

# State of South Carolina

## Executive Department

FILED

MAY 13 2021

Mark Hammond  
SECRETARY OF STATE



## Office of the Governor

EXECUTIVE ORDER NO.

2021-24

**WHEREAS**, on May 7, 2021, the Colonial Pipeline Company ("Colonial Pipeline"), which operates a fuel pipeline system that serves numerous States along the East Coast and in the southeastern region of the United States, reported that it had been the target or victim of a cybersecurity incident or attack involving ransomware, and in response to the same and to contain the corresponding threats, Colonial Pipeline temporarily halted all pipeline operations; and

**WHEREAS**, Colonial Pipeline is responsible for transporting a substantial portion of the critical fuels delivered to and consumed in the State of South Carolina, including gasoline, diesel fuel, jet fuel, and other refined petroleum products; and

**WHEREAS**, the temporary shutdown and disruption of Colonial Pipeline's operations, as well as any attendant actual, potential, or perceived intermittent shortage or interruption in the availability, transportation, or delivery of essential fuels and petroleum products, poses a threat to the people, critical infrastructure, and public welfare of the State of South Carolina; and

**WHEREAS**, although Colonial Pipeline recently initiated the restart of certain pipeline operations, Colonial Pipeline has advised that it will take additional time for the critical supply chain to return to normal and that some markets may experience or continue to experience periodic or intermittent service interruptions during this period; and

**WHEREAS**, the undersigned has determined that the sudden and unexpected suspension of Colonial Pipeline's operations and the corresponding disruption of critical fuel supplies and supply chains has posed, and continues to pose, a threat to the State of South Carolina and that the State must utilize any necessary and appropriate measures to address the current circumstances and to proactively prepare for and mitigate any further intermittent interruptions in the availability, transportation, or delivery of essential fuels or additional delays in connection with Colonial Pipeline resuming normal operations; and

**WHEREAS**, on May 7, 2021, the undersigned issued Executive Order No. 2021-22, declaring a State of Emergency in connection with certain public health threats and other impacts associated with the 2019 Novel Coronavirus ("COVID-19") and, *inter alia*, expressly providing that the prohibitions against price gouging pursuant to section 39-5-145 of the South Carolina Code of Laws, as amended, shall remain in effect for the duration of the State of Emergency and waiving

or suspending transportation-related rules and regulations, in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws, as amended, for certain commercial vehicles and operators of commercial vehicles, to include those transporting essential fuels and petroleum products; and

**WHEREAS**, although Executive Order No. 2021-22 has provided important regulatory relief and flexibility to date in connection with the aforementioned threats and circumstances, the undersigned has determined that it is necessary and prudent to provide additional relief to proactively assist in facilitating and further supporting the operation of critical transportation services and mitigating additional intermittent interruptions and delays related to the availability of essential fuels and petroleum products and the delivery of the same to the impacted areas until such time as Colonial Pipeline fully restores service to the State of South Carolina; and

**WHEREAS**, the Federal Motor Carrier Safety Regulations limit, *inter alia*, the hours of service for operators of commercial vehicles, 49 C.F.R. §§ 390 *et seq.*, and federal law prescribes certain weight limitations for vehicles on interstate highways, 23 U.S.C. § 127; and

**WHEREAS**, pursuant to 49 C.F.R. § 390.23, the governor of a state may suspend certain federal rules and regulations for commercial vehicles responding to an emergency if the governor determines that an emergency condition exists; and

**WHEREAS**, subsequent to the undersigned's issuance of Executive Order No. 2021-22 and the corresponding waiver or suspension of certain transportation-related rules and regulations as set forth therein, by separate Executive Orders dated May 10, 2021, the Governor of the State of North Carolina and the Governor of the State of Georgia declared that emergency conditions existed in their respective States due to the aforementioned disruption in Colonial Pipeline's operations and temporarily waived or suspended certain similar motor vehicle and transportation-related rules and regulations in connection with the same; and

