>12</sup>	January 31, 2014	Yes	-	-	-	-	-
ME	Proc 12-2016 <sup>13</sup>	December 20, 2016	-	Yes	-	-	-	-
MI	EO 2005-17 <sup>14</sup>	September 14, 2005	-	Yes	Yes	-	-	-
MI	EO 2013-11 <sup>15</sup>	December 20, 2013	-	Yes	-	-	-	-
MI	EO 2014-01 <sup>16</sup>	January 10, 2014	-	Yes	Yes	-	-	-
MI	EO 2016-10 <sup>17</sup>	June 6, 2016	-	Yes	-	-	-	-
MN	EO 14-16 <sup>18</sup>	October 4, 2014	-	Yes	-	-	-	-
MN	EO 14-17 <sup>19</sup>	October 24, 2014	-	Yes	-	-	-	-
MT	EO 16-2013 <sup>20</sup>	December 23, 2013	-	Yes	-	-	-	-
MT	EO 02-2014 <sup>21</sup>	February 14, 2014	-	Yes	-	-	-	-
MT	EO 22-2016 <sup>22</sup>	December 28, 2016	-	Yes	-	-	-	-
MT	EO 1-2017 <sup>23</sup>	February 21, 2017	-	Yes	-	-	-	-
NE	EO 06-01 <sup>24</sup>	July 21, 2006	-	Yes	-	-	-	-
NE	EO 07-04 <sup>25</sup>	July 10, 2007	-	Yes	-	-	-	-
NE	EO 07-05 <sup>26</sup>	August 9, 2007	-	Yes	-	-	-	-
NE	EO 07-06 <sup>27</sup>	August 30, 2007	-	Yes	-	-	-	-
NE	EO 13-01 <sup>28</sup>	October 26, 2013	-	Yes	-	-	-	-
NJ	EO 4 <sup>29</sup>	January 19, 1994	-	-	-	-	Yes	-
NJ	EO 108 <sup>30</sup>	November 2, 2012	-	-	-	-	Yes	-
NM	EO 2015-022 <sup>31</sup>	December 28, 2015	-	Yes	-	-	-	-
OH	Proc 2014-02-14 <sup>32</sup>	February 14, 2014	-	Yes	-	-	Yes	Yes
TN	EO 35 <sup>33</sup>	January 21, 2014	-	Yes	-	-	-	-
TN	EO 56 <sup>34</sup>	September 16, 2016	-	Yes	-	-	-	-
WI	EO 148 <sup>35</sup>	January 9, 2015	-	Yes	-	-	-	-



## Appendix C. Example Federal Regulation Exemption Request Waivers

Federal Agency	Waiver or Permit	Description	Example
U.S. Department of Transportation (DOT)	Hazardous material permits	The Pipeline and Hazardous Materials Safety Administration can issue special permits authorizing a variance of specified hazardous materials transportation safety regulations. This exception provides for transportation of hazardous materials in a way that achieves a safety level at least equal to that required under existing law or that is consistent with the public interest and Chapter 51, Title 49, if a required safety level does not exist.  Three types of special permit exist: (1) those authorizing the offer of a hazardous material for transportation in a different manner than otherwise required in the Hazardous Materials Regulations (HMR), (2) those authorizing the transport of a hazardous material in a different manner than required in the HMR, and (3) those authorizing the manufacture and sale of packaging for use in transporting hazardous material when the packaging does not meet the design specification or performance requirements in the HMR.	DOT-SP 9198 <sup>36</sup>
	HOS and other carrier safety regulations	During an emergency, officials can waive regulations pertaining to recordkeeping, driver qualifications, pre-trip inspections and fatigued operations, carrier parts and accessories, HOS and carrier maintenance. Most exemptions occur automatically upon the declaration of an emergency by the President, governor or local official. Presidential and state declarations are effective up to 30 days, and local declarations are effective up to 5 days. Only an FMCSA regional or field administrator has the authority to extend the waivers beyond the initial 30 days and place additional restrictions on the waivers. The waivers apply to any commercial motor vehicle responding from anywhere in the United States to provide direct relief to the emergency.	Waiver Extension for Energy Emergency Caused by Tropical Storm Harvey (September 11, 2017) <sup>37</sup>
	Federal Railroad Administration (FRA) Emergency Relief Docket (ERD)	The FRA ERD is a special provision in U.S. DOT's regulations that provides for the expedited review and approval of waiver requests from railroads related to a specific emergency. The Administrator of FRA has the authority to designate specific events as emergencies and, therefore, trigger the opening of the ERD. Once opened, the ERD can grant relief from applicable inspection date requirements. The ERD allows railroads to seek expedited requests for waivers related to the emergency pursuant to 49 Code of Federal Regulations (C.F.R.) 211.45.	The FRA Administrator's Declaration of Emergency Event <sup>38</sup>
U.S. Department of Energy (DOE)	Federal Power Act Section 202(c) Emergency Order <sup>39</sup>	Under Section 202(c) of the Federal Power Act, "during the continuance of a war in which the United States is engaged or when an emergency exists by reason of a sudden increase in the demand for electric energy, or a shortage of electric energy, or of facilities for the generation or transmission of electric energy, or of the fuel or water for generating facilities, or other causes, the Secretary of Energy may require by order temporary connections of facilities, and generation, delivery, interchange, or transmission of electricity as the Secretary determines will best meet the emergency and serve the public interest." 16 U.S.C. § 824a(c).	Order Pursuant to Section 202(c) of the Federal Power Act (December 14, 2000) <sup>40</sup>
