

## Executive Orders

STATE OF INDIANA  
EXECUTIVE DEPARTMENT  
INDIANAPOLIS

**EXECUTIVE ORDER: 03-1**

**FOR:** DECLARING AN ENERGY EMERGENCY IN THE STATE OF INDIANA DUE TO THE EXTREMELY COLD WEATHER AND FOR THE PURPOSE OF ALLOWING THE PROPANE TRANSPORT INFRASTRUCTURE TO KEEP UP WITH DEMAND.

**TO ALL TO WHOM THESE PRESENTS MAY COME, GREETINGS:**

**WHEREAS:** Extremely cold weather both in the Midwest and along the northern and southern Atlantic coastal regions has led to unusually high demand for all winter heating fuels. Because of the unusually wide geographic sweep of the present cold spell, demand is high all along the propane transport infrastructure.

**WHEREAS:** Major propane pipelines run from Western Canada and the Gulf of Mexico toward the Midwest and the East Coast. Two major pipelines (the Buckeye and TEPPCO pipelines) run through Northern and Southern Indiana, respectively. These pipelines are capable of supplying a great deal of propane to both the East and the Midwest, but demand in both regions is currently exceeding the ability of pipeline terminal to off-load product into transport trucks. As a result, long lines at terminals have formed and the pipeline companies have placed restrictions on how much propane companies could lift from some individual terminals. This limitation has sent trucks supplying the East Coast further west in search of terminals with both fuel and shorter lines, causing increased wait times for trucks in Indiana already struggling to meet high local demand.

**WHEREAS:** The issuance of emergency declarations and driver hours waivers in other states such as Pennsylvania, Maryland, West Virginia, Kentucky, and Ohio has allowed drivers from these states to drive longer distances. Drivers from these states are arriving at Indiana terminals, causing further congestion and longer lines.

**WHEREAS:** Several terminals in Indiana have experienced shortages of propane that have required them to cease loading trucks. Along the Buckeye pipeline in Northern Indiana, the terminal at Griffith, was recently unable to supply out of propane before receiving product this morning, the terminal at Milford, has no propane and will not receive any new shipment until February 10, 2003 and the Huntington, terminal is currently out of propane and will receive more product January 25, 2003. The terminal at Lima, Ohio is currently not dispensing propane and lower than normal supplies are coming from Toledo, Ohio. The effect of these local outages is that drivers normally served by those terminals must now drive elsewhere to find propane in order to service local customers. This demand has further exacerbated the long lines at terminal that do have propane available.

**WHEREAS:** Waiting lines for trucks along the TEPPCO pipeline (with major terminals at Princeton, and Todhunter, Ohio) have been growing from 4-5 hours per truck early in the week of January 20, 2003 to 6-8 hours on January 24, 2003, with some companies reporting waits as long as 12 hours. Under federal rules, while truck drivers are sitting in their cabs waiting for loading, they are officially "on the clock" with regard to their maximum allowable hours. Thus, drivers that would ordinarily be able to make haul several load in one day are now only able to load one and therefore must drive several days in a row in order to meet intensified demand from the cold weather. With terminal waits so long, drivers are rapidly accumulating hours that take them up to the 70-hour federal limit.

**WHEREAS:** With demand so high, most retailers have only one or two day's worth of supply at their facilities. If transport trucks must stop operating due to the federal 70-hour driver limitations, they will need to tap these supplies, which will be depleted quickly. With the approach of the weekend of January 25 and 26, 2003, there exists the threat of some retail providers being unable to provide heating fuel to customers by the end of Sunday, January 26, 2003. With the extreme cold forecast to last through this weekend, this poses a threat to the health and safety of Indiana residents that heat their homes with propane fuel.

**WHEREAS:** There is ample heating fuel available in the region, but the propane transport infrastructure is currently unable to keep up with the demand generated by the unusual cold over so wide a region of the country. By declaring an emergency and waiving the federal restriction on driver hours, propane transports will be able to continue operating until the predicted warming trend arrives early the week of January 27, 2003.

**WHEREAS:** Title 49 CFR Part 390.23 of the Federal Motor Carrier Safety Regulation provides that a Governor of a State may

declare an emergency thereby exempting motor carriers or drivers operating a commercial vehicle from parts 390 through 399 of the Federal Motor Carrier Safety Regulations.

**NOW, THEREFORE, I, Frank O'Bannon, by virtue of the authority vested in me as Governor of the State of Indiana as well as Indiana Code 10-4-1-7.1 and 49 CFR Part 390.23 do hereby:**

**DECLARE:** A State of Energy Emergency exists in Indiana relating to the delivery of propane; and

**ORDER:** An exemption is provided to 49 CFR 395.3(b) of the Federal Motor Carrier Safety Regulations for the motor carriers while providing propane to customers in Indiana during the emergency. The provisions of 49 CFR 395.3(a) remain in effect. This exemption applies only to those motor carriers providing direct assistance to the emergency relief effort. Direct assistance terminates when a driver or commercial motor vehicle is used in interstate commerce to transport cargo not destined for the emergency relief effort or when the carrier dispatches such driver to another location to begin operations in commerce. Nothing contained in this declaration shall be construed as an exemption from the Controlled Substances and Alcohol Use and Testing requirements (49 CFR 382), the Commercial Drivers License requirements (49 CFR 383), the Financial Responsibility requirements (49 CFR 387), applicable Size and Weight requirements, or any other portion of the regulations not specifically identified.

