

State of North Carolina

ROY COOPER
GOVERNOR

December 20, 2022

EXECUTIVE ORDER NO. 274

**DECLARATION OF A STATE OF EMERGENCY AND
TEMPORARY SUSPENSION OF MOTOR VEHICLE REGULATIONS TO
ENSURE ADEQUATE TRANSPORTATION OF FUEL
THROUGHOUT THE STATE**

WHEREAS, a forecasted period of prolonged cold weather in North Carolina and in other parts of the United States has increased the demand for drivers of propane and other heating fuels; and

WHEREAS, the anticipated impact of forecasted weather and increased demand on drivers constitute a state of emergency as defined in N.C. Gen. Stat. §§ 166A-19.3(6) and 166A-19.3(19); and

WHEREAS, propane and other heating fuels remain in adequate supply for North Carolina residents; and

WHEREAS, due to a shortage of licensed commercial drivers, and the ongoing COVID-19 pandemic and seasonal flu, this state of emergency is essential to enable drivers transporting propane and other heating fuels across the state to do so quickly and efficiently; and

WHEREAS, certain measures are necessary to ensure the protection and safety of North Carolina residents and to coordinate the emergency response among state and local entities and officials; and

WHEREAS, N.C. Gen. Stat. § 166A-19.1(3) provides that it is the responsibility of the undersigned, state agencies, and local governments to “provide for the rapid and orderly rehabilitation of persons and restoration of property”; 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, the uninterrupted supply of fuel oil, diesel oil, gasoline, kerosene, propane, and liquid petroleum gas to residential and commercial establishments is essential, and any interruption in the delivery of those commodities threatens the public welfare; 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 if the governor has declared a state of emergency; and

WHEREAS, nothing contained in this declaration shall be construed as an exemption from the controlled substances and alcohol use and testing requirements (49 C.F.R. Part 382), the commercial driver's license requirements (49 C.F.R. Part 383), the financial responsibility (insurance) requirements (49 C.F.R. Part 387), operating authority (49 C.F.R. Part 365), applicable size and weight requirements, ill or fatigued operator standards (49 C.F.R. Part 392.3) or any other portion of the regulations not specifically identified herein; 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 in this state require that the maximum hours of service for drivers prescribed by N.C. Gen. Stat. § 20-381 be waived for persons transporting propane and essential heating fuels.

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 the current and forecasted period of prolonged cold weather in North Carolina and in other parts of the United States, and associated impact on the demand for drivers of propane and other essential heating fuels.

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

Section 2.

I order all state and local government entities and agencies to cooperate in the implementation of the provisions of