

Powers Exercised by Commissioner of Transportation During the Peacetime Public Health Emergency

December 15, 2021

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Legislative Request

This report is issued to comply with [2020 Laws of Minnesota, Ch. 74, Art. 1, Sec. 7](#)

Sec. 7. Report to Legislature; Powers Exercised by Commissioner of Transportation During Peacetime Public Health Emergency.

(a) Within 30 days of the expiration of a peacetime public health emergency period, the commissioner of transportation must report to the legislative committees with jurisdiction over transportation regarding any temporary powers exercised during the peacetime public health emergency period, including but not limited to any statutory requirements or administrative rules that were modified or waived. The report must include a timeline as to when and an explanation of why temporary powers were exercised.

(b) For purposes of this section, "peacetime public health emergency period" means the duration of any peacetime emergency declared by the governor in an executive order that relates to the infectious disease known as COVID-19.

The cost of preparing this report is less than \$5,000.

Introduction

On March 13, 2020, Governor Tim Walz issued Emergency Executive Order 20-01 declaring a peacetime emergency, detailing Minnesota’s plan for responding to the COVID-19 pandemic and directing state agencies to submit any proposed orders or rules needed to protect and preserve public health and safety. As COVID-19 spread in Minnesota and nationwide, Governor Walz issued additional executive orders, including Executive Order 20-20, which directed Minnesotans to stay at home and limited activities to only those which were most essential. At the same time, various federal agencies issued emergency orders and declarations, pertinent guidance and enforcement discretion for certain regulatory requirements.

The COVID-19 pandemic presented new and unprecedented challenges to our state and affected nearly every aspect of transportation. MnDOT and local agencies were at the forefront of responding to challenges, while continuing to meet their core missions of providing safe, efficient and effective transportation. MnDOT proactively responded by innovating different ways to serve its customers and invested in research to answer questions specific to the impact of the COVID pandemic on Minnesota’s transportation systems.

This report includes a summary of the temporary powers exercised during the peacetime public health emergency, including a table of emergency executive orders, Appendix C, issued by Governor Walz and information regarding modifications to, or waivers of, any statutory requirements or administrative rules made by the Commissioner of Transportation.

Appendix A: Summary of Emergency Powers Used with Executive Orders

Table 1: Summary of the temporary powers exercised during the peacetime public health emergency for emergency executive orders

Executive Order Number	Description	Date Signed (valid for 30 days unless noted otherwise)	Authority	Other Information
20-06	Exemption from the hours of service requirements and certain weight restrictions for motor carriers and drivers providing direct assistance to emergency relief efforts in response to COVID-19 by transporting essential supplies.	17-Mar-20	Issued under the authority granted in Minnesota Statutes, section 4.035.	
20-24	Exemption from the hours of service requirements and certain weight restrictions for motor carriers and drivers providing direct assistance to emergency relief efforts in response to COVID-19 by transporting livestock.	27-Mar-20	Issued under the authority granted in Minnesota Statutes, section 4.035.	
20-27	Exemption from certain hours of service requirements for motor carriers and drivers providing direct assistance to emergency relief efforts by transporting livestock feed and fertilizer used for spring crop planting.	3-Apr-20	Issued under the authority granted in Minnesota Statutes, section 4.035.	Extended on May 1, 2020, by a Commissioner's Order pursuant to Minnesota Statutes, section 221.0269 (effective until May 31, 2020).
20-31	Exemption from spring load restrictions for vehicles used to pump or transport sewage from septic systems. (Valid only for emergency septic system pumping services).	8-Apr-20 (expired 1-Jun-20)	Issued under the authority granted in Minnesota Statutes, section 4.035.	
20-37	Exemption from the hours of service requirements and certain weight restrictions for motor carriers and drivers providing direct assistance to emergency relief efforts in response to COVID-19 by transporting essential supplies.	16-Apr-20	Issued under the authority granted in Minnesota Statutes, section 4.035.	Extends the relief provided in EO 20-06.
20-44	Exemption from the hours of service requirements and certain weight restrictions for motor carriers and drivers providing direct assistance to emergency relief efforts in response to COVID-19 by transporting livestock and animal carcasses.	24-Apr-20	Issued under the authority granted in Minnesota Statutes, section 4.035.	Extended and expanded (to include animal carcasses) the relief provided in EO 20-24.
20-45	Exemption from certain hours of service requirements and certain weight restrictions for motor carriers and drivers providing direct assistance to emergency relief efforts by transporting wood products used for the composting process of animals that have been depopulated due to COVID-19.	24-Apr-20	Issued under the authority granted in Minnesota Statutes, section 4.035.	
20-49	Allowed commercial food trucks to operate at designated highway rest areas in Minnesota for a limited time during the COVID-19 Peacetime Emergency.	1-May-20 (expired 17-May-20)	Issued under the authority granted in Minnesota Statutes, section 4.035 and 12.32.	See summary on page 8 for additional information.
20-59	Exemption from the hours of service requirements and certain weight restrictions for motor carriers and drivers providing direct assistance to emergency relief efforts in response to COVID-19 by transporting essential supplies.	15-May-20	Issued under the authority granted in Minnesota Statutes, section 4.035.	Extends the relief provided in EOs 20-06 and 20-37.
20-60	Exemption from the hours of service requirements and certain weight restrictions for motor carriers and drivers providing direct assistance to emergency relief efforts in response to COVID-19 by transporting livestock and animal carcasses.	21-May-20	Issued under the authority granted in Minnesota Statutes, section 4.035.	Extends the relief provided in EOs 20-24 and 20-44

