



# State of North Carolina

**ROY COOPER**  
GOVERNOR

October 15, 2024

## EXECUTIVE ORDER NO. 320

### MEETING WATER SYSTEM AND ENVIRONMENTAL NEEDS IN RESPONSE TO HURRICANE HELENE

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

**WHEREAS**, Executive Order No. 315 invokes the Emergency Management Act, and 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**, Helene has inflicted significant damage on numerous public water systems in North Carolina; and

**WHEREAS**, it is a high priority of the State to ensure delivery of safe drinking water to affected residents as quickly as possible; and

**WHEREAS**, numerous wastewater treatment plants in North Carolina were damaged or rendered inoperable by Helene; and

**WHEREAS**, hurricane response activities require the establishment of temporary disaster debris storage sites and other waste management activities; and

**WHEREAS**, ensuring the integrity of dam structures is crucial to averting further damage to communities in North Carolina; and

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

**WHEREAS**, projects necessary for the restoration of damaged infrastructure and utility services may require licensing or permitting by federal agencies such as the U.S. Army Corps of Engineers or the Federal Energy Regulatory Commission; and

**WHEREAS**, projects necessary for the restoration of damaged infrastructure and utility services may require a water quality certification issued by the North Carolina Department of Environmental Quality ("DEQ") under Section 401 of the Clean Water Act; and

**WHEREAS**, the U.S. Army Corps of Engineers has recently confirmed that, in accordance with 33 C.F.R. § 323.4(a)(2), restoration of damaged infrastructure and utility services will not require new permitting under Section 404 of the Clean Water Act so long as the repair or replacement does not change the character, scope, or size of the original fill design; and

**WHEREAS**, restoration of some infrastructure will require modification to the original design to account for modern design standards or other changes that will require the restoration project to be permitted by the U.S. Army Corps of Engineers; and

**WHEREAS**, the U.S. Army Corps of Engineers has confirmed that it expects that many projects will qualify for nationwide permits that streamline the permitting process for common activities that have minimal environmental impact and do not require minimum public notice periods before proceeding; and

**WHEREAS**, some of these projects will also require individual water quality certifications from DEQ pursuant to 15A N.C. Admin. Code 02H .0500 et seq., before work can begin; and

**WHEREAS**, 15A N.C. Admin. Code 02H .0503(b) requires that DEQ wait a minimum of thirty (30) days after public notice is given before issuing an individual water quality certification, even if the project is to repair or replace pre-existing critical infrastructure; and

**WHEREAS**, it is important to preserve the State of North Carolina's authority to issue and condition Section 401 water quality certifications while at the same time allowing vital infrastructure repair and replacement projects to proceed without undue delay; 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**, 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; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(7), the undersigned is authorized and empowered to utilize the services, equipment, supplies, and facilities of departments, offices, and agencies of the state in response to the emergency; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available state resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of state agencies or units thereof for the purpose of performing or facilitating emergency services.

**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. Assessing and Addressing Impacts on Water Systems and other Impacted Infrastructure**

1. DEQ shall assess the impacts across the region and provide technical support for drinking water systems, wastewater facilities, and other impacted infrastructure sites.
2. DEQ shall continue to coordinate with and send assessment teams to drinking water and wastewater treatment systems in affected areas and identify the operational status of each system, evaluate the needs for system restoration, and provide technical assistance. DEQ shall also coordinate with drinking water systems to find additional lab capacity so that as

systems get back online, they can conduct water quality sampling and lift their boil water advisories.

3. To the extent that resources are available, DEQ shall assist drinking water systems and wastewater systems with any gaps in their funding needs. When necessary, the Secretary of DEQ shall exercise their authority in N.C. Gen. Stat. § 159G-33(a)(4) and N.C. Gen. Stat. § 159G-34(a)(4) to certify that a serious public health hazard related to a damaged water supply system or wastewater system is present or imminent in an affected community. Upon the Secretary's certification, DEQ shall be authorized to make emergency loans to designated water or wastewater systems from the Drinking Water Reserve and Wastewater Reserve. Where review of an emergency loan by the Local Government Commission or any other political body is required by law, DEQ shall seek such review on an expedited basis.
4. DEQ shall continue to coordinate and approve the siting of disaster debris sites, identify available landfill capacity, and provide guidance on diverting recyclable materials so that clean-up efforts can move quickly and responsibly.
5. DEQ shall continue to conduct on-site inspections of accessible high hazard dams in impacted areas.
6. While carrying out the directives of this Executive Order, DEQ shall continue to coordinate its efforts and share information with local, state, and federal partners including the Environmental Protection Agency, the Federal Emergency Management Agency, and the Army Corps of Engineers, at the Emergency Operations Center and in the impacted areas.

## **Section 2. Temporary Waiver of Regulatory Requirement to Expedite Infrastructure Repair**

The undersigned delegates to the Secretary of DEQ the authority to:

Waive or modify the requirement in Rule 15A N.C. Admin. Code 02H .0503(b) that the North Carolina Division of Water Resources must wait thirty (30) days from public notice before taking final action on repair and restoration projects necessitated by the impacts of Hurricane Helene that require an individual water quality certification but for which the process for issuing the corresponding federal permit or license either does not require public notice or that requirement has been waived by the federal agency. DEQ shall provide public notice of each pending application for an individual water quality certification as specified in Rule 15A N.C. Admin. Code 02H .0503.

## **Section 3. Effect and Duration**

This Executive Order is effective immediately and shall remain in effect through the duration of the State of Emergency unless repealed, replaced, or rescinded by another applicable Executive Order.

**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 15<sup>th</sup> day of October in the year of our Lord two thousand and twenty-four.



Roy Cooper  
Governor

**ATTEST:**



Elaine F. Marshall  
Secretary of State

