



State of North Carolina

ROY COOPER
GOVERNOR

August 31, 2019

EXECUTIVE ORDER NO. 102

TEMPORARY SUSPENSION OF MOTOR VEHICLE REGULATIONS TO ENSURE RESTORATION OF UTILITY SERVICES AND THE TRANSPORTATION OF ESSENTIALS

WHEREAS, the potential impacts from Hurricane Dorian (the "Hurricane") will require the transportation of vehicles bearing equipment and supplies for utility restoration and debris removal, carrying essentials such as food and medicine, transporting livestock and poultry and feed for livestock, poultry and crops ready to be harvested through North Carolina highways; and

WHEREAS, I have declared that a state of emergency as defined in N.C. Gen. Stat. §§ 166A-19.3(6) and 166A-19.3(19) exists due to the potential impacts from the Hurricane; and

WHEREAS, the emergency area as defined in N.C. Gen. Stat. §§ 166A-19.3(7) and 166A-19.20(b) is the entire State of North Carolina; and

WHEREAS, the uninterrupted supply of electricity, fuel oil, diesel oil, gasoline, kerosene, propane, liquid petroleum gas, food, water, livestock and poultry feed, and medical supplies to residential and commercial establishments is essential before, during, and after the Hurricane and any interruption in the delivery of those commodities threatens the public welfare; and

WHEREAS, the prompt restoration of utility services is essential to the safety and well-being of the state's residents; and

WHEREAS, under N.C. Gen. Stat. § 166A-19.30(b)(3) the undersigned, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the operation of transportation services; and

WHEREAS, under N.C. Gen. Stat. § 166A-19.30(b)(4), the undersigned, with the concurrence of the Council of State, may waive a provision of any regulation or ordinance of a State agency which restricts the immediate relief of human suffering; and

WHEREAS, I have found that residents will likely suffer further widespread damage within the meaning of N.C. Gen. Stat. §§ 166A-19.3(3) and 166A-19.21(b); and

WHEREAS, with the concurrence of the Council of State, I hereby waive the registration requirements of N.C. Gen. Stat. §§ 20-86.1 and 20-382, the fuel tax requirements of N.C. Gen. Stat. § 105-449.47, and the size and weight requirements of N.C. Gen. Stat. §§ 20-116, 20-118 and 20-119 that would apply to vehicles carrying emergency relief supplies or services to assist Hurricane victims; and

WHEREAS, I have found that the state's residents may suffer losses and will likely suffer imminent further widespread damage within the meaning of N.C. Gen. Stat. §§ 166A-19.3(3) and 166A-19.21(b); and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.70(g), upon the recommendation of the North Carolina Commissioner of Agriculture and the existence of an imminent threat of severe economic loss of livestock, poultry or crops ready to be harvested, I have directed the North Carolina Department of Public Safety ("DPS") to temporarily suspend weighing vehicles used to transport livestock, poultry, or crops ready to be harvested; and

WHEREAS, 49 C.F.R. § 390.23 allows the Governor of a state to suspend the rules and regulations under 49 C.F.R. Parts 390-399 for up to thirty (30) days if the Governor determines that an emergency condition exists; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.70, the undersigned may declare that the health, safety, or economic well-being of persons or property requires that the maximum hours of service for drivers prescribed by N.C. Gen. Stat. § 20-381 should be waived for (1) persons transporting essential fuels, food, water, medical supplies, and feed for livestock and poultry, (2) persons transporting livestock, poultry, and crops ready to be harvested and (3) vehicles used in the restoration of utility services; and

WHEREAS, pursuant to 2019 N.C. Sess. Laws 2019-187 § 1, non-resident businesses and non-resident employees are exempt from registration requirements and various state tax requirements if (1) they come into the state at the request of a critical infrastructure company as defined in section 1.a of 2019 N.C. Sess. Laws 2019-187 and (2) are performing disaster-related work during a disaster or emergency response period; and

WHEREAS, pursuant to N.C. Sess. Laws 2019-187 § 2, the Secretary of the North Carolina Department of Revenue shall issue a temporary license to an applicant to import, export, distribute, or transport motor fuel in this state in response to a disaster or emergency declaration; and

WHEREAS, such temporary license shall expire upon the expiration of the disaster or emergency declaration; and

WHEREAS, on August 29, 2019, the Federal Motor Carrier Safety Administration ("FMCSA") issued a regional emergency declaration, FMCSA No. 2019-005, pursuant to 49 C.F.R. § 390.23 to provide regulatory relief for commercial motor vehicle operations under 49 C.F.R. Parts 390-399, if such operations are directly supporting Hurricane emergency relief efforts through the transportation of supplies, fuel, equipment, and persons or the provision of emergency services; and

WHEREAS, the FMSCA regional emergency declaration covers the following states and jurisdictions: Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, the Commonwealth of Puerto Rico, the Territory of the U.S. Virgin Islands.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1.