This declaration of a State of Energy Emergency is in effect beginning at 6:00 p.m., Friday, January 24, 2003, and shall remain in effect for the duration of the emergency (as defined in 49 CFR Part 390.5) or until midnight, Tuesday, January 28, 2003, whichever is earlier.

IN TESTIMONY WHEREOF, I, Frank O'Bannon, have hereinto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 24<sup>th</sup> day of January 2003.

BY THE GOVERNOR: Frank O'Bannon  
Governor of Indiana

ATTEST: Todd Rokita  
Secretary of State

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**STATE OF INDIANA  
EXECUTIVE DEPARTMENT  
INDIANAPOLIS**

**EXECUTIVE ORDER: 03-2**

**FOR:** EXTENDING AN ENERGY EMERGENCY IN THE STATE OF INDIANA DUE TO THE EXTREMELY COLD WEATHER AND FOR THE PURPOSE OF ALLOWING THE PROPANE TRANSPORT INFRASTRUCTURE TO KEEP UP WITH DEMAND.

**TO ALL TO WHOM THESE PRESENTS MAY COME, GREETINGS:**

**WHEREAS:** On January 24, 2003, conditions existed constituting an energy emergency in relation to the delivery of propane.

**WHEREAS:** Those conditions, detailed in Executive Order 03-01 issued January 24, 2003, included extremely cold weather; unusually high demand for winter heating fuels; long lines and waiting times at propane distribution centers in both Northern and Southern Indiana; high demand for propane at Indiana distribution centers; shortages of propane at some distribution centers; limitation on propane drivers' time to make deliveries because of long waits for distribution at terminals; further limitations on drivers' ability to make deliveries because of the 70-hour federal limit on hours propane drivers may drive in any 8-day period; and a threat that some customers will not receive propane because of these conditions.

**WHEREAS:** These conditions constituted an energy emergency sufficient to justify waiver of the 70-hour limit, and this limit was waived by Executive Order 03-01, which expires at midnight, January 28, 2003, and those conditions continue to persist.

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**WHEREAS:** There is ample heating fuel available in the region, but the propane transport infrastructure is currently unable to keep up with the demand generated by the unusual cold over so wide a region of the country. By declaring an emergency and waiving the federal restriction on driver hours, propane transports will be able to continue operating until the predicted warming trend arrives during the week of January 27, 2003.

**WHEREAS:** Title 49 CFR Part 390.23 of the Federal Motor Carrier Safety Regulation provides that a Governor of a State may declare an emergency thereby exempting motor carriers or drivers operating a commercial vehicle from parts 390 through 399 of the Federal Motor Carrier Safety Regulations.

**NOW, THEREFORE,** I, Frank O'Bannon, by virtue of the authority vested in me as Governor of the State of Indiana as well as Indiana Code 10-4-1-7.1 and 49 CFR Part 390.23 do hereby:

**DECLARE:** A State of Energy Emergency exists in Indiana relating to the delivery of propane; and

**ORDER:** An exemption is provided to 49 CFR 395.3(b) of the Federal Motor Carrier Safety Regulations for the motor carriers while providing propane to customers in Indiana during the emergency. The provisions of 49 CFR 395.3(a) remain in effect. This exemption applies only to those motor carriers providing direct assistance to the emergency relief effort. Direct assistance terminates when a driver or commercial motor vehicle is used in interstate commerce to transport cargo not destined for the emergency relief effort or when the carrier dispatches such driver to another location to begin operations in commerce. Nothing contained in this declaration shall be construed as an exemption from the Controlled Substances and Alcohol Use and Testing requirements (49 CFR 382), the Commercial Drivers License requirements (49 CFR 383), the Financial Responsibility requirements (49 CFR 387), applicable Size and Weight requirements, or any other portion of the regulations not specifically identified.

This declaration of a State of Energy Emergency is in effect beginning at 12:01 a.m. Tuesday, January 28, 2003, and shall remain in effect for the duration of the emergency (as defined in 49 CFR Part 390.5) or until midnight, Wednesday, January 29, 2003, whichever is earlier.

IN TESTIMONY WHEREOF, I, Frank O'Bannon, have hereinto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 28<sup>th</sup> day of January 2003.

BY THE GOVERNOR: Frank O'Bannon  
Governor of Indiana

ATTEST: Todd Rokita  
Secretary of State

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