



Emergency Order 041523

Pursuant to Executive Order 23-65

(Emergency Management – Broward County Flooding)

WHEREAS, on April 13, 2023, Governor Ron DeSantis issued Executive Order 23-65, declaring a state of emergency in certain areas of Broward County, including the City of Fort Lauderdale, due to record breaking, severe and heavy rainfall of over 25 inches, and consequential flooding; and preliminary reports that the rainfall and flooding has affected and may continue to impact the operational capability of critical infrastructure, including major state and county roadways, airports, hospitals, schools, and other critical infrastructure throughout Broward County; and the broad area of low pressure is affecting the majority of the Southeast United States, to include the entire State of Florida; and

WHEREAS, in Executive Order 23-65 Governor Ron DeSantis suspended the effect of any statute, rule, or order that would in any way prevent, hinder, or delay any mitigation, response, or recovery action necessary to cope with this emergency. In accordance with section 252.3611(1), Florida Statutes, any such order, declaration, or other action shall specify each statute or rule being amended or waived, if applicable, and the expiration date for the order or action;

NOW, THEREFORE, I, DAVE KERNER, Executive Director of the Department, pursuant to Executive Order 23-65, promulgate the following DHSMV Emergency Order to take immediate effect:

1. I hereby waive the hours-of-service requirements for commercial carriers and drivers pursuant to section 316.302, Florida Statutes, while providing direct assistance to the affected area. Pursuant to 49 CFR § 390.23, the relief from hours of service requirements for motor carriers and drivers operating a commercial motor vehicle to provide emergency relief are exempt through **April 19, 2023**, under the following conditions and provisions:


- a. Regulatory relief for commercial motor vehicle operations is granted only while the motor carrier is in direct assistance providing emergency relief. Direct assistance terminates when a driver or commercial motor vehicle is used in commerce to transport cargo or provide services not directly supporting the emergency relief effort.
- b. Regulatory relief does not extend to controlled substances and alcohol use and testing requirements (49 CFR Part 382), commercial driver's license requirements (49 CFR Part 383), financial responsibility (insurance) requirements (49 CFR Part 387), applicable size and weight requirements, or any other portion of the regulations not specifically authorized pursuant to 49 CFR § 390.23.
- c. Regulatory relief does not extend to other provisions provided in chapters 316, 320, and 322, Florida Statutes, and operation shall be in accordance with state traffic laws and the driver's ability to remain alert, attentive and free of impairment, fatigue, illness, distraction or similar cause that would reduce the driver's ability to safely operate the commercial motor vehicle.
- d. Motor carriers or drivers who are directly or indirectly subject to a current Out-of-Service Order are not eligible for the relief granted by this Order until they have met the applicable conditions for the order's rescission and the order has been rescinded by the Florida Highway Patrol, the Federal Motor Carrier Safety Administration, or the jurisdiction that issued the Out-of-Service Order, whichever is applicable.
- e. Drivers operating commercial motor vehicles for the motor carrier operating under this Order must maintain a copy of this Order in their possession.
- f. Upon termination of direct assistance to the emergency relief effort, the motor carrier and driver are subject to the requirements of 49 CFR Parts 390 through 399, except that a driver may return empty to the motor carrier's terminal or the driver's normal work reporting location under the terms of this Order. Direct assistance terminates when a driver or commercial motor vehicle is used in commerce to transport cargo not in direct furtherance of the emergency relief efforts. Upon return to the terminal

or other location, the driver must be relieved of all duty and responsibilities.

- g. Upon termination of direct assistance to the emergency relief effort, no motor carrier shall require or permit any driver used by it to drive, nor shall any such driver drive until the driver has met the requirements of 49 CFR § 395.3, and 49 CFR § 395.5 for interstate commerce and section 316.302, Florida Statutes, for intrastate commerce.

This Emergency Order takes effect immediately and shall expire at midnight on April 19, 2023, the expiration or rescission of this Emergency Order or Executive Order 23-65, or upon my further order, whichever is earlier.

Executed this 14th day of April, 2023.

DocuSigned by:

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Dave Kerner, Executive Director

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