

STATE OF VERMONT

EXECUTIVE DEPARTMENT

ADDENDUM 1 TO EXECUTIVE ORDER 03-23

[REGULATORY RELIEF FOR INFRASTRUCTURE REBUILD]

WHEREAS, on Sunday, July 9, 2023, the Governor issued Executive Order 03-23, Declaration of State of Emergency, Guard Call-Out and Activation of Emergency Operations Plan for the State of Vermont in Response to Anticipated Storm-Related Damage (“Emergency Declaration”), declaring a state of emergency for the State of Vermont in response to the July 2023 severe storm (“Severe Storm 2023”); and

WHEREAS, July 7, 2023 through July 11, 2023 and forecasted for July 13, 2023 and the following days, the State experienced and is expecting to continue to experience excessive rain causing widespread flooding, water runoff, erosion and resulting damages; and

WHEREAS, the scope and severity of Severe Storm 2023 may exceed that of Hurricane Irene in 2011; and

WHEREAS, the current emergency demands swift action to achieve the necessary hazard mitigation, provide critical support response and begin recovery efforts to preserve public safety and property in Vermont; and

WHEREAS, I have determined certain temporary regulatory relief is critical for emergency response and infrastructure rebuilding including for:

- timely access to gravel and rock fill, asphalt and concrete for road and necessary infrastructure restoration and repair to secure the safety and protection of the civilian population;
- facilitating commercial motor vehicle operations needed to support emergency relief efforts transporting supplies, goods, materials, equipment, and fuel into Vermont;
- facilitating transportation of materials and equipment; and
- professional service licensing flexibility.

NOW THEREFORE, pursuant to the authority vested in me as Governor of the State of Vermont and Commander-in-Chief, Vermont National Guard by the Constitution of the State of Vermont, Chapter II, Section 20, and pursuant to the emergency powers set forth in 20 V.S.A. §§ 8, 9 and 11 and other laws and the Emergency Management Assistance Compact, 20 V.S.A. Chapter 4:

IT IS HEREBY ORDERED:

1. In accordance with 20 V.S.A. §§ 8, 9 and 11, I hereby waive Act 250 Land Use Permit conditions on gravel pit and rock quarry extraction, asphalt plants and concrete plants,

including operating hours, noise and blasting, crushing, limits on area, rate, depth, or volume of extraction, and related trucking to assure availability of material for the use of the State or towns, or contractors on behalf of the State or towns, for purposes of this Emergency Declaration.

The Natural Resources Board (the “Board”) through the Chair, District Commissions and District Coordinators shall allow gravel pits and rock quarries, permitted and unpermitted, to be accessed consistent with this Emergency Declaration to assure availability of material for the use of the State or towns, or contractors on behalf of the State or towns, on demand as set forth in this Emergency Declaration.

- a. Where there is gravel or rock fill needed for Severe Storm 2023 remediation or recovery that cannot reasonably be met from permitted sources, as determined in the sole discretion the Agency of Transportation, the Agency of Transportation shall implement this waiver without further action from the Board, District Coordinators or District Commissions.
 - b. The Board shall issue instructions and guidance for State and town contractors for the purpose of documenting the use of materials from gravel pits, quarries, asphalt plants, and concrete plants in accordance with this Emergency Declaration.
 - c. This Emergency Declaration shall not be construed to waive any other applicable laws or other applicable existing Land Use Permit conditions relating to gravel pits and quarries, permitted and unpermitted and asphalt plant and concrete plant operations.
 - d. Upon the expiration of this Emergency Declaration, but not later than October 15, 2023, all gravel pits, rock quarries, asphalt plant and concrete plant operations must come into full compliance with Act 250 permitting requirements, including permitted hours, extraction limits or other conditions. All operations, permitted and unpermitted, shall return to pre-emergency operations and conditions, including removal of any temporary infrastructure and reclamation of all operation areas utilized in accordance with this Emergency Declaration, to standards prescribed by the Board.
2. Motor carriers providing direct assistance to the emergency in Vermont are granted emergency relief from 49 CFR § 395.3 (maximum driving time for property-carrying vehicles) as set forth in this Emergency Declaration and guidance issued by the Commissioner of the Department of Motor Vehicles (DMV).
 - a. Direct assistance means transportation and other relief services provided by a motor carrier or its driver(s) incident to the immediate restoration of essential services (such as water pump-outs, electricity, medical care, sewer, water, telecommunications, and telecommunication transmissions) or essential supplies (such as, food, fuel and gravel). It does not include transportation related to long-term rehabilitation of damaged physical infrastructure or routine commercial deliveries after the initial threat to life and property has passed.