For purposes of this Executive Order, the emergency area is the State of North Carolina ("the Emergency Area").

Section 2.

DPS, in conjunction with the North Carolina Department of Transportation ("DOT"), shall waive the maximum hours of service for drivers prescribed by DPS pursuant to N.C. Gen. Stat. § 20-381.

Section 3.

DPS, in conjunction with DOT, shall waive certain size and weight restrictions and penalties arising under N.C. Gen. Stat. §§ 20-116, 20-118, and 20-119, certain registration requirements and penalties arising under N.C. Gen. Stat. §§ 20-86.1 and 20-382, and certain registration and filing requirements and penalties arising under N.C. Gen. Stat. §§ 105-449.45, 105-449.47, and 105-449.49 for vehicles transporting equipment and supplies for the restoration of utility services and transportation facilities, and vehicles carrying essentials and equipment for any debris removal. Pursuant to N.C. Gen. Stat. § 20-118.1, DPS shall temporarily suspend weighing vehicles used to transport livestock, poultry, or crops ready to be harvested and feed to livestock and poultry in the Emergency Area.

Section 4.

Notwithstanding the waivers set forth above, size and weight restrictions and penalties have not been waived under the following conditions:

- a. When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross weight, whichever is less.
- b. When the tandem axle weight exceeds 42,000 pounds and the single axle weight exceeds 22,000 pounds.
- c. When a vehicle and vehicle combination exceed twelve (12) feet in width and the total overall vehicle combination's length exceeds seventy-five (75) feet from bumper to bumper.
- d. Vehicles and vehicle combinations subject to exemptions or permits by authority of this Executive Order shall not be exempt from the requirement of having (i) a yellow banner on the front and rear that is seven (7) feet long and eighteen (18) inches wide and bears the legend "Oversized Load" in ten (10) inch black letters, 1.5 inches wide and (ii) red flags measuring eighteen (18) inches square on all sides at the widest point of the load. When operating between sunset and sunrise, a certified escort shall be required for loads exceeding eight (8) feet 6 inches in width.

Section 5.

Vehicles referenced under Sections 3 and 4 of this Executive Order shall be exempt from the following registration requirements:

- a. The requirement to obtain a temporary trip permit and pay the associated \$50.00 fee listed in N.C. Gen. Stat. § 105-449.49.
- b. The requirement of filing a quarterly fuel tax return as the exemption in N.C. Gen. Stat. § 105-449.45(b)(1) applies.
- c. The registration requirements under N.C. Gen. Stat. § 20-382.1 concerning intrastate for-hire authority and N.C. Gen. Stat. § 20-382 concerning interstate for-hire authority; however, vehicles shall maintain the required limits of insurance.
- d. Non-participants in North Carolina's International Registration Plan and International Fuel Tax Agreement will be permitted to enter North Carolina in accordance with the exemptions identified in this Executive Order.

Section 6.

- a. The size and weight exemption for vehicles will be allowed on all DOT designated routes, except those routes designated as light traffic roads under N.C. Gen. Stat. § 20-118.
- b. This Executive Order shall not be in effect on bridges posted pursuant to N.C. Gen. Stat. § 136-72.

Section 7.

The waiver of regulations under Title 49 of the Code of Federal Regulations does not apply to the Commercial Drivers' License and Insurance Requirements. This waiver shall be in effect for thirty (30) days or the duration of the emergency, whichever is less.

Section 8.

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 2 through 7 of this Executive Order in a manner that does not endanger North Carolina motorists.

Section 9.

Upon request by law enforcement officers, exempted vehicles must produce documentation sufficient to establish that their loads are being used for bearing equipment and supplies for utility restoration, debris removal, carrying essentials in commerce, carrying feed for livestock and poultry, or transporting livestock, poultry or crops ready to be harvested in the State of North Carolina.

Section 10.

This Executive Order does not prohibit or restrict lawfully possessed firearms or ammunition or impose any limitation on the consumption, transportation, sale or purchase of alcoholic beverages as provided in N.C. Gen. Stat. § 166A-19.30(c).

Section 11.

Pursuant to N.C. Gen. Stat. § 166A-19.23, this declaration triggers the prohibition against excessive pricing as provided in N.C. Gen. Stat. §§ 75-37 and 75-38 in the Emergency Area.

Section 12.

This Executive Order is effective immediately and shall remain in effect for thirty (30) days or the duration of the emergency, whichever is less.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 31st day of August in the year of our Lord two thousand and nineteen.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