Environmental Protection Agency (EPA)	Reformulated Gasoline (RFG) Requirements Waiver	RFG is a blended gasoline and cleaner burning alternative to conventional gasoline that is required to meet a threshold of air quality metrics in 17 states and the District of Columbia. During emergency response situations, officials can waive these air quality metrics to ensure that an adequate supply of fuel is available.	Fuel Waiver Concerning Reformulated Gasoline in Alabama, Delaware, Georgia, Kentucky, Maryland, Mississippi, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia and the District of Columbia (November 3, 2016) <sup>41</sup>
	Gasoline Reid Vapor Pressure Waiver	EPA regulates the vapor pressure of gasoline sold at retail stations during the summer ozone season to reduce evaporative emissions from gasoline that contribute to ground-level ozone and diminish the effects of ozone-related health problems. Depending on the state and month, gasoline may not exceed 7.8 psi or 9.0 psi. During an emergency, these air quality regulations may be suspended to ensure continued access to fuel.	Fuel Waiver Concerning Atlanta, Georgia and Nashville, Tennessee (September 14, 2016) <sup>42</sup>

Federal Agency	Waiver or Permit	Description	Example
<b>Department of Homeland Security (DHS)</b>	Jones Act Waivers	The Merchant Marine Act of 1920 (the “Jones Act”) requires that all goods transported by water between U.S. ports be carried on U.S. flag ships. Requests for waivers of certain provisions of the act are reviewed by the Maritime Administration’s (MARAD) Office of Emergency Preparedness and DHS on a case-by-case basis. DHS issues the waiver, with assistance from MARAD in determining the necessity, extent and duration of the waiver, by identifying available U.S. flagged sealift capacity. Waivers can be granted in cases of national emergencies or strategic interest.	Jones Act Waiver (September 8, 2017) <sup>43</sup>
<b>Internal Revenue Service (IRS)</b>	Diesel Fuel Penalty Waiver	The IRS imposes a tax penalty of 24.4 cents per gallon on diesel fuel sold for “on-road” use. Dyed diesel fuel used is not ordinarily subject to this tax. Typically, if diesel fuel that was not subject to this excise tax was converted to use for “on-road” purposes, the IRS would require that use to be reported and the tax paid accordingly. When a waiver is instated, the tax penalty cannot be applied to individuals who sell or use dyed diesel fuel for highway use.	IRS Waives Diesel Fuel Penalty Due to Hurricane Sandy (November 3, 2012) <sup>44</sup>

## Appendix D. Examples of Authorizing Legislation for Governor-Declared Energy Emergencies

State	Code	Actions for the Governor	Determining an Emergency
<b>IN</b>	10-14-3-13 <sup>45</sup>	<p>Implement programs, controls, standards, priorities and quotas for the conservation and consumption of energy, including plans and commission regulations for the curtailment of energy;</p> <p>Suspend and modify state pollution control standards and requirements;</p> <p>Establish and implement intrastate regional programs and agreements for the purposes of coordinating the energy program and actions; and</p> <p>Suspend the provisions of any state statute regulating transportation.</p>	<p>The availability of regional and national energy resources;</p> <p>Local, state, regional and national energy needs and shortages;</p> <p>The availability of short term alternative supplies on a local, state, regional and national basis;</p> <p>The economic effect of the declaration and the implementation of any curtailment or conservation plans.</p>
<b>MA</b>	Ch. 25A, Sec. 8 <sup>46</sup>	<p>Implement energy supply shortage contingency plans including conservation contingency plans and rationing contingency plans as have been developed by the department and which conform to the substantive requirements</p> <p>Implement any petroleum plan or other measures which comply with the substantive requirements</p>	When there is an actual or imminent severe energy supply interruption in the commonwealth, or resulting from the obligating of the United States under the international energy program of the United States, or like obligation