- b. Consistent with Title 49 CFR Part 390.23, this relief for motor carriers is effective immediately and will expire on July 25, 2023 at midnight.
- c. Upon termination of direct assistance to this emergency relief effort, no motor carrier shall permit or require any driver used by it to drive nor shall any such driver drive in commerce until the driver has met the requirements of Title 49 CFR 395.3(a), (b) and (c).

The Commissioner of DMV is hereby directed to issue instructions and guidance in furtherance of applicable federal law and rule and this Emergency Declaration.

3. The Commissioner of DMV is hereby directed to issue a permit, without a hearing, to a person or corporation, authorizing the operation of a traction engine, tractor, trailer, motor truck, or other motor vehicle, registered in-state or registered in a state other than Vermont or a Canadian province, for purposes of operating overweight or oversize vehicles on State or class 1 town highways to be used for emergency response and infrastructure rebuilding. The Commissioner may require satisfactory proof that the traction engine, tractor, trailer, motor truck, or other motor vehicle has been registered. The Commissioner shall waive the prescribed fee paid for a gross weight equal to a maximum legal load limit for its class for permits issued in accordance with the Emergency Declaration.
4. (a) The Secretary of State is hereby directed to waive such rules and requirements as may be necessary to issue a temporary license to professionals who hold a valid license, certificate, or registration in any other U.S. jurisdiction, in a Profession Type listed in subsection (b), to provide professional services in Vermont until the termination of the Emergency Declaration, provided, the professional is licensed, certified, or registered in good standing in another U.S. jurisdiction or jurisdictions and is not subject to any professional disciplinary proceedings in any other U.S. jurisdiction.

(b) Profession Types

1. Architects
2. Engineers
3. Foresters
4. Land Surveyors
5. Pollution Abatement Facility Operators
6. Property Inspectors
7. Residential Contractors
8. Wastewater/Water System Designers
9. Well Drillers

The Office of Professional Regulation is hereby directed to issue instructions and guidance in furtherance of this Emergency Declaration.

5. The Electrical Licensing Board shall allow a licensed Journeyman Electrician working under the supervision of a Vermont licensed Master Electrician to work on a site without direct supervision throughout the period of this Emergency Declaration. The Director of Fire Safety is hereby directed to issue instructions and guidance in furtherance of this Emergency Declaration.
6. Pursuant to the powers granted to the Governor in 20 V.S.A. §§ 8, 9 and 11 and other provisions of law, I shall from time-to-time issue recommendations, directives and orders as circumstances may require.

This Executive Order shall take effect upon signing and shall continue in full force and effect until the Governor, in consultation with DPS/VEM, shall assess the emergency and determine whether to amend or rescind this Order.



WITNESS my name hereunto subscribed and the Great Seal of the State of Vermont hereunto affixed at Montpelier this 13th day of July, 2023.

A handwritten signature in blue ink, reading "Philip B. Scott", is written over a horizontal line. The signature is stylized and cursive.

Philip B. Scott
Governor

By the Governor:

A handwritten signature in black ink, reading "Brittney L. Wilson", is written over a horizontal line. The signature is cursive.

Brittney L. Wilson
Secretary of Civil and Military Affairs

EXECUTIVE ORDER 03-23