



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

GARLIN GILCHRIST II
LT. GOVERNOR

EXECUTIVE ORDER

No. 2022-9

Declaration of State of Energy Emergency

On Wednesday, August 24, BP's 435,000 barrel-per-day refinery located in Whiting, Indiana, suffered an electrical fire. As a result, the refinery has ceased production and is undergoing a damage assessment. The Whiting refinery is the sixth biggest, by capacity, in the United States and provides approximately 20% to 25% of the refined gasoline, jet fuel, and diesel used collectively by Illinois, Indiana, Michigan, and Wisconsin.

While efforts are underway to replace the supply from the Whiting refinery, disruptions in the fuel supply are likely. These disruptions will lengthen delivery times and cause fuel delivery drivers to spend more time on the roads, butting up against maximum weekly driving and on-duty limits, which are set by federal and state law in 49 CFR Part 395, and adopted in Public Act 181 of 1963, MCL 480.11 et seq.

It is crucial that Michigan residents have the ability to travel, including for work purposes. It is also important that the supplies necessary to support critical state functions, including supplies of gasoline, remain adequately available. Yesterday evening, the Federal Motor Carrier Safety Administration declared a Regional Emergency Declaration waiving certain federal motor vehicle rules. This executive order declaring a statewide energy emergency reinforces the federal declaration by similarly waiving regulations governing motor vehicle hours-of-service rules.

At the same time, this order suspends Reid vapor pressure requirements applicable to the sale of gasoline in Michigan. Contingent on similar action from the Environmental Protection Agency (EPA), this temporary suspension will facilitate transition to the fall fuel supply on an accelerated timetable, thus opening up stocks of fuel that would otherwise be unavailable for sale.

Under Public Act 191 of 1982, "the governor may declare, by executive order . . . a state of emergency . . . upon the governor's own initiative if the governor finds that an energy emergency exists or is imminent." MCL 10.83(1). An "energy emergency" means a "condition of danger to the health, safety, or welfare of the citizens of this state due to an impending or present energy shortage." MCL 10.81(b). And an "energy shortage" means a

“lack of adequate available energy resources in the state, or any part of the state.” MCL 10.81(e).

During a declared state of energy emergency, the governor may issue an executive order to “suspend a statute or an order or rule of a state agency or a specific provision of a statute, rule, or order, if strict compliance with the statute, rule, or order or a specific provision of the statute, rule, or order will prevent, hinder, or delay necessary action in coping with the energy emergency.” MCL 10.84(c).

Therefore, acting under the Michigan Constitution of 1963 and Michigan law, including 1982 PA 191, MCL 10.81 to 10.87, I order the following:

1. A state of energy emergency is declared across the State of Michigan.
2. **Hours-of-Service Rules**
 - a. Motor carriers and drivers transporting gasoline and diesel fuel are exempt from compliance with MCL 480.11a and any other applicable state statute, order, or rule substantially similar to MCL 480.11a, and 49 CFR Part 395. Any provision of a state statute, order, or rule pertaining to the hours-of-service is suspended. This exemption and suspension apply to all highways in Michigan, including the national system of interstate and defense highways.
 - b. No motor carrier or driver operating under the terms of this order may 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 must be given at least ten consecutive off-duty hours before the driver is required to return to work.
 - c. Nothing in this order creates an exemption from applicable controlled substances and alcohol use and testing requirements (49 CFR Part 382 and any 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 vehicle requirements (49 CFR Part 392); requirements for 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.
 - d. 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.
 - e. 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 consecutive off-duty hours must be permitted to start his or her on-duty hours and 60/70-hour clock at zero.

- f. The Commercial Vehicle Enforcement Division of the Michigan Department of State Police must coordinate state compliance with this section.

3. Vapor Pressure Requirements

- a. The following laws and regulations are temporarily suspended to the extent they would hinder or prohibit transportation, storage, or sale of motor fuels in excess of what is permitted under any EPA waivers of the federal Reid vapor pressure requirements:
- i. MCL 290.650d.
 - ii. Regulation No. 561, promulgated by the Laboratory Division of the Department of Agriculture and Rural Development, R 285.561.1 to 285.561.10 of the Michigan Administrative Code.
 - iii. Rule 4(g) of Regulation No. 564, promulgated by the Laboratory Division of the Department of Agriculture and Rural Development, R 285.564.4(g) of the Michigan Administrative Code.
- b. The Department of Agriculture and Rural Development must coordinate state compliance with this section.
4. This order is effective upon filing and remains in effect only for the duration of the supply challenges related to the refinery fire or until September 15, 2022, at 11:59 p.m., whichever comes first.

Date: August 27, 2022

Time: 9:50am



A handwritten signature in blue ink, reading "Gretchen Whitmer", written over a horizontal line.

GRETCHEN WHITMER
GOVERNOR

By the Governor

A handwritten signature in blue ink, reading "Jocelyn Benson", written over a horizontal line.
SECRETARY OF STATE

FILED WITH SECRETARY OF STATE

ON 8/29/22 AT 10:02 AM