**WHEREAS**, section 56-5-70(B) of the South Carolina Code of Laws provides that "[w]hen an emergency is declared which triggers relief from regulations pursuant to 49 C.F.R. [§] 390.23 in North Carolina or Georgia, an emergency, as referenced in the regional emergency provision of 49 C.F.R. [§] 390.23(a)(1)(A), must be declared in this State by the Governor"; and

**WHEREAS**, on May 11, 2021, the Federal Motor Carrier Safety Administration ("FMCSA") issued Amended Regional Emergency Declaration No. 2021-002 Under 49 C.F.R. § 390.23 to provide certain regulatory relief for commercial motor vehicle operations in response to the unanticipated shutdown of the Colonial Pipeline system and the impacts of the same on the supply of gasoline, diesel fuel, jet fuel, and other refined petroleum products throughout the Affected States identified therein; and

**WHEREAS**, following requests from the South Carolina Department of Health and Environmental Control and authorities in other impacted States, on May 11, 2021, the United States Environmental Protection Agency issued a waiver of certain gasoline-related regulations "to address the fuel supply emergency caused by a cyberattack on Colonial Pipeline's computer networks that led to the pipeline's shutdown" and "to minimize or prevent disruption of an adequate supply of gasoline to consumers"; and

**WHEREAS**, for the aforementioned and other reasons, the undersigned has determined that the existing and anticipated threats and circumstances described herein in connection with the temporary shutdown and disruption of Colonial Pipeline's operations and any actual, potential, or perceived intermittent shortage or interruption in the availability, transportation, or delivery of essential fuels and petroleum products in the State of South Carolina, as well as any additional delays associated with Colonial Pipeline resuming normal operations and service to the State, constitute an emergency for purposes of 49 C.F.R. § 390.23.

**NOW, THEREFORE**, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and of these United States and the powers conferred upon me therein, I hereby order and direct as follows:

**Section 1.     Transportation Waivers**

A.     I hereby determine and declare that the existing and anticipated threats and circumstances described herein associated with the temporary suspension of Colonial Pipeline's operations and the impacts related to the same constitute an emergency pursuant to 49 C.F.R. § 390.23 for purposes of suspending certain rules and regulations, as set forth below, for commercial vehicles and operators of commercial vehicles in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws.

B.     I hereby authorize and direct the South Carolina Department of Transportation ("DOT") and the South Carolina Department of Public Safety ("DPS"), including the State Transport Police, as needed, to waive or suspend application and enforcement of the requisite state and federal rules and regulations pertaining to registration, permitting, length, width, weight, load, and hours of service for commercial vehicles and operators of commercial vehicles operating in accordance with the provisions of the FMCSA's May 11, 2021 Amended Regional Emergency Declaration No. 2021-002 Under 49 C.F.R. § 390.23, or any future amendments or supplements thereto; responding to the emergency conditions in the State of South Carolina or providing direct assistance to supplement state and local efforts and capabilities in connection with the same; responding to the declared emergencies in the State of North Carolina or the State of Georgia; or otherwise assisting with the existing or anticipated threats and circumstances associated with the temporary suspension of Colonial Pipeline's operations and further described herein, to include commercial vehicles and operators of commercial vehicles transporting essential goods and products, such as essential fuels and petroleum products, to include gasoline, diesel fuel, jet fuel, and other refined petroleum products and related equipment or assets.

C.     I hereby authorize and direct DOT and DPS, as applicable, to apply for or request any additional federal regulatory relief, waivers, permits, or other appropriate flexibility deemed necessary, whether pertaining to the transportation of overweight loads on interstate highways or otherwise, on behalf of the State of South Carolina and to promptly implement the same without the need for further Orders.