Executive Order Number	Description	Date Signed (valid for 30 days unless noted otherwise)	Authority	Other Information
20-61	Exemption from certain hours of service requirements and certain weight restrictions for motor carriers and drivers providing direct assistance to emergency relief efforts by transporting wood products used for the composting process of animals that have been depopulated due to COVID-19.	21-May-20	Issued under the authority granted in Minnesota Statutes, section 4.035.	Extends the relief provided in EO 20-45.
20-66	Exemption from certain hours of service requirements for motor carriers and drivers providing direct assistance to emergency relief efforts by transporting livestock feed.	29-May-20	Issued under the authority granted in Minnesota Statutes, section 4.035.	Similar to the relief provided in EO 20-27 and the Commissioner's Extension Order but applies only to livestock feed.
20-70	Allows the Commissioner of Transportation to develop and implement a process to issue temporary permits to municipalities in Minnesota to allow and authorize the municipality to issue an outdoor dining permit to a bar or restaurant for the use of trunk highway right of way to conduct outdoor food and beverage services. Waives the prohibition on commercial activity and other uses of the trunk highway right of way.	2-Jun-20 (expired 30-Jun-21)	Issued under the authority granted in Minnesota Statutes, section 4.035 and 12.32.	See summary on page 8 for additional information.
20-76	Exemption from the hours of service requirements and certain weight restrictions for motor carriers and drivers providing direct assistance to emergency relief efforts in response to COVID-19 by transporting livestock and animal carcasses.	19-Jun-20	Issued under the authority granted in Minnesota Statutes, section 4.035.	Extends the relief provided in EOs 20-24, 20-44 and 20-60
20-80	Exemption from the hours of service requirements and certain weight restrictions for motor carriers and drivers providing direct assistance to emergency relief efforts in response to COVID-19 by transporting livestock.	17-Jul-20	Issued under the authority granted in Minnesota Statutes, section 4.035.	Extends the relief provided in EOs 20-24, 20-44, 20-60 and 20-76.
21-09	Exemption from the hours of service requirements for motor carriers and drivers providing direct assistance to emergency relief efforts by transporting propane and other fuels.	12-Feb-21 (expired 27-Feb-21)	Issued under the authority granted in Minnesota Statutes, section 4.035.	
21-10	Exemption from spring load restrictions for vehicles used to pump or transport sewage from septic systems. (Valid only for emergency septic system pumping services).	4-Mar-21 (expired 1-Jun-21)	Issued under the authority granted in Minnesota Statutes, section 4.035.	

Appendix B: Details of Emergency Powers Used for Certain Minnesota Statutes and Administrative Rules

