



Commonwealth of Virginia
Office of the Governor

Executive Order

NUMBER TWENTY-THREE (2018)

**DECLARATION OF A STATE OF EMERGENCY
FOR THE COMMONWEALTH OF VIRGINIA DUE TO HURRICANE MICHAEL
AND IN SUPPORT OF STATES AFFECTED BY THE STORM**

Importance of the Issue

On this date, October 11, 2018, I declare that a state of emergency exists in the Commonwealth of Virginia based on the need to prepare and coordinate our response to potential impacts from Hurricane Michael, a Category 4 storm that will impact Florida, Georgia, South Carolina, North Carolina, and Virginia. This storm could produce heavy rainfall, power outages, and flooding in the Commonwealth and result in severe impacts to the southeastern portions of the United States, including loss of life and infrastructure damage. In order to save lives, restore infrastructure damage, assist other states impacted by this storm, and facilitate the rapid movement of private sector and public resources from and through Virginia, I hereby authorize state preparations under the full authorities of this Office.

State action is required to protect the health and general welfare of Virginia residents. The anticipated effects of this situation constitute a disaster wherein human life and public and private property are, or are likely to be, imperiled, as described in § 44-146.16 of the *Code of Virginia*.

Therefore, by virtue of the authority vested in me by § 44-146.17 of the *Code of Virginia*, as Governor and as Director of Emergency Management, and by virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia and by § 44-75.1 of the *Code of Virginia*, as Commander-in-Chief of the armed forces of the Commonwealth, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby proclaim a state of emergency exists. Accordingly, I direct state and local governments to render appropriate assistance to prepare for potential storm impacts, to alleviate any conditions resulting from the situation, and to implement recovery and mitigation operations and activities so as to return impacted areas to pre-event conditions as much as possible.

In order to marshal all public resources and appropriate preparedness, response, and recovery measures to meet this threat and recover from its effects, and in accordance with my authority contained in § 44-146.17 of the *Code of Virginia*, I order the following:

- A. Implementation of the Commonwealth of Virginia Emergency Operations Plan (COVEOP), as amended, by state agencies along with other appropriate state plans.
- B. Activation of the Virginia Emergency Operations Center (VEOC) and the Virginia Emergency Support Team (VEST), as directed by the State Coordinator of Emergency Management, to coordinate the provision of assistance to local governments and emergency services assignments of other agencies as necessary and determined by the State Coordinator of Emergency Management and other agencies as appropriate.
- C. Activation of the Virginia National Guard and the Virginia Defense Force to state active duty to assist in providing such aid. This shall include Virginia National Guard assistance to the Virginia Department of State Police to direct traffic, prevent looting, and perform such other law enforcement functions as the Superintendent of State Police (in consultation with the State Coordinator of Emergency Management, the Adjutant General, and the Secretary of Public Safety and Homeland Security) may find necessary. Pursuant to § 52-6 of the *Code of Virginia*, I authorize the Superintendent of the Department of State Police to appoint any and all such Virginia Army and Air National Guard personnel called to state active duty as additional police officers as deemed necessary. These police officers shall have the same powers and perform the same duties as the Virginia State Police officers appointed by the Superintendent. Any bonds and/or insurance required by § 52-7 of the *Code of Virginia* shall be provided for these additional police officers at the expense of the Commonwealth. In all instances, members of the Virginia National Guard and Virginia Defense Force shall remain subject to military command as prescribed by § 44-78.1 of the *Code of Virginia* and are not subject to the civilian authorities of county or municipal governments.
- D. Evacuation of areas threatened or stricken by effects of this event, as appropriate. Pursuant to § 44-146.17(1) of the *Code of Virginia*, I reserve the right to direct and compel the evacuation of all or part of the populace therein from such areas upon a determination by the State Coordinator of Emergency Management. I reserve the right to control the ingress and egress at an emergency area, including the movement of persons within the area and the occupancy of premises therein based upon a determination made by the State Coordinator of Emergency Management. Violations of any order to citizens to evacuate shall constitute a violation of this Executive Order and are punishable as a Class 1 misdemeanor.
- E. Activation, implementation, and coordination of appropriate mutual aid agreements and compacts, including the Emergency Management Assistance Compact (EMAC), and the authorization of the State Coordinator of Emergency Management to enter into any other supplemental agreements, pursuant to §§ 44-146.17(5) and 44-146.28:1 of the *Code of Virginia*. The State Coordinator of Emergency Management is hereby designated as

