

EXECUTIVE ORDERS

Executive Order No. 123: Declaring a Disaster in the Counties of Bronx, Kings, Nassau, New York, Queens, Richmond, Rockland, Suffolk, Westchester and Contiguous Areas.

WHEREAS, on January 21, 2014 and continuing thereafter, a strong winter storm began to impact New York State and poses an imminent danger to vital public transportation, utility service, and public health and public safety systems within the counties of Bronx, Kings, Nassau, New York, Queens, Richmond, Rockland, Suffolk, Westchester and contiguous areas; and

WHEREAS, this winter storm is predicted to produce blizzard-like conditions, snowfall amounts of approximately one foot, winds in excess of 40 miles per hour, and dangerously cold temperatures and wind chills, and these conditions may cause widespread power outages and roadway closures, damage to homes and businesses and public and private property, and will continue to pose a threat to public health and safety;

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York, do hereby find that a disaster is imminent to which the affected local governments are unable to respond adequately. Therefore, pursuant to the authority vested in me by the Constitution of the State of New York and Section 28 of Article 2-B of the Executive Law, I hereby declare a State Disaster Emergency effective January 21, 2014 within the territorial boundaries of the counties of Bronx, Kings, Nassau, New York, Queens, Richmond, Rockland, Suffolk, Westchester and contiguous areas; and

FURTHER, pursuant to Section 29 of Article 2-B of the Executive Law, I direct the implementation of the State Comprehensive Emergency Management Plan and authorize, effective January 21, 2014, the State Office of Emergency Management, the Department of Health, the Department of Transportation, the State Police, the Division of Military and Naval Affairs, the Department of Environmental Conservation, the State Department of Correctional Services, the Public Service Commission, the Office of Fire Prevention and Control, the Department of Labor, the Office of Parks, Recreation and Historic Preservation, the Office of General Services, the State University of New York, the Thruway Authority, the Division of Homeland Security and Emergency Services, other State agencies as necessary, and the American Red Cross to take appropriate action to protect State property and to assist affected local governments and individuals in responding to and recovering from this disaster, and to provide such other assistance as necessary to protect the public health and safety.

IN ADDITION, this declaration satisfies the requirements of 49 C.F.R. § 390.23(a)(1)(A), which provides relief from Parts 390 through 399 of the Federal Motor Carrier Safety Regulations (FMCSR). Such relief from the FMCSR is necessary in order to ensure that snow removal crews can clear vital roadways and hasten the movement of utility power restoration crews into New York State.

FURTHER, I have designated Jerome M. Hauer, Commissioner of the Division of Homeland Security and Emergency Services, as the State Coordinating Officer for this event.

(L.S.)

GIVEN under my hand and the Privy Seal of the State in the City of Albany, this twenty-first day of January in the year two thousand fourteen.

BY THE GOVERNOR

/S/ Andrew M. Cuomo

/s/ Lawrence Schwartz

Secretary to the Governor

Executive Order No. 124: Declaring an Emergency in Order to Appoint New Jersey and Connecticut Police Officers as Railroad Police Officers to Provide Enhanced Security on Commuter Trains, Buses and Ferries.

Whereas, the 2014 Super Bowl will be held on Sunday, February 2, 2014 at the MetLife Stadium in East Rutherford, New Jersey; and

Whereas, an estimated 500,000 or more people will be visiting the New York City area to attend the Super Bowl and related public events and festivities in the days preceding the Super Bowl; and

Whereas, thousands of commuters are expected to travel between the states of New York, New Jersey and Connecticut to attend the Super Bowl and related public events and festivities via mass transit systems that include interstate rail, bus and ferry systems accessible to the public, and an enhanced law enforcement presence on these conveyances is prudent to protect public safety; and

Whereas, terrorists have used explosive and other devices to attack public and private transportation systems, as demonstrated by the bombings in London in 2005 and in Madrid in 2004, and while there is no known confirmed threat to the New York metropolitan area, the mass transit systems of New York, New Jersey and Connecticut are particularly high-risk targets; and

Whereas, the completed and attempted attacks in New York, including the 2012 plot by Raess Alam Qazi and his brother to carry out attacks at landmarks in New York; the plot against the PATH railway system by Assem Hammoud in 2006; the plot against New York City subways by Najibullah Zazi in 2009; the October 2012 foiled attempt by Quazi Mohammad Rezwanaul Ahsan Nafis to detonate a 1,000 pound car bomb outside the Federal Reserve Bank of New York in Lower Manhattan; the 2011 plot by Ahmed Ferhani and Mohamed Mamdouh to bomb New York City synagogues, during which Ferhani and Mamdouh discussed additional targets in New York City, including churches and the Empire State Building; and the 2004 plot by Shahawar Matin Siraj and James Elshafay to bomb the Herald Square (34th Street) subway station and other mass transit stations in Manhattan demonstrate that terrorists continue to pose a persistent threat to the State of New York; and