Table 2: Details of Certain Emergency Powers Used

Inspections of Certain For-Hire Vehicles	Bars and Restaurants Conducting Business on MnDOT Right of Way	Food Trucks Operating at MnDOT Rest Areas
<p>Applicable statutes and/or rules: Minn. Stat.14.055, Minn. Rules, Parts 8840.5700 (Inspection and Audit) and Minn. Rules, Parts 8880.1100 (Vehicle Inspection by Commissioner)</p>	<p>Applicable statutes and/or rules: Minn. Stat.160.08, subd. 7 and Minn. Rules, Part 8810.5400 (Prohibited Uses)</p>	<p>Applicable statutes and/or rules: Minn. Stat. 160.08, subd. 7 and Minn. Stat. 160.2725, subd. 1; United States Code, Title 23, Section 111.</p>
<p>Associated Executive Order: N/A</p>	<p>Associated Executive Order: 20-70</p>	<p>Associated Executive Order: 20-49</p>
<p>MnDOT office responsible for oversight: Office of Freight and Commercial Vehicle Operations</p>	<p>MnDOT office responsible for oversight: Land Management</p>	<p>MnDOT office responsible for oversight: Project Management and Technical Support</p>
<p>Timeline: April 2020 – October 2020</p>	<p>Timeline: June 2020 – June 2021</p>	<p>Timeline: May 1 – May 17, 2020</p>
<p>Summary: At the beginning of the COVID-19 pandemic, when many state agency employees were directed to work from home and Governor Walz issued the Stay at Home Order (EO 20-20), MnDOT realized temporary changes were needed to limit potential exposure by reducing human interactions, especially when certain safety precautions were not possible. For example, administrative rules require MnDOT staff to annually inspect special transportation services vehicles and limousines. Consistent with guidance from the Minnesota Department of Health and Centers for Disease Control and Prevention, MnDOT temporarily suspended conducting vehicle inspections because, during inspections, social distancing was not possible and often other safety precautions to help limit exposure to COVID-19 could not be taken. Through the process authorized by Minn. Stat., section 14.055, MnDOT issued temporary variances for vehicles that were due for an annual inspection from April- July 2020. These variances were only issued for vehicles that had passed an inspection within the previous year. For companies that needed to add a new vehicle to their fleet, and for vehicles equipped with mobility devices, MnDOT developed and implemented a virtual inspection process. MnDOT resumed in-person inspections in August 2020, and by October 2020, all of the vehicles that had been issued a variance were inspected.</p>	<p>Summary: Beginning March 17, 2020, pursuant to Executive Order 20-04, as amended by Executive Orders 20-08 and 20-18, and extended by Executive Order 20-33, non-essential components of bars and restaurants located in Minnesota were closed to ingress, egress, use, and occupancy by members of the public to limit the spread of COVID-19. In recognition of the State of Minnesota’s increased preparedness to treat those vulnerable to and afflicted with COVID-19, and the need to mitigate ongoing economic impacts of COVID-19, Executive Order 20-56 Section 7(b) directed the Commissioners of Health, Employment and Economic Development, and Labor and Industry to develop a phased plan to achieve the limited and safe reopening of bars and restaurants beginning on June 1, 2020. Following the issuance of Industry Guidance, bars, restaurants, and related associations expressed concern for businesses that do not have available outdoor dining space or have minimal usable space. In response to these concerns, MnDOT took steps toward making state right of way (specifically excluding interstate right of way), available for use by bars and restaurants for outdoor dining purposes. Executive Order 20-70 was issued to temporarily waive Minnesota laws that limit or prohibit:</p> <ul style="list-style-type: none"> • MnDOT from allowing licensed food and beverage service establishments from engaging in commercial use of trunk highway right of way • the placement of components necessary to conduct outdoor food and beverage service consistent with requirements of the Minnesota Food Code, such as tables, chairs, umbrellas, etc. • MnDOT from entering into agreements with cities and townships to allow them to issue permits to licensed food and beverage establishments to provide food and beverage service, on the trunk highway right of way. 	<p>Summary: On April 3, 2020, the Federal Highway Administration issued a notice to State Departments of Transportation indicating that during the state of emergency due to COVID-19, the FHWA was suspending enforcement measures under the Federal-aid Highway Program for States that chose to permit commercial food trucks to operate and sell food, in accordance with state laws, in federally funded Interstate Highway rest areas. The notice stated in part, “FHWA recognizes...that food trucks may provide vital sustenance for... commercial truck drivers and others who are critical to the Nation's continued ability to deliver needed food and relief supplies to the communities impacted by the economic disruptions and healthcare strains caused by COVID-19. FHWA also recognizes that in such circumstances, vending machines may not be adequate to provide the necessary sustenance, and in many cases the vending machines may not be regularly stocked at the present time.” In response to the need for additional food options, identified by the trucking industry and its associations, and in conjunction with FHWA’s Notice of Enforcement Discretion, this EO authorized MnDOT to issue permits allowing commercial food trucks to operate at designated highway rest areas.</p>

Appendix C: Executive Order 20-01

STATE OF MINNESOTA

Executive Department



Governor Tim Walz

Emergency Executive Order 20-01

Declaring a Peacetime Emergency and Coordinating Minnesota's Strategy to Protect Minnesotans from COVID-19

I, Tim Walz, Governor of the State of Minnesota, by the authority vested in me by the Constitution and applicable statutes, issue the following Executive Order:

The infectious disease known as COVID-19, an act of nature, has now been detected in 118 countries and territories, including the United States. COVID-19 has been reported in 42 states. There are over 1,600 confirmed cases nationwide, including fourteen in Minnesota.

The U.S. Department of Health and Human Services Secretary has declared a public health emergency for the United States to aid the nation's healthcare community in responding to COVID-19. The World Health Organization has recently assessed that this outbreak can be characterized as a pandemic.

In coordination with other state agencies, local governments, and partners in the private sector, the Minnesota Department of Health ("MDH") has been preparing for and responding to the COVID-19 pandemic in Minnesota.

