

STATE OF MINNESOTA

Executive Department



Governor Tim Walz

Executive Order 22-21

Providing Relief from Regulations to Certain Motor Carriers and Drivers Responding to Avian Influenza Mitigation Efforts in Minnesota

I, Tim Walz, Governor of the State of Minnesota, by the authority vested in me by the Constitution and applicable statutes, issue the following Executive Order:

This past spring, poultry growers in Minnesota and across the country faced considerable challenges and suffered significant losses due to an outbreak of highly pathogenic H5N1 avian influenza (“HPAI”). On March 31, 2022 and April 29, 2022, I issued Executive Orders 22-05 and 22-09, respectively, which provided relief from certain regulations for drivers and carriers transporting HPAI emergency equipment and supplies to help mitigate the impacts and limit the spread of HPAI in Minnesota. The 2022 outbreak has resulted in the loss of more than 3.5 million birds in Minnesota, and 40 million nationwide.

While experts from the United States Department of Agriculture and the Minnesota Board of Animal Health were working with poultry growers to keep HPAI at bay, the month of May brought additional challenges to farmers across the state. A prolonged cold and wet spring with significant flooding delayed many farming operations. Powerful storms destroyed farm structures and damaged roads and bridges used by farmers to move commodities and supplies.

On August 30, 2022, only three months since the last known outbreak, state animal health officials confirmed a new outbreak of HPAI at a commercial turkey farm in Meeker County. Following that diagnosis, outbreaks have been confirmed at almost 20 additional sites, impacting over 500,000 birds. While HPAI typically diminishes during the hotter, drier months of summer and the outbreak ends, the virus has continued to circulate in wild populations and is once again threatening domestic flocks as wild birds migrate south. The current resurgence of cases is considered part of the same outbreak that started in late March in Minnesota.

The HPAI outbreak in Minnesota poses a high risk to poultry but a low risk to the public, and there is no food safety concern for consumers.

HPAI is a very contagious disease for poultry and can spread from flock to flock within a matter of days. Depopulating infected animals is a key part of the response, along with transporting live uninfected animals to processing facilities and ensuring that unaffected farms have adequate

supplies to support healthy flocks. It is also critical to limit the number of people moving between farms and to reduce the number of trips that trucks make to or from farm sites.

Minnesota Statutes 2021, section 221.0314, subdivision 9, adopts federal safety regulations, including hours of service requirements for drivers. Minnesota Statutes 2021, section 221.0269, provides: “The governor may declare an emergency and grant relief from any of the regulations incorporated in section 221.0314 to carriers and drivers operating motor vehicles in Minnesota to provide emergency relief during the emergency.”

Poultry growers, industry associations, and animal health experts have requested immediate help to support the safe and efficient movement of commodities used in emergency response efforts. Temporary relief is needed to help mitigate the impacts and limit the spread of HPAI in Minnesota. Strict enforcement of certain hours of service requirements would prevent or hinder the efficient transportation of these important commodities.

For these reasons, I order as follows:

1. For the purposes of this Executive Order, “HPAI emergency equipment and supplies” includes poultry feed trucks, poultry load-out trailers, poultry feed, materials used exclusively for the composting process of animals that have been depopulated due to HPAI, live poultry, and animal carcasses.
2. For the purposes of this Executive Order, “emergency relief effort” means the transportation of HPAI emergency equipment and supplies.
3. For purposes of this Executive Order, and as defined in Minnesota Statutes 2021, section 221.0269, subdivision 3, paragraph (c), direct assistance to an emergency relief effort terminates when a driver or commercial motor vehicle is used to transport cargo not destined for the emergency relief effort, or when the carrier dispatches that driver or vehicle to another location to begin operations in commerce.
4. Pursuant to Minnesota Statutes 2021, section 221.0269, subdivision 1, a state of emergency exists in Minnesota that requires relief from regulations incorporated in Minnesota Statutes 2021, section 221.0314, subdivision 9, pertaining to hours of service for motor carriers and drivers of commercial motor vehicles providing direct assistance to the emergency relief efforts described in this Executive Order.
5. Motor carriers and drivers providing direct assistance to the emergency relief efforts described in this Executive Order are exempted from paragraphs (b) and (c) under the Code of Federal Regulations, title 49, part 395.3, and incorporated in Minnesota Statutes 2021, section 221.0314, subdivision 9, pertaining to hours of service.
6. Nothing in this Executive Order may be construed to relieve motor carriers and drivers providing direct assistance to the emergency relief efforts described in this Executive Order from the requirements under paragraph (a) of the Code of Federal Regulations, title 49, part 395.3, and incorporated in Minnesota Statutes 2021, section 221.0314, subdivision 9, which states, in part, that a driver may drive only 11 hours

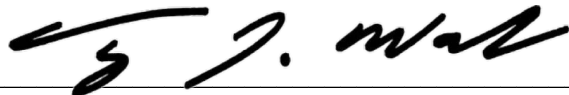
during a period of 14 consecutive hours after coming on duty following 10 consecutive hours off duty.

7. This Executive Order does not relieve motor carriers and drivers providing direct assistance to emergency relief efforts from regulations pertaining to driver qualifications; driving of commercial motor vehicles; commercial driver's licenses; drug and alcohol testing for drivers; or equipment, parts, and accessories necessary for the safe operation of vehicles.
8. A motor carrier operating under the terms of this Executive Order must not require or allow a fatigued or ill driver to operate a commercial motor vehicle. A driver who informs a carrier that he or she needs immediate rest must be given at least 10 consecutive hours off duty before the driver is required to return to service.
9. Upon the expiration of this Executive Order, or when a driver or motor carrier has been relieved of all duty and responsibility to provide direct assistance to the emergency relief efforts, a driver must take at least 34 consecutive hours off duty. This requirement does not apply if a driver has already had a 34-hour restart period during the 30 days covered by this Executive Order.

This Executive Order is effective immediately under Minnesota Statutes 2021, section 4.035, subdivision 2, and it will remain in effect until it is rescinded by proper authority or October 28, 2022, whichever occurs first.

A determination that any provision of this Executive Order is invalid will not affect the enforceability of any other provision of this Executive Order. Rather, the invalid provision will be modified to the extent necessary so that it is enforceable.

Signed on September 28, 2022.



Tim Walz
Governor

Filed According to Law:



Steve Simon
Secretary of State

Filed on September 28, 2022
Office of the Minnesota
Secretary of State,
Steve Simon