Whereas, athletic events and mass gatherings have been subject to terror plots, including the 2013 Boston Marathon bombings which killed 3 people and injured 264 others; the 1996 Centennial Olympic Park bombing in Atlanta where two people were killed; and the 1972 Olympic Games in Munich where 11 members of the Israeli Olympic team were taken hostage and eventually killed; and

Whereas, New York's sister states, Connecticut and New Jersey, have agreed to deploy police officers from their states to provide increased security on commuter trains, buses and ferries going to and from New York State; and

Whereas, sworn members of the Connecticut State Police, sworn police officers of any county or municipality in the State of Connecticut, sworn members of the New Jersey State Police, and sworn police officers of any county or municipality in the State of New Jersey are

restricted in their law enforcement authority once such a conveyance crosses the jurisdictional boundary from Connecticut to New York or from New Jersey to New York respectively; and

Whereas, New York, New Jersey and Connecticut are all members of the Emergency Management Assistance Compact ("EMAC"), which allows for mutual assistance and resource sharing among sister states; and

Whereas, EMAC provides that emergency forces from the sending state, while operating within the jurisdictional boundaries of the receiving state pursuant to the compact, shall have the same powers (except that of arrest, unless specifically authorized by the receiving state), duties, rights and privileges as are afforded forces of the receiving state in which they are performing emergency services; and

Whereas, to utilize the police resources provided by our sister states, it is necessary to confer police officer powers, including arrest powers, on such officers while they are within the geographic jurisdiction of New York State; and

Whereas, Section 88 of the Railroad Law authorizes the Superintendent of the State Police to appoint any person as a railroad police officer only under prescribed circumstances and subject to certain limitations; and

Whereas, Section 29-a of the Executive Law authorizes the suspension, alteration and modification of statutes, local laws, ordinances, orders, rules or regulations, or parts thereof, if compliance with such provisions would prevent, hinder or delay action necessary to cope with a disaster emergency and the inclusion of any other terms and conditions;

NOW THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York, do hereby find that a disaster to which the affected local governments are unable to respond adequately without assistance may be imminent. Therefore, pursuant to the authority vested in me by the Constitution of the State of New York and Section 28 of Article 2-B of the Executive Law, I hereby declare a State Disaster Emergency effective January 26, 2014; and

FURTHER, pursuant to the authority vested in me by Section 29-a of the Executive Law to temporarily suspend and modify specific provisions of any statute, local law, ordinance, order, rule or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such provisions would prevent, hinder or delay action necessary to cope with the disaster, I hereby temporarily suspend and modify, for the period from 12:01 AM on January 26, 2014 until 12:01 AM on February 3, 2014, the following laws for purposes of appointment of sworn members of the Connecticut State Police, sworn police officers of any county or municipality in the State of Connecticut, sworn members of the New Jersey State Police, and sworn police officers of any county or municipality in the State of New Jersey as Railroad Police:

Subdivision 1 of Section 88 of the Railroad Law insofar as it requires the Superintendent of the State Police to appoint railroad police officers only upon the application of a corporation, express company, or steamboat company, is modified to the extent necessary to allow the Governor to appoint sworn members of the Connecticut State Police, sworn police officers of any county or municipality in the State of Connecticut, sworn members of the New Jersey State Police, and sworn police officers of any county or municipality in the State of New Jersey as railroad police officers, and to include all rail and bus facilities and property owned, operated or in the custody or control of the Port Authority of New York and New Jersey or its subsidiaries, the Metropolitan Transit Authority or its subsidiaries, New Jersey Transit or its subsidiaries, and ferries certified to carry passengers to and from New York State; and

Subdivisions 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16 and 17 of Section 88 of the Railroad Law, as necessary to effectuate this Order; and

FURTHER, this Order shall take effect at 12:01 AM on January 26, 2014 and shall remain in effect until 12:01 AM on February 3, 2014.

(L.S.)

GIVEN under my hand and the Privy Seal of the State in the City of Albany, this twenty-fourth day of January in the year two thousand fourteen.

BY THE GOVERNOR

/S/ Andrew M. Cuomo

/s/ Lawrence Schwartz

Secretary to the Governor

Executive Order No. 125: Directing the Department of Environmental Conservation, the Department of Transportation, the Division of Homeland Security and Emergency Services, the Department of Health, and the New York State Energy Research and Development Authority to Take Action to Strengthen the State's Oversight of Shipments of Petroleum Products.