On April 4, 2019, I issued Executive Order 19-22, which assigned emergency responsibilities to state agencies to respond to and assist in recovery from the effects of natural or technological emergencies, including responsibility to engage in emergency preparedness efforts. On April 4, 2019, I also issued Executive Order 19-23, which directed state agencies to engage in continuity of government and continuity of operations planning. That Executive Order established the Continuity Policy Coordination Sub-Cabinet to develop and maintain a framework for a continuity of government plan, and to oversee agency continuity of operations planning, led by Minnesota Management and Budget ("MMB").

Minnesota has taken proactive steps to ensure that we are ahead of the curve on COVID-19 prevention and response. Our State has been actively conducting continuity planning for state agency operations. MMB activated its Statewide Contingency Response Team ("SCRT"), which meets regularly to coordinate and direct state agencies to ensure priority government services continue. State agency emergency managers and continuity coordinators from the agencies have

been meeting together and sharing information related to emergency management and continuity of operations planning activities.

The State also has activated our Joint Information Center (“JIC”), led by the Department of Public Safety (“DPS”) and MDH. The JIC is responsible for sharing operational updates and keeping the public informed on COVID-19. This group convenes daily to provide consistent, coordinated, and timely information.

Agencies have activated their internal command or continuity teams and have been reviewing their emergency response and continuity plans, which are plans in place that outline how agencies will provide priority services during an emergency. Agencies have been reviewing their priority services and preparing their employees with the goal of providing uninterrupted priority services throughout an emergency.

On January 29, 2020, MDH instituted its Incident Command System (“ICS”). The ICS provides a standardized approach to the command, control, and coordination of emergency response. MDH convened a state agency COVID-19 coordinating group on March 3, 2020. DPS’s Division of Homeland Security and Emergency Management (“HSEM”) activated the State Emergency Operations Center on March 6, 2020.

MDH remains in close contact with federal, state, and local partners, and the Commissioner of Health recently convened a group of experts, including healthcare professionals (doctors, nurses, administrators, insurers), government partners (cities, counties, tribal nations), business and labor leaders, educators (child care, K-12, higher ed), public health experts, and authorities on long term care and Minnesota’s aging population. This cross-sector group provides guidance to the Commissioner on MDH’s strategies for responding to COVID-19.

As part of the response, MDH experts have been providing timely information and education to the public and stakeholders through up-to-date website information, regular press briefings, and calls for stakeholders such as schools, long-term care facilities, healthcare providers, and the business community. MDH’s COVID-19 website, with materials available in 16 languages, has been accessed by thousands of Minnesotans.

Local resources are inadequate to fully address the COVID-19 pandemic. We must continue to take this pandemic seriously, and there are sensible steps that Minnesotans and our state government can take to protect all Minnesotans by slowing the spread of COVID-19, prioritizing our healthcare resources, and safeguarding at-risk communities.

For these reasons, I declare a peacetime emergency in Minnesota and order as follows:

1. In consultation with federal, state, and local partners, tribal nations, relevant experts, and stakeholders, MDH will continue to lead the coordination of the State’s response to COVID-19.
2. HSEM will continue to assist MDH and coordinate support through the State Emergency Operations Center and in accordance with the Minnesota Emergency Operations Plan.

3. All state agencies, in cooperation with appropriate federal agencies, will work to support healthcare providers, tribal and local governments, and public health organizations as they respond to COVID-19.
4. The Minnesota National Guard will ensure that it is ready to assist as needed during this peacetime emergency.
5. In consultation with the Centers for Disease Control and Prevention, as well as public health, medical, and other experts, MDH will continue to provide guidance that is accessible and transparent to all Minnesotans, including guidance on how to best prevent and reduce community spread of COVID-19 within Minnesota and manage critical healthcare resources.
6. I encourage individual Minnesotans to help protect all Minnesotans by continuing their individual prevention efforts such as staying home when feeling sick, frequently washing their hands, and monitoring information about COVID-19.
7. I urge and advise Minnesotans to follow MDH guidance regarding hygiene, public gatherings, social distancing, and healthcare use. Minnesotans should regularly check MDH's COVID-19 webpage: <https://www.health.state.mn.us/diseases/coronavirus/>
8. As circumstances require, and pursuant to relevant law, I will issue orders and rules to protect public health and safety. All state agencies are directed to submit proposals for such orders and rules to my office.

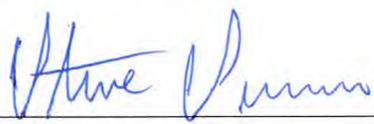
This Executive Order and declaration of peacetime emergency is effective immediately under Minnesota Statutes 2019, section 4.035, subdivision 2, and its duration is governed by Minnesota Statutes 2019, section 12.31, subdivision 2.

Signed on March 13, 2020.



Tim Walz
Governor

Filed According to Law:



Steve Simon
Secretary of State

