



State of North Carolina

ROY COOPER
GOVERNOR

October 3, 2024

EXECUTIVE ORDER NO. 316

PERMITTING USE, SALE, AND DISTRIBUTION OF CERTAIN NON-HIGHWAY DIESEL FUELS IN SUPPORT OF HURRICANE HELENE RELIEF EFFORTS

WHEREAS, Hurricane Helene (“Helene”) entered the State of North Carolina on 26 September 2024 as a tropical storm; and

WHEREAS, Helene has inflicted significant damage on public and private property, and disrupted the supply of certain diesel fuels necessary for recovery operations; and

WHEREAS, emergency response officials and personnel continue to make significant use of North Carolina roadways to reach impacted areas; and

WHEREAS, impacts from Helene constitute a State of Emergency, as defined in N.C. Gen. Stat. § 166A-19.3(19); and

WHEREAS, on September 25, 2024, the undersigned issued Executive Order No. 315, which declares a State of Emergency and provides for the health, safety, and welfare of residents and visitors located in North Carolina (“Declaration of State of Emergency”); and

WHEREAS, Executive Order No. 315 invokes the Emergency Management Act, which authorizes the Governor to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, on September 26, 2024, the President of the United States issued an emergency declaration, FEMA-3617-EM, for the State of North Carolina, providing, in part, for Public Assistance -Category B, including direct federal assistance to the state; and

WHEREAS, on September 28, 2024, the President of the United States approved an Expedited Major Disaster Declaration, FEMA-4827-DR, for the State of North Carolina; and

WHEREAS, on October 1, 2024, in response to diesel fuel shortages, the Internal Revenue Service (“IRS”) issued a waiver that lifts the IRS penalty associated with the sale and use of dyed diesel fuel with a sulfur content that does not exceed fifteen parts-per-million (“Dyed Fuel”) in diesel-powered highway vehicles in North Carolina (the “IRS Waiver”), provided the operator or the persons selling the fuel pays the per-gallon federal tax normally applied to diesel fuel for highway use; and

WHEREAS, to fully implement the policies of the federal government, and to take care of important public safety requirements, the undersigned has determined that it is in the State’s best interest to ensure that Dyed Fuel be delivered to, and available in, areas impacted by Helene; and

WHEREAS, N.C. Const. art. III § 5(4) vests the Governor with the duty to take care that the laws be faithfully executed; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2), the undersigned is authorized and empowered to make, amend, or rescind the necessary orders, rules, and regulations within the

limits of the authority conferred through the Emergency Management Act with due consideration of the policies of the federal government; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(3), the undersigned may delegate any authority vested in him under the Emergency Management Act and provide for the subdelegation of that authority.

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.

In order to provide for the care and treatment of North Carolinians impacted by Hurricane Helene and the rapid and orderly restoration of their property, and in consideration of the policies of the IRS, the undersigned delegates to the Secretary of the Department of Revenue the authority to take, and the Secretary shall take, the following actions:

- a. The provisions of N.C. Gen. Stat. § 105- 449.117 prohibiting the use of Dyed Fuel in a highway vehicle that is licensed or required to be licensed under Chapter 20 of the North Carolina Statutes shall not be enforced for the duration of this Executive Order and any extension thereof, provided the operator or person selling the fuel pays the applicable cents-per-gallon state motor fuel excise tax applied to diesel fuel for highway use.
- b. The provisions of 17 N.C. Admin. Code 12B .0503 (“Licensed Vehicles Using Dyed Diesel Fuel”) shall not be enforced during the duration of this Executive Order and any extension thereof.

Section 2.

This Executive Order is effective immediately and shall remain in effect through the duration of the IRS Waiver and any extension thereof, not to exceed the duration of the State of Emergency.

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 3rd day of October in the year of our Lord two thousand and twenty-four.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

