

EXECUTIVE ORDER NO.

2022-16

WHEREAS, the United States continues to experience various, significant, and sustained supply chain disruptions, which are adversely impacting the movement and availability of critical consumer goods and industrial materials in South Carolina and other States; and

WHEREAS, particularly as Americans face increasing prices for gasoline and other fuels, historic inflation, and difficulty obtaining limited supplies of essential products such as infant or baby formula, ongoing supply chain disruptions continue to impose additional burdens on businesses, individuals, and families; and

WHEREAS, although the State of South Carolina, which boasts robust and reliable transportation infrastructure, including the Port of Charleston and productive inland ports, remains uniquely prepared and positioned to mitigate interruptions in the national and international supply chains, the United States continues to experience significant supply chain disruptions; 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, section 56-5-70(B) of the South Carolina Code of Laws, as amended, 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 November 19, 2021, the Governor of the State of Georgia declared that emergency conditions existed in his State due to, *inter alia*, the continued negative impacts of COVID-19 and the need to facilitate economic recovery and, in doing so, the Governor of the State

of Georgia temporarily waived or suspended certain motor vehicle and transportation-related rules and regulations in connection with the same; and

WHEREAS, on November 23, 2021, the undersigned issued Executive Order No. 2021-40, waiving or suspending certain rules and regulations for commercial vehicles and operators of commercial vehicles in connection with the cited supply chain disruptions and the declared emergency in the State of Georgia pursuant to 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws; and

WHEREAS, on December 17, 2021, the Governor of the State of Georgia renewed his declaration that emergency conditions existed in his State and extended the waiver or suspension of certain motor vehicle and transportation-related rules and regulations in connection with the same; and

WHEREAS, on December 23, 2021, the undersigned issued Executive Order No. 2021-44, waiving or suspending certain rules and regulations for commercial vehicles and operators of commercial vehicles, for the reasons set forth therein, in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws; and

WHEREAS, on January 18, 2022, the Governor of the State of Georgia again renewed his emergency declaration related to Georgia's continued economic recovery, including his waiver or suspension of certain motor vehicle and transportation-related rules and regulations; and

WHEREAS, on January 25, 2022, the undersigned issued Executive Order No. 2022-08, waiving or suspending certain rules and regulations for commercial vehicles and operators of commercial vehicles, for the reasons set forth therein, in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws; and

WHEREAS, on February 18, 2022, the Governor of the State of Georgia again renewed his emergency declaration related to Georgia's continued economic recovery, including his waiver or suspension of certain motor vehicle and transportation-related rules and regulations; and

WHEREAS, on February 28, 2022, the Governor of the State of North Carolina extended the terms of a previous emergency declaration and other orders pertaining to COVID-19, including transportation-related provisions contained therein; and

WHEREAS, on March 1, 2022, the undersigned issued Executive Order No. 2022-10, waiving or suspending certain rules and regulations for commercial vehicles and operators of commercial vehicles, for the reasons set forth therein, in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws; and

WHEREAS, on March 21, 2022, the Governor of the State of Georgia again renewed his emergency declaration related to Georgia's continued economic recovery, including his waiver or suspension of certain motor vehicle and transportation-related rules and regulations; and

WHEREAS, on March 31, 2022, the undersigned issued Executive Order No. 2022-11, waiving or suspending certain rules and regulations for commercial vehicles and operators of

commercial vehicles, for the reasons set forth therein, in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws; and

WHEREAS, on April 14, 2022, the Governor of the State of Georgia declared that emergency conditions existed in his State due to supply chain disruptions and, in doing so, the Governor of the State of Georgia temporarily waived or suspended certain motor vehicle and transportation-related rules and regulations in connection with the same; and

WHEREAS, on May 26, 2022, the Governor of the State of Georgia again renewed his declaration that emergency conditions existed in his State and extended the waiver or suspension of certain motor vehicle and transportation-related rules and regulations in connection with the same; and

