



# State of North Carolina

**ROY COOPER**  
GOVERNOR

August 30, 2019

**EXECUTIVE ORDER NO. 100**

**DECLARATION OF STATE OF EMERGENCY TO  
SUSPEND MOTOR VEHICLE REGULATIONS AND SUPPORT  
RELIEF EFFORTS FOR HURRICANE DORIAN**

**WHEREAS**, Hurricane Dorian (sometimes referred to as “the Hurricane”) has already impacted the Commonwealth of Puerto Rico, the Territory of the United States Virgin Islands and is anticipated to make landfall on the coast of Florida on or about the beginning of September 2019; and

**WHEREAS**, the Hurricane may result in catastrophic impacts to areas in the State of Florida, the southeastern United States, the Commonwealth of Puerto Rico, and the Territory of the U.S. Virgin Islands; and

**WHEREAS**, many states and non-profit organizations will be supporting emergency relief efforts in the State of Florida, the southeastern United States, the Commonwealth of Puerto Rico, and the Territory of the U.S. Virgin Islands, and vehicles transporting emergency relief supplies and services will be traveling through North Carolina; and

**WHEREAS**, N.C. Gen. Stat. § 166A-19.1(4) provides that it is the responsibility of the undersigned, state agencies, and local governments to provide for “cooperation and coordination of activities relating to emergency mitigation preparedness, response, and recovery among agencies and officials of this State and with similar agencies and officials of other states. . . and with other private and quasi-official organizations”; and

**WHEREAS**, N.C. Gen. Stat. §§ 166A-19.10 and 166A-19.20 authorize the undersigned to declare a state of emergency and exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

**WHEREAS**, certain measures are necessary to prevent widespread transportation delays of necessary emergency relief supplies and services to areas in the Hurricane’s path; and

**WHEREAS**, these anticipated, widespread transportation delays constitute a state of emergency for the State of North Carolina as defined in N.C. Gen. Stat. §§ 166A-19.3(6), 166A-19.3(19); and

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

**WHEREAS**, the Governors of the State of Florida, the Commonwealth of Puerto Rico, and the Territory of the U.S. Virgin Islands have declared states of emergency; 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 may suffer losses and further widespread damage within the meaning of N.C. Gen. Stat. § 166A-19.3(3) and N.C. Gen. Stat. § 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**, 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, 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 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, the undersigned shall direct 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**, 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 FMCSA 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**, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

**Section 1.**

I hereby declare that a state of emergency, as defined in N.C. Gen. Stat. §§ 166A-19.3(6) and 166A-19.3(19), exists in the State of North Carolina due to anticipated, widespread transportation delays of necessary emergency relief supplies and services to areas in the Hurricane’s path.

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

## **Section 2.**

The North Carolina Department of Public Safety (“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 in support of emergency relief efforts or services for Hurricane Dorian in the State of Florida and the southeast United States, the Commonwealth of Puerto Rico and the Territory of the U.S. Virgin Islands. Furthermore, 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 as required.
- 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 by 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 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.**

The gasoline truck tank and vapor system requirements of 15A N.C. Admin. Code 02D.0932(c) shall be waived during this time if Method 27 is followed.

**Section 13.**

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 30<sup>th</sup> day of August in the year of our Lord two thousand and nineteen.

  
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Roy Cooper  
Governor

**ATTEST:**

  
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Elaine F. Marshall  
Secretary of State