Virginia's authorized representative within the meaning of the Emergency Management Assistance Compact, § 44-146.28:1 of the *Code of Virginia*.

- F. This Emergency Declaration implements limited relief from the provisions of 49 CFR §§ 390.23 and 395.3 for the purpose of providing direct relief or assistance as a result of this disaster.

- G. Authorization of the Virginia Departments of State Police, Transportation, and Motor Vehicles to grant temporary overweight, over width, registration, license, or hours of service exemptions to all carriers transporting essential emergency relief supplies to, through and from any area of the Commonwealth. This authorization also applies to water, food, heating oil, motor fuels or propane, or agricultural products, agricultural supplies, livestock and poultry, livestock and poultry feed, forest products and salvaged wood, waste, and trees cut in preparation for the storm, or providing restoration of utilities (including but not limited to electricity, gas, phone, water, wastewater, and cable) or removal of waste to, through and from any area of the Commonwealth in order to support the disaster response and recovery, regardless of the point of origin or destination. Weight exemptions are not valid on posted structures for restricted weight. Weight exemptions are also not valid on interstate highways unless there is an associated Federal emergency declaration. The exemption shall not exceed the duration of the motor carrier's or driver's direct assistance in providing emergency relief, or 30 days from the initial declaration of emergency, whichever is less.
 - 1. All over-width loads, up to a maximum of 12 feet, and over-height loads up to a maximum of 14 feet must follow Virginia Department of Motor Vehicles' hauling permit and safety guidelines.
 - 2. In addition to described overweight/over-width transportation privileges, carriers are also exempt from vehicle registration with the Department of Motor Vehicles. This includes vehicles en route or returning to their home base. The agencies cited in this provision shall communicate this information to all staff responsible for permit issuance and truck legalization enforcement.

- H. Implementation and discontinuance of the transportation-related provisions authorized above shall be disseminated by the publication of administrative notice to all affected and interested parties. I hereby delegate to the Secretary of Public Safety and Homeland Security, after consultation with other affected Cabinet Secretaries, the authority to implement and disseminate this Order as set forth in § 2.2-104 of the *Code of Virginia*.

- I. Authorization of the Commissioner of Agriculture and Consumer Services to grant a temporary waiver of the maximum vapor pressure prescribed in regulation 2 VAC 5-425 *et seq.*, and to prescribe a vapor pressure limit the Commissioner deems reasonable. The temporary waiver shall remain in effect until emergency relief is no longer necessary, as determined by the Commissioner of Agriculture and Consumer Services.

