



STATE OF WASHINGTON
— OFFICE OF GOVERNOR JAY INSLEE —

**EMERGENCY PROCLAMATION BY THE GOVERNOR
AMENDING PROCLAMATION 21-10, ET SEQ.**

21-10.4

WILDFIRES – BURN BAN – FUEL DELIVERY

WHEREAS, on July 6, 2021, I issued Proclamation 21-10, proclaiming a state of emergency in all of Washington's 39 Counties, prohibiting outdoor burning through September 30, 2021, and ordering the National and State Guard into active state service due to weather conditions and existing fire fuel conditions that presented a high risk for severe wildfires requiring significant use of limited state and local firefighting resources; and

WHEREAS, on July 15, 2021, I issued Proclamation 21-10.1, amending Proclamation 21-10, to waive certain driver hours of service requirements for fuel deliveries until 11:59 p.m. on August 14, 2021; and

WHEREAS, on August 5, 2021, I issued Proclamation 21-10.2, amending Proclamation 21-10, et seq., to clarify exceptions to the current outdoor burning prohibition and waiver of certain driver hours of service requirements for fuel deliveries; and

WHEREAS, on August 16, 2021, I issued Proclamation 21-10.3, amending Proclamation 21-10, et seq., to clarify exceptions to the current outdoor burning prohibition and extended the waiver of driver hours of service requirements for fuel deliveries until 11:59 p.m. on September 14, 2021; and

WHEREAS, with persistent dangerous fuel fire conditions and the presence of numerous active fires in Washington State and the ongoing fire season throughout the western United States there is a continued high demand for fuel to support firefighting activities; and

WHEREAS, a national labor shortage in the trucking industry is impacting the timely delivery of fuel to support firefighting in Washington, Oregon, Idaho, Montana, California, and Utah; and

WHEREAS, adequate fuel supplies are essential to effective firefighting efforts and can quickly become depleted without consistent and reliable deliveries, which are critical in supporting state and local efforts to save lives and protect public health and safety; and

WHEREAS, the fuel distribution disruption is also affecting adequate fuel supplies for agriculture impacting the food supply chain in the state; and

WHEREAS, due to the above-noted conditions, the time limits prescribed by the commercial motor vehicle driver hours of service rules impede the necessary maintenance of essential fuel supplies critical to State firefighting and the food supply chain efforts by preventing drivers of these trucks from making timely deliveries; and

WHEREAS, the effect of these fires and disruptions to the food supply chain continues to impact the life and health of our citizens, as well as the property, economy, and transportation infrastructure of Washington State, and is a public disaster that affects life, health, property, or the public peace.

NOW, THEREFORE, I, Jay R. Inslee, Governor of the state of Washington, as a result of the above-noted situation and under Chapters 38.52 and 43.06 RCW, do hereby proclaim that a State of Emergency continues to exist throughout the state of Washington, that Proclamation 21-10, et seq., remains in effect, except as amended herein and extended until September 30, 2021, at 11:59 p.m.

I again direct the plans and procedures in the *Washington State Comprehensive Emergency Management Plan* be implemented. State agencies and departments are directed to utilize state resources in accordance with the Washington State Comprehensive Emergency Management Plan and to do everything reasonably possible to assist affected political subdivisions in an effort to respond to and recover from the event. My order into active state service of the Washington State organized militia also remains in effect. The Washington State Emergency Operations Center is instructed to continue monitoring the event and coordinating all event-related assistance to the affected areas.

FURTHERMORE, under the provisions of RCW 43.06.220(1)(i), to preserve and maintain life, health, property or the public peace, I also hereby amend the prohibition on outdoor burning to read as follows:

Except as provided herein, prohibited outdoor burning includes but is not limited to campfires, bonfires, residential yard debris clean-up, trash disposal, land clearing, weed abatement, and agricultural burning activity.

This prohibition does not include the following activities:

- use of charcoal grills at private residences over a non-flammable surface and a minimum of five feet from flammable vegetation;
- agricultural burning pursuant to a fire permit issued by a local authority in accordance with existing statutes and rules;
- use of propane-fueled burners for organic weed control in irrigated orchards, only if the following conditions are met:
 - The orchard floor is wet from recent or ongoing irrigation;
 - Flame weeders are used only on living plant material;
 - Winds are not forecasted or observed to be over 7 miles per hour;
 - The flame is turned to its lowest setting when turning between rows;

- Row turns are not made where dry material is present, unless the flame has been completely shut-off; and
- The operator is equipped with an operable, fully-charged fire extinguisher;
- fires on Department of Corrections property with a total fuel area of 3 feet (914mm) or less in diameter and 2 feet (610 mm) or less in height for religious or ceremonial purposes; and
- campfires at state, county and municipal parks and campgrounds, or recreational fires on private property in accordance with current and ongoing restrictions imposed by the agency or property owner with legal authority over the park, campground, or property.

FURTHER, a recreational fire is defined for the purposes of this proclamation as, “an outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, barbeque grill or barbeque pit and has a total fuel area of 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes.”

Nothing in this order supersedes more restrictive provisions of the counties, municipalities, fire districts, other political subdivisions, or public or private landowners. Nothing in this order supersedes fire or fireworks permits issued by a local authority that provide specific written approval for the prescribed burning activity. This order does not apply to firefighting activities by authorized firefighters acting in accordance with the firefighting plan.

I also continue to find, based on the above situation, that motor carriers and drivers of commercial motor vehicles delivering fuel products from distribution centers in the Pacific Northwest in support of firefighting efforts and drivers of commercial motor vehicles delivering aviation fuel, are providing emergency relief during an emergency under 49 CFR § 390.23 and, therefore, are exempt from application of 49 CFR §§ 390 through 399, including the driver hours of service rules in 49 CFR § 395, adopted pursuant to RCW 46.32.020 and WAC 446-65-010, until 11:59 p.m. on September 30, 2021.

FURTHERMORE, under the provisions of RCW 43.06.220(l)(h), to preserve and maintain life, health, property or the public peace, I also continue to impose temporary restrictions on motorcarriers and drivers of commercial motor vehicles identified above as being exempt from application of the driver hours of service rules by prohibiting application of this exemption as follows:

1. Motor carriers are prohibited from operating under the terms of this exemption if either of the following conditions exists:
 - a. They have an out-of-service order in effect; or
 - b. They do not possess a current safety rating of "Satisfactory" or better assigned by the Federal Motor Carrier Safety Administration or the State in which the motor carrier has its principal place of business.
2. Motor carriers I have not prohibited from operating under the terms of this exemption are prohibited from:

- a. Requiring or permitting a fatigued or ill driver to operate a commercial motor vehicle; and
- b. Requiring or permitting a driver to operate a commercial motor vehicle after the driver has informed the carrier (verbally or in writing) that he or she needs immediate rest, unless the driver has first received at least ten consecutive hours off-duty documented in writing by the motor carrier; and
- c. Requiring or permitting a driver to operate a commercial motor vehicle after the driver has been on duty for more than 96 hours in any eight consecutive days, unless the driver has first received at least 34 consecutive hours off-duty documented in writing by the motor carrier.

I ask the motor carriers for the fuel industry to use their best judgment in operating under this exemption in a manner that ensures public health and safety. Drivers operating under this exemption should carry a copy this Proclamation.

This Proclamation is effective immediately. Signed and sealed with the official seal of the state of Washington on this 14th day of September A.D., Two Thousand and Twenty-one at Olympia, Washington.

By:

/s/
Jay Inslee, Governor

BY THE GOVERNOR:

/s/
Secretary of State