D.     This Section shall not be construed to require or allow an ill or fatigued driver to operate a commercial motor vehicle. In accordance with 49 C.F.R. § 390.23, "a driver who informs the motor carrier that he or she needs immediate rest must be permitted at least ten (10) consecutive hours off duty before the driver is required to return to such terminal or location." Likewise, this Section shall not be construed as an exemption from the applicable controlled

substances and alcohol use and testing requirements in 49 C.F.R. § 382, the commercial driver's license requirements in 49 C.F.R. § 383, or the financial responsibility requirements in 49 C.F.R. § 387, and it shall not be interpreted to relieve compliance with any other state or federal statute, rule, order, regulation, restriction, or other legal requirement not specifically waived, suspended, or addressed herein or addressed in any additional or supplemental guidance, rules, regulations, restrictions, or clarification issued, provided, or promulgated by DOT or DPS.

E. Subject to any guidance, rules, regulations, restrictions, or clarification issued, provided, or promulgated, or which may be issued, provided, or promulgated, by DOT or DPS, as authorized herein or as otherwise provided by law, and notwithstanding the waiver or suspension of certain rules and regulations as set forth above, drivers in South Carolina are still subject to the following state requirements to ensure public safety:

1. Weight, height, length, and width for any such vehicle on highways or roadways maintained by the State of South Carolina shall not exceed, for continuous travel on all non-interstates, United States, and South Carolina designated routes, maximum dimensions of twelve (12) feet in width, thirteen (13) feet six (6) inches in height, and ninety thousand (90,000) pounds in gross weight.
2. Posted bridges may not be crossed.
3. All vehicles shall be operated in a safe manner, shall not damage the highways nor unduly interfere with highway traffic, shall maintain the required limits of insurance, and shall be clearly identified as a utility vehicle or shall provide appropriate documentation indicating they are responding to the emergency.
4. Any vehicles that exceed the above dimensions, weights, or both, must obtain a permit with defined routes from the South Carolina Department of Transportation Oversized/Overweight Permit Office. To order a permit, please call (803) 737-6769 during normal business hours, 8:30 a.m. – 5:00 p.m., or (803) 206-9566 after normal business hours.
5. Transporters are responsible for ensuring they have oversize signs, markings, flags, and escorts as required by the South Carolina Code of Laws relating to oversized/overweight loads operating on South Carolina roadways.

F. I hereby authorize DOT and DPS to issue, provide, or promulgate any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application, implementation, or enforcement of this Section, or to otherwise provide clarification regarding the same, without the need for further Orders.

## **Section 2. General Provisions**

A. The provisions of this Order, or any subsequent Orders issued in connection with the matters addressed or circumstances described herein, shall not be interpreted, applied, implemented, or construed in a manner so as to modify, amend, or otherwise alter the provisions of Executive Order No. 2021-22, or any prior Orders addressed therein or any future Orders issued in connection therewith, which shall remain in full force and effect in accordance with their respective terms unless and until otherwise modified, amended, or rescinded by subsequent Order.

May 13, 2021

B. This Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of South Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any other person.

C. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Order is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this Order, as the undersigned would have issued this Order, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

D. This Order is effective immediately and shall remain in effect for thirty (30) days or until the declared emergencies in the State of North Carolina and the State of Georgia are terminated, whichever is less, in accordance with 49 C.F.R. § 390.23 and section 56-5-70(D) of the South Carolina Code of Laws, except that requirements relating to registration, permitting, length, width, weight, and load are suspended for commercial and utility vehicles travelling on non-interstate routes for up to one hundred twenty (120) days, pursuant to the provisions of section 56-5-70(A) of the South Carolina Code of Laws, unless otherwise modified, amended, or rescinded by subsequent Order.



GIVEN UNDER MY HAND AND THE  
GREAT SEAL OF THE STATE OF  
SOUTH CAROLINA, THIS 13th DAY OF  
MAY, 2021.

A handwritten signature in blue ink, reading "Henry McMaster", is written over a horizontal line.

HENRY MCMASTER  
Governor

ATTEST:

A handwritten signature in blue ink, reading "Mark Hammond", is written over a horizontal line.

MARK HAMMOND  
Secretary of State