- J. Provision of appropriate assistance, including temporary assignments of non-essential state employees to the Adjunct Emergency Workforce, be rendered by state agencies to respond to this situation.
- K. Authorization for the heads of executive branch agencies, with the concurrence of their Cabinet Secretary, to act, when appropriate, on behalf of their regulatory boards to waive any state requirement or regulation when the federal government has waived the corresponding federal or state regulation based on the impact of events related to this situation.
- L. Authorization for the State Veterinarian to grant exemptions for specific requirements for the importation of agricultural and companion animals into the Commonwealth from affected areas.
- M. Activation of the statutory provisions in § 59.1-525 *et seq.* of the *Code of Virginia* related to price gouging.
- N. Authorization of a maximum of \$2,000,000 in state sum sufficient funds for state and local government mission assignments authorized and coordinated through the Virginia Department of Emergency Management that are allowable as defined by The Stafford Act, 42 U.S.C. § 5121 *et seq.* and the EMAC. Such funding shall be based on the reimbursements anticipated under the Emergency Management Assistance Compact (EMCA). This funding is also available for state response and recovery operations and incident documentation. Out of this state disaster sum sufficient, an amount estimated at \$250,000 is authorized for the Department of Military Affairs for the state's portion of the eligible disaster-related costs. Such costs include any amounts incurred for salaries, travel, and meals during mission assignments authorized and coordinated through the Virginia Department of Emergency Management.
- O. Authorization of up to \$100,000 in sum sufficient funds shall be made available for operation of the VEOC.
- P. Implementation by public agencies under my supervision and control of their emergency assignments as directed in the COVEOP without regard to normal procedures pertaining to performance of public work, entering into contracts, incurring of obligations or other logistical and support measures of the Emergency Services and Disaster Laws, as provided in § 44-146.28(b) of the *Code of Virginia*. Section 44-146.24 of the *Code of Virginia* also applies to the disaster activities of state agencies.
- Q. During this declared emergency, any person who holds a license, certificate, or other permit issued by any U.S. territory, state, or political subdivision thereof, evidencing the meeting of qualifications for professional, mechanical, or other skills, the person, without compensation other than reimbursement for actual and necessary expenses, may render aid involving that skill in the Commonwealth during this emergency and such person shall not be liable for negligently causing the death of, or injury to any person or for the loss of, or damage to, the property of any person resulting from such service as set forth

in § 44-146.23(C) of the *Code of Virginia*. Additionally, members and personnel of volunteer, professional, auxiliary, and reserve groups identified and tasked by the State Coordinator of Emergency Management for specific disaster-related mission assignments as representatives of the Commonwealth engaged in emergency services activities within the meaning of the immunity provisions of § 44-146.23(A) of the *Code of Virginia* shall not be liable for the death of, or any injury to, persons or damage to property as a result of such activities, as provided in § 44-146.23(A) of the *Code of Virginia*.

- R. Designation of physicians, nurses, and other licensed and non-licensed health care providers and other individuals as well as hospitals, nursing facilities and other licensed and non-licensed health care organizations, political subdivisions and other private entities by state agencies, including the Departments of Health, Behavioral Health and Developmental Services, Social Services, Emergency Management, Transportation, State Police, Motor Vehicles, as representatives of the Commonwealth engaged in emergency services activities, at sites designated by the Commonwealth, within the meaning of the immunity provisions of § 44-146.23(A) of the *Code of Virginia*, in the performance of their disaster-related mission assignments.

- S. As provided in § 44-146.23(A) of the *Code of Virginia*, no individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, fraternal organization, religious organization, charitable organization, or any other legal or commercial entity and any successor, officer, director, representative, or agent thereof, who, without compensation other than reimbursement for actual and necessary expenses, provides services, goods, real or personal property, or facilities at the request and direction of the State Department of Emergency Management or a county or city employee whose responsibilities include emergency management shall be liable for the death of or injury to any person or for the loss of, or damage to, the property of any person where such death, injury, loss, or damage was proximately caused by the circumstances of the actual emergency or its subsequent conditions, or the circumstances this emergency.

Upon my approval, the costs incurred by state agencies and other agents in performing mission assignments through the VEOC as defined herein and in § 44-146.28 of the *Code of Virginia*, other than costs defined in the paragraphs above pertaining to the Virginia National Guard and pertaining to the Virginia Defense Force, shall be paid from state funds.

Effective Date of this Executive Order

This Executive Order shall be effective October 11, 2018, and shall remain in full force and in effect until November 11, 2018, unless sooner amended or rescinded by further executive order. Termination of the Executive Order is not intended to terminate any federal benefits granted or to be granted due to injury or death as a result of service under this Executive Order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 11th day of October, 2018.



A handwritten signature in cursive script, reading "Ralph S. Northam".

Ralph S. Northam, Governor

Attest:

A handwritten signature in cursive script, reading "Kelly Thomasson".

Kelly Thomasson, Secretary of Commonwealth