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EXECUTIVE ORDER

Declaring an Emergency and Suspending Certain Motor Carrier Registration Requirements Due to a Shortage of Commercially Available Transportation to Transport Harvested Wheat

Pursuant to the authority vested in the Governor of the State of Colorado and, in particular, pursuant to relevant portions of the Colorado Disaster Emergency Act of 1992, C.R.S. § 24-32-2100 *et seq.*, I, Bill Ritter, Jr., Governor of the State of Colorado, hereby issue this Executive Order declaring a disaster emergency and suspending certain motor carrier registration requirements due to a shortage of commercially available transportation to transport harvested wheat.

1. Background and Need

This season, Colorado farmers are experiencing the largest wheat harvest in nearly ten years. Because of a shortage of transportation and storage, in excess of ten million bushels of wheat is currently “on the ground” in temporary storage. At current market prices, this inventory exceeds \$60 million. Due to ground moisture, wheat that is currently being stored on the ground will soon degrade if it is not moved to grain elevator storage. In addition, wheat stored in some elevators must be transported to the secondary market in order to make room for other agricultural products being harvested.

Colorado is suffering from a shortage of commercially available transportation to move the wheat from temporary storage on the ground to grain elevators. Specifically, Colorado grain elevators are reporting a shortage of railcars to transport Colorado’s wheat crop, resulting in prohibitive premiums being charged for those railcars that are potentially available. In addition, there is a critical shortage of commercial motor transportation available for hire in rural Colorado. Many of the carriers formerly serving these markets have gone out of business in recent years due to the drought, low commodity prices, and high fuel prices.

If this transportation need is not quickly met, Colorado wheat farmers will suffer a substantial loss of their wheat crop, which, in turn, will adversely impact Colorado’s economy. One means of easing this transportation shortage is to allow farm-plated vehicles to be hired to help meet this shortfall. Colorado statutes, however, prohibit this use of farm-plated vehicles. Specifically,

C.R.S. § 42-3-306(4)(a) provides that farm-plated vehicles may only be used to transport raw agricultural products “actually produced” by a farmer or commodities “purchased by such farmer . . . for personal use and used in such person’s farming or ranching operations.” *See also* C.R.S. § 42-3-306(4)(b) (providing a limited exception when a farmer or rancher exchanges transportation services with another farmer or rancher, and then “the sole consideration” that may be involved in the transaction is the exchange of personal services or the use of equipment).

One means of easing this transportation shortage is to allow, on a temporary basis, farm-plated vehicles to be hired as commercial haulers of agricultural products. The urgency of meeting this transportation shortage is exacerbated by the coming corn harvest, which begins in late September. Many elevators are used for both wheat and corn, and if the wheat in storage is not moved out of these elevators before the corn harvest begins, both wheat and corn farmers will be adversely impacted.

The definition of “disaster” in the Colorado Disaster Emergency Act of 1992 includes the “imminent threat of widespread or severe damages, injury or loss of . . . property resulting from any natural cause or cause of human origin. . . .” C.R.S. § 24-32-2103(1.5). The confluence of the bumper wheat crop, the urgent need to move the wheat being stored on the ground into elevator storage, and the shortage of commercially available transportation to accomplish this poses an imminent threat to property and, therefore, constitutes a disaster emergency for the purposes of the Act.

2. Declaration and Directive

- A. I hereby declare that the shortage of commercially available transportation to transport the harvested wheat to elevator storage and the secondary market constitutes a disaster emergency for purposes of C.R.S. §24-32-2103.
- B. Pursuant to C.R.S. § 24-32-2104(7), I hereby suspend the prohibition, as set forth in C.R.S. § 42-3-306(4)(a), on farm-plated vehicles being hired to transport to market or place of storage raw agricultural products. The suspension of this portion of C.R.S. § 42-3-306(4)(a) is intended to allow farm-plated vehicles to be hired to transport unprocessed agricultural product from market, railroad loading points, warehouses, or other places of storage, located within the various counties in the State of Colorado, to other markets, railroad loading points, warehouses, or other places of storage. I find the temporary suspension of this statute necessary to prevent the imminent threat of widespread and severe damage and loss of property in the State of Colorado.
- C. The suspension of the registration requirement in C.R.S. § 42-3-306(4)(a) does not extend to include any increased size or weight allowances. These vehicles are required by law to observe all gross vehicle weight and axle weight limits established in C.R.S. § 42-4-501, *et seq.*, for the protection of bridges, and to observe statutory requirements for all vehicles traveling on the state system.

3. Duration

This Executive Order shall expire forty-five days from its date of signature unless extended by Executive Order.

Given under my hand and
the Executive Seal of the
State of Colorado this 22nd
day of August, 2007.

Bill Ritter, Jr.
Governor