<b>ME</b>	Title 37-B, Sec. 742 (2) <sup>47</sup>	<p>Establish and implement programs, controls, standards, priorities and quotas for the allocation, conservation and consumption of energy resources;</p> <p>Regulate the hours and days during which nonresidential buildings may be open and the temperatures at which they may be maintained;</p> <p>Regulate the use of gasoline and diesel-powered land vehicles, watercraft and aircraft;</p> <p>After consulting, when appropriate, with the New England governors and upon the recommendations of the Public Utilities Commission, regulate the generation, distribution and consumption of electricity;</p> <p>Establish temporary state and local boards and agencies;</p> <p>Establish and implement programs and agreements for the purposes of coordinating the emergency energy response of the State with those of the Federal Government and of other states and localities;</p> <p>Temporarily suspend truck weight and size regulations, but not in conflict with federal regulations;</p>	When an actual or impending acute shortage in energy resources threatens the health, safety or welfare of the citizens of the State



		<p>Regulate the storage, distribution and consumption of home heating oil; and</p> <p>If the energy emergency was caused by a lack of electric grid reliability in this State resulting from insufficient capacity resources, take appropriate action, in consultation with the Public Utilities Commission, to procure sufficient capacity resources including generation capacity and interruptible, demand response or energy capacity resources.</p> <p>When an energy emergency proclamation is in effect, the Governor may call the Board of Environmental Protection into extraordinary session to consider temporary waivers or suspensions of rules and standards related to air and water quality necessary to relieve then existing energy shortages.</p>	
<b>MI</b>	Sec. 10.83 <sup>48</sup>	<p>The governor may impose restrictions on:</p> <ul style="list-style-type: none"> <li>• The interior temperature of public, commercial, industrial and school buildings.</li> <li>• Hours and days during which public, commercial, industrial and school buildings may be open.</li> <li>• Conditions under which energy resources may be sold to consumers.</li> <li>• Lighting levels in public, commercial, industrial and school buildings.</li> <li>• Use of display and decorative lighting.</li> <li>• Use of privately owned vehicles or a reduction in speed limits.</li> <li>• Use of public transportation including directions to close a public transportation facility.</li> <li>• Use of pupil transportation programs operated by public schools.</li> </ul> <p>Direct an energy resource supplier to provide an energy resource to a health facility; school; public utility; public transit authority; fire or police station or vehicle; newspaper or television or radio station for the purpose of relaying emergency instructions or other emergency message; food producer, processor, retailer, or wholesaler; and to any other person or facility which provides essential services for the health, safety and welfare of residents of this state.</p>	Upon notification of an impending energy emergency by the energy advisory committee under section 2(2), or upon the governor's own initiative if the governor finds that an energy emergency exists or is imminent
<b>MN</b>	7620.0210; 12.301; 216C.15 <sup>49</sup>	<p>During a declared energy supply emergency, the governor has the authority to directly manage operations during an energy supply emergency, such as the controlling the distribution and rationing of energy to ensure first responders and other agencies/organizations get the fuels they need to protect public health and safety, operate critical infrastructure and facilitate recovery operations.</p> <p>During a declared energy supply emergency, the [state] will set up an energy operating center.</p> <p>In an energy supply emergency resulting from a shortage of fuel oil; [gasoline, diesel fuel, or other petroleum product used as a motor fuel] highest priority uses are those essential for the health and safety of the citizens of the state. Second priority fuel oil uses are those necessary to minimize the economic disruption of a fuel oil shortage. Suppliers shall be requested to deliver fuel oil to higher priority consumers before lower priority consumers, where no practicable substitute fuels are available.</p> <p>Homeowners and renters shall be requested to turn their thermostats back to between 62 degrees Fahrenheit and 66 degrees Fahrenheit during the day and 60 degrees Fahrenheit and 58 degrees Fahrenheit during the night and unoccupied hours and shall be requested to set back water heater thermostats to between 105 degrees Fahrenheit and 115 degrees Fahrenheit (or the lowest setting).