WHEREAS, on May 31, 2022, the Governor of the State of North Carolina again extended the terms of a previous emergency declaration and other orders pertaining to COVID-19, including transportation-related provisions contained therein, and amended the scope of the same to account for the ongoing shortage of infant or baby formula; and

WHEREAS, for the aforementioned and other reasons and in accordance with the cited authorities, the undersigned has determined that the circumstances described herein in connection with existing, ongoing, and anticipated supply chain disruptions and any actual, potential, or perceived interruptions in the availability, transportation, or delivery of critical consumer goods and industrial materials in the State of South Carolina constitute an emergency for purposes of 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws such that it is necessary and prudent to provide additional relief to assist in facilitating, supporting, and strengthening South Carolina's transportation industries and infrastructure so as to avoid, mitigate, or minimize further national and international supply chain interruptions.

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 to Address Continued Supply Chain Disruptions and Nationwide Infant Formula Shortage

A. I hereby determine and declare that the existing, ongoing, and anticipated threats and circumstances described herein associated with supply chain disruptions 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 Federal Motor Carrier Safety Administration's ("FMCSA") May 27, 2022 Extension and Amendment of the Modified Emergency Declaration No. 2020-002 Under 49 C.F.R. § 390.25 or the FMCSA's May 23, 2022 Regional Emergency Declaration No. 2022-005 Under 49 C.F.R. § 390.23, or any future amendments or supplements thereto; providing direct assistance as defined by 49 C.F.R. § 390.5 to the declared emergencies in the State of Georgia or the State of North Carolina; or otherwise assisting with the existing or anticipated threats and circumstances associated with supply chain disruptions, to include those related to the nationwide infant or baby formula shortage, as further described herein.

C. I hereby authorize 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 clarifications 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 with five (5) weight bearing axles 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 (except as provided below), 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. Except as provided below, 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. In accordance with federal law, vehicles traveling on non-interstate routes within the National Network may not exceed a width of 102 inches or 8.6 feet without a special permit. Information regarding special permits for width on the National Network are available on DOT's website, and a list of routes on the National Network is set forth in Appendix A to 23 C.F.R. Part 658.
6. 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.

G. This Section is effective immediately and shall remain in effect for thirty (30) days or until the declared emergencies in the State of Georgia and State of North Carolina are terminated, whichever is less, in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws. Unless otherwise modified, amended, extended, or rescinded by subsequent Order and absent any different or additional directives, upon the expiration of this Section, DOT and DPS may exercise discretion, to the extent appropriate and authorized or otherwise provided by law, over the 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 as necessary to address any ongoing supply chain disruptions, to include those related to the nationwide infant or baby formula shortage, as further described herein or any different or additional supply chain disruptions.

Section 2. Directives to Address Supply Chain Disruptions

A. I hereby declare that the provisions of Section 2 of Executive Order No. 2021-40 shall remain in full force and effect unless otherwise modified, amended, extended, or rescinded by subsequent Order.

Section 3. General Provisions

A. 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.

B. 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.

C. This Order shall be implemented consistent with and to the maximum extent provided by applicable law and shall be subject to the availability of appropriations. This Order shall not be interpreted, applied, implemented, or construed in a manner so as to impair, impede, or otherwise affect the authority granted by law to an executive agency or department, or the officials or head thereof, including the undersigned.

D. I hereby expressly authorize the Office of the Governor to provide or issue any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application of this Order or to otherwise to provide clarification regarding the same, through appropriate means, without the need for further Orders.

E. This Order is effective immediately and shall remain in effect unless otherwise expressly stated herein or modified, amended, extended, or rescinded by subsequent Order.

**GIVEN UNDER MY HAND AND THE
GREAT SEAL OF THE STATE OF
SOUTH CAROLINA, THIS 9th DAY OF
JUNE, 2022.**

HENRY MCMASTER
Governor

ATTEST:

MARK HAMMOND
Secretary of State