WHEREAS, on July 6, 2013, a train derailment in Lac-Mégantic, Québec involving tank cars carrying crude oil caused the devastation of an entire community, the deaths of 47 persons, and the evacuation of thousands; and

WHEREAS, on December 30, 2013, a train derailment in Casselton, North Dakota caused 18 tank cars carrying crude oil to be punctured, spilling more than 400,000 gallons of crude oil into the environment, and causing a fire which resulted in the evacuation of more than one thousand Casselton residents; and

WHEREAS, rail cars transporting crude oil traverse 1,000 miles of New York State's 3,500-mile freight rail network, from Western New York along the Mohawk River and its communities to the Port of Albany, and from Canada across the border at Rouse's Point along Lake Champlain and through communities to the Port of Albany, where it is then transported south by rail, ship, and barge on or along the Hudson River and along or through New York communities to refineries in mid-Atlantic states; and

WHEREAS, much of the increase in the volume of crude oil transported is due to increased production from the Bakken formation in North Dakota, Montana, and Canada, which, due to lack of pipeline capacity, must be transported by rail; and

WHEREAS, historically, rail transport of crude oil is safer and more environmentally protective than truck transport; and

WHEREAS, there has been a significant expansion in the use of the Port of Albany in the distribution and transportation of crude oil and other petroleum products by rail, ship, and barge for shipment on and along the Hudson River and along or through our communities to out-of-state refineries and storage facilities; and

WHEREAS, the increase in frequency and numbers of rail cars, ships, and barges carrying crude oil and other petroleum products through hundreds of New York communities increases the public's vulnerability to a serious accident; and

WHEREAS, New York's waterways, including the Hudson River, Mohawk River, and Lake Champlain, on or along which rail cars, ships, and barges travel, are unique ecological, cultural, economic, natural, and recreational resources upon which millions of New Yorkers rely, which makes these waterways especially vulnerable to spills of crude oil and other petroleum products; and

WHEREAS, Bakken crude oil has a lower flashpoint and is therefore more prone to ignite during a rail accident; and

WHEREAS, the U.S. Department of Transportation (USDOT) is in the process of designating new safety standards and requirements for rail tank cars and evaluating potential new rules for the transportation of flammable liquids; and

WHEREAS, recognizing the value of these efforts, New York nevertheless cannot await the final outcome of these federal assessments before taking action; and

WHEREAS, New York is preempted by federal law from regulating rail freight transportation and rail car safety standards, and the navigation of vessels operating on the State's navigable waterways; and

WHEREAS, the New York State Department of Environmental Conservation (DEC) has jurisdiction over air permitting, oil spill response, and storage of petroleum products in bulk tanks; and

WHEREAS, the New York State Department of Transportation (DOT) has jurisdiction to inspect freight rail track and equipment; and

WHEREAS, the New York State Division of Homeland Security and Emergency Services (DHSES) provides assistance and support to local entities relating to emergency planning, training, and response to incidents, including petroleum spills and fires; and

WHEREAS, the New York State Department of Health (DOH) assesses and monitors the human exposure and public health impact of petroleum spills and fires, advises on the safe handling of hazardous materials and the cleanup of such materials, and provides public information on health impacts and protective measures; and

WHEREAS, the New York State Energy Research and Development Authority (NYSERDA) acts as a central clearinghouse for energy resource information, monitors and regularly reports on liquid fuel supply and market trends, and maintains data on major liquid fuel storage terminals;

NOW, THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York, do hereby direct that:

1. DEC, DHSES, DOT, and DOH shall promptly petition USDOT, the U.S. Department of Energy (USDOE), the U.S. Department of Homeland Security (USDHS), and the U.S. Coast Guard (USCG) to upgrade tanker car and rail line safety, assess federal agency needs and risks, and pre-deploy appropriate spill response equipment and resources to protect New York State's communities, residents, land, and waterways from accidents involving the transportation of crude oil and other petroleum products by rail, ship, and barge; and

2. DEC and DHSES, working with DOT, DOH, and NYSERDA, shall, in consultation with USDOT, USDOE, USCG, and USDHS, conduct an assessment of the State's spill prevention and response rules and inspection programs governing the transportation of crude oil and other petroleum products by rail, ship, and barge; and

3. On or about April 30, 2014, DEC and DHSES, with DOT, DOH, and NYSERDA, shall submit to me a consolidated report summarizing the State's existing capacity to prevent and respond to accidents involving the transportation of crude oil and other petroleum products by rail, ship, and barge; and

4. This consolidated report shall include but shall not be limited to: (i) a summary of the State's readiness to prevent and respond to rail and water accidents involving petroleum products; (ii) recommendations concerning statutory, regulatory, or administrative changes needed at the State level to better prevent and respond to accidents involving the transportation of crude oil and other petroleum products by rail, ship, and barge; (iii) recommendations concerning the role that local governments across the State have in protecting their communities and their residents from spills of petroleum products shipped by rail and water; and (iv) recommendations concerning enhanced coordination between the State and federal agencies in order to improve the State's capacity to prevent and respond to accidents involving the transportation of crude oil and other petroleum products by rail, ship, and barge.

(L.S.) GIVEN under my hand and the Privy Seal of the State in the City of Albany, this twenty-eighth day of January in the year two thousand fourteen.

BY THE GOVERNOR
/S/ Andrew M. Cuomo
/s/ Lawrence Schwartz
Secretary to the Governor