</p> <p>Voluntary industrial, commercial, government and residential conservation targets shall be established to reduce energy usage, including electricity and natural gas, especially during periods of peak usage.</p> <p>Commercial and industrial establishments shall be requested to reduce their hours of operations where this action saves energy.</p> <p>Commercial and industrial users shall be requested to release fuel oil from inventory supplies.</p> <p>Business, industrial and government institutions shall be requested to close nonessential buildings.</p> <p>Owners and operators of diesel-powered automobiles may be requested to substantially reduce or discontinue use of their diesel vehicles during severe fuel oil shortages.</p>	<p>Shortage of energy resources, including petroleum products, natural gas, or electricity.</p> <p>When the Department of Commerce's forecast shows that short-term demand for a fuel or fuels exceeds the forecast of short-term supply and that a supply shortage will occur within three months, the commissioner may recommend that an energy supply emergency be declared by submitting a written statement to the Executive Council or legislature.</p> <p>The Executive Council (consisting of the governor, the lieutenant governor, the attorney general, the auditor and the secretary of state) or the legislature has responsibility for declaring an energy supply emergency. No declared energy emergency may continue for longer than 30 days without a renewal from the legislature.</p>

<b>MT</b>	90-4-3 <sup>50</sup> 10	<p>Implement programs, controls, standards, priorities and quotas for the production, allocation, conservation and consumption of energy, including plans for the curtailment of energy.</p> <p>Suspend and modify existing pollution control standards and requirements or any other standards or requirements affecting or affected by the use of energy, including those relating to air or water quality control; and</p> <p>Establish and implement regional programs and agreements for the purposes of coordinating the energy programs and actions of the state with those of the federal government and of other states, localities and other persons.</p>	Upon finding that a situation exists that threatens to seriously disrupt or diminish energy supplies to the extent that life, health, or property may be jeopardized
<b>NV</b>	Ch. 416 <sup>51</sup>	<p>Collect and compile information concerning current, past and future sources, users and supplies of water and energy.</p> <p>Devise contingency plans that provide for conserving, allocating, using, increasing the supply or taking whatever steps are necessary to prevent a water or energy emergency, or in the event of a water or energy emergency, to ensure the fairest and most advantageous use of water or energy or of any water or energy source or supply.</p> <p>Prepare reports explaining the purposes and projected economic impact of the proposed contingency plans and indicating those areas in which the plans are inconsistent with any existing rule, order, plan or regulation</p> <p>Serve as liaison with the Federal Government and other states on water and energy matters</p> <p>Request any state agency or political subdivision of the State to supply any information in its possession or readily accessible to it concerning the use, supply, source, allocation or distribution of water or energy.</p> <p>Request any business, industry, trade association or other organization or person doing business or representing persons doing business in this state to supply any information in their possession or that can reasonably be assumed to be readily accessible to them concerning the use, supply, source, allocation or distribution of water or energy.</p> <p>Issue a subpoena to any officer or agent of any such public or private entity to... give oral testimony or produce any relevant book, paper, account, memorandum or record... to deal with any actual or impending emergency in this state.</p> <p>Issue, amend or rescind any regulation or order designed to alleviate or manage... the water or energy emergency including without limitation the regulation as necessary of the allocation, conservation or use of water or energy...</p> <p>Amend or suspend any regulation of any state agency or political subdivision of the State if the Governor determines that the action is necessary to lessen the adverse impact of the water or energy emergency on the people of this state.</p> <p>Utilize the services, equipment, supplies and facilities of any state agency or political subdivision of the State to the greatest extent practicable and necessary to meet the water or energy emergency.</p>	<p>The President of the United States or Congress has declared that an actual or impending water or energy emergency exists in this state or elsewhere in the United States; or</p> <p>The health, safety or welfare of the citizens of this state is threatened by reason of an actual or impending acute shortage in usable water or energy resources.</p>
<b>NM</b>	12-12-3	<p>Imposition of restrictions on any wasteful, inefficient or nonessential use of energy resources;</p> <p>Ordering changes in operation schedules and working hours;</p> <p>Curtailing the use of land vehicles, watercraft and aircraft; and</p> <p>Such other provisions as are deemed necessary to reduce the consumption of energy resources.</p>	
<b>NC</b>	113B-20	<p>Upon the declaration of an energy crisis by the Governor, a Legislative Committee on Energy Crisis Management shall be created.</p> <p>The Governor shall immediately consult with the Legislative Committee about the emergency proposals.</p>	An energy crisis exists when the health, welfare or safety of the citizens of North Carolina are threatened by reason of an actual or impending acute shortage in usable, necessary energy resources.



		Implementation of programs, controls, standards, priorities and quotas for the allocation, conservation and consumption of energy resources; the suspension and modification of existing standards and requirements affecting or affected by the use of energy resources, including those relating to air quality control and the hours and days during which public buildings may or may not be required to remain open; and the establishment and implementation of regional programs and agreements for the purposes of coordinating the energy resource programs and actions of the State with those of the federal government and of other states and localities.	
<b>OH</b>	4935.03	<p>Restrict the energy consumption of state and local government offices and industrial and commercial establishments;</p> <p>Restrict or curtail public or private transportation or require or encourage the use of car pools or mass transit systems;</p> <p>Order, during a declared energy emergency, any electric light, natural gas or gas, or pipeline company; any supplier subject to certification</p> <p>Order, during a declared energy emergency, other energy conservation or emergency energy production or distribution measures to be taken in order to alleviate hardship; and</p> <p>Mobilize emergency management, national guard, law enforcement, or emergency medical services.</p>	Governor finds that the health, safety, or welfare of the residents or of one or more counties of this state is so imminently and threatened by an energy shortage that action of state government is necessary to prevent loss of life, protect the public health or safety and prevent unnecessary or avoidable damage to property.
<b>VA</b>	56-586-1	<p>Require any generator or any municipal electric utility that is capable of generating but (i) is not generating or (ii) is not generating at its full potential during such declared electric emergency, to generate, dispatch or sell electricity from a facility that it operates within the Commonwealth.</p> <p>The quantity of electricity required to be generated, dispatched or sold and the duration of such requirements, shall be as determined by the Governor to be necessary to alleviate the electric energy emergency hardship.</p> <p>The Commonwealth shall compensate an entity required to generate, dispatch, or sell electricity pursuant to this subsection, and the operator of any transmission facilities over which the electricity is transmitted.</p> <p>The Department of Environmental Quality, the State Air Pollution Control Board, the State Water Control Board and the Virginia Waste Management Board shall issue any temporary or emergency permit, order, or variance necessary to authorize any permit amendments or other changes needed to meet the requirements imposed under this section.</p>	“Electric energy emergency” means an unplanned interruption in the generation or transmission of electricity resulting from a hurricane, ice storm, windstorm, earthquake or similar natural phenomena, or from a criminal act affecting such generation or transmission, act of war or act of terrorism, which interruption is (i) of such severity that minimum levels of reliable service cannot be maintained using resources practicably obtainable from the market and (ii) so imminently and substantially threatening to the health, safety or welfare of residents of this Commonwealth that immediate action of state government is necessary to prevent loss of life, protect the public health or safety and prevent unnecessary or avoidable damage to property.
<b>WA</b>	43.21G.040	<p>Governor shall present to the committee any proposed plans for programs, controls, standards and priorities for the production, allocation and consumption of energy during any current or anticipated condition of energy emergency, any proposed plans for the suspension or modification of existing rules of the Washington Administrative Code, and any other relevant matters the governor deems desirable;</p> <p>Suspend or modify existing rules of the Washington Administrative Code of any state agency relating to the consumption of energy by such agency or to the production of energy;</p> <p>Direct any state or local governmental agency to implement programs relating to the consumption of energy by the agency which have been developed by the governor or the agency and reviewed by the committee;</p> <p>Implement programs, controls, standards and priorities for the production, allocation and consumption of energy;</p> <p>Suspend and modify existing pollution control standards and requirements or any other standards or requirements affecting or affected by the use of energy, including those relating to air or water quality control; and</p> <p>Establish and implement regional programs and agreements for the purposes of coordinating the energy programs and actions of the state with those of the federal government and of other states and localities.</p>	<p>Upon finding that an energy supply alert exists within this state or any part thereof</p> <p>Upon finding that an energy emergency exists within this state or any part thereof</p>

Source: The Network for Public Health Law. Emergency declaration authorities across all states and D.C. [https://www.networkforphl.org/\\_asset/gxrdwm/Emergency-Declaration-Authorities.pdf](https://www.networkforphl.org/_asset/gxrdwm/Emergency-Declaration-Authorities.pdf)

## End Notes/Citations:

- <sup>1</sup> Some governors also have the authority to declare an energy alert. This grants governors authority to reduce or curtail energy consumption during times of high demand. Importantly, the statutory authorities for an energy emergency may be different for a standard state of emergency and in some cases is more expansive. Many of these will be listed in the state's energy assurance plan.
- <sup>2</sup> Emergency treatment under the Federal Motor Carrier Safety Regulations (FMCSR) is automatically triggered under a declared emergency (as defined in the FMCSR) that results in reduced fuel levels. A declaration of emergency under the FMCSR, which can be declared by the President of the United States, the governor of the impacted state, or by the Federal Motor Carrier Safety Administration field administrator for the geographical area in which the emergency has occurred, initiates complete exemption from all the safety regulations contained under 49 CFR Parts 390-399.
- <sup>3</sup> The Clean Air Act Section 211(c)(4)(c) specifies the criteria for granting a fuels waiver and the conditions that must be included in that waiver. Typically, a formal request for an Environmental Protection Agency (EPA) fuels waiver is made by or on behalf of the governor of the impacted state to the EPA Administrator.
- <sup>4</sup> [www.energy.gov/energy-waiver-library](http://www.energy.gov/energy-waiver-library), Office of Electricity Delivery & Energy Reliability. <https://www.energy.gov/oe/services/energy-assurance/response-and-restoration/energy-waiver-library#FMSCA>
- <sup>5</sup> Emergency Management Assistance Compact (EMAC). <https://www.emacweb.org/index.php/learn-about-emac/how-emac-works>
- <sup>6</sup> Edison Electric Institute, *Mutual Assistance*. <http://www.eei.org/issuesandpolicy/electricreliability/mutualassistance/Pages/default.aspx>
- <sup>7</sup> Keogh, M. & Thomas, S., National Association of Regulatory Commissioners (NARUC), *Regional Mutual Assistance Groups: A Primer*. 2015. <https://pubs.naruc.org/pub/536E475E-2354-D714-5130-C13478337428>
- <sup>8</sup> Exec. Order No. State of Georgia. (August 31, 2005)
- <sup>9</sup> *Extending an Energy Emergency in the State of Indiana Due to the Extremely Cold Weather and for the Purpose of Allowing the Propane Transport Infrastructure to Keep up with Demand*, Exec. Order No. 03-3, 3. State of Indiana. (January 24, 2003): 975 – 1010.
- <sup>10</sup> *Declaration of an Emergency and Suspension of Overnight Divisible Load Regulators*, Exec. Order No. 14-02. State of Indiana (January 29, 2014)
- <sup>11</sup> Iowa Proclamation No. (December 18, 2013) -- BROKEN LINK
- <sup>12</sup> *Proclamation of Disaster and Energy Emergency*. State of Iowa. (January 31, 2014)
- <sup>13</sup> *Proclamation for US-DOT Federal Motor Carrier Safety Administration Hours of Service Waiver*. State of Maine. (December 2016)
- <sup>14</sup> *State of Emergency*, Exec. Order No. 2005 – 17. State of Michigan. (August 31, 2005)
- <sup>15</sup> *State of Emergency: Waiver of Regulations Related to Motor Carriers and Drivers Carrying Propane*, Exec. Order No. 2013 – 11. State of Michigan. (December 20, 2013)
- <sup>16</sup> *State of Emergency: Waiver of Regulations Related to Motor Carriers and Drivers Carrying Propane and Heating Oil*, Exec. Order No. 2014 – 1. State of Michigan. (January 10, 2014)
- <sup>17</sup> *State of Emergency: Waiver of Regulations Related to Motor Carriers and Drivers Transporting Petroleum Products*, Exec. Order No. 2016 – 10. State of Michigan. Office. (May 24, 2016)
- <sup>18</sup> *Declaring an Emergency and Providing for Relief from Regulations to Motor Carriers and Drivers Operating in the State of Minnesota*, Exec. Order No. 14 – 16. (October 4, 2014)
- <sup>19</sup> *Providing Relief from Regulation to Motor Carriers and Drivers Operating in the State of Minnesota for Delivery of Propane*, Exec. Order 14 – 17. Minnesota Exec. Department. (October 24, 2014)
- <sup>20</sup> *Declaring a State of Emergency and Temporarily Exempting Certain Carriers from Hours of Service Regulations Under Montana Law to Help Meet Fuel Demands*, Exec. Order No 16-2013. State of Montana. (December 23, 2013)
- <sup>21</sup> *Declaring a State of Emergency and Temporarily Exempting Certain Carriers from Hours of Service Regulations Under Montana Law to Help Meet Fuel Demands*, Exec. Order No 2-2014. State of Montana. (February 5, 2014)
- <sup>22</sup> *Declaring a State of Emergency and Temporarily Exempting Certain Carriers from Hours of Service Regulations Under Montana Law to Help Meet Fuel Demands*, Exec. Order No 22-2016. State of Montana. (December 28, 2016)
- <sup>23</sup> *Declaring a State of Emergency and Temporarily Exempting Certain Carriers from Hours of Service Regulations Under Montana Law to Help Meet Fuel Demands*, Exec. Order No 1-2017. State of Montana. (January 31, 2017)
- <sup>24</sup> *Easing Diesel Fuel Supply Shortages*, Exec. Order No. 06-01. State of Nebraska. (July 21, 2006)
- <sup>25</sup> *Easing Gasoline and Diesel Fuel Supply Shortages*, Exec. Order No. 07-04. State of Nebraska. (July 10, 2007)

- <sup>26</sup> *Easing Gasoline and Diesel Fuel Supply Shortages*, Exec. Order No. 07-05. State of Nebraska. (August 9, 2007)
- <sup>27</sup> *Easing Gasoline and Diesel Fuel Supply Shortages*, Exec. Order No. 07-06. State of Nebraska. (August 30, 2007)
- <sup>28</sup> *Easing Propane Supply Shortages*, Exec. Order No. 13-01. State of Nebraska. (October 25, 2013)
- <sup>29</sup> Exec. Order No. 4. State of New Jersey. (January 19, 2009)
- <sup>30</sup> Exec. Order No. 108. State of New Jersey. (November 2, 2012)
- <sup>31</sup> *Liquid Petroleum Emergency Declaration*, Exec. Order No. 2015-022. State of New Mexico. (December 28, 2015)
- <sup>32</sup> *Proclamation Amending State of Emergency Waiver of Regulation, to Extend Relief Relating to Motor Carriers and Drivers Transporting Propane and Heating Oil*. State of Ohio. (February 14, 2014)
- <sup>33</sup> *An Order Declaring a State of Emergency for the Purpose of Ensuring the Uninterrupted Delivery of Home Heating Fuels*, Exec. Order No. 35. State of Tennessee. (January 21, 2014)
- <sup>34</sup> *An Order Declaring a State of Emergency for the Purpose of Ensuring the Uninterrupted Supply of Fuel*, Exec. Order No. 56. State of Tennessee. (September 16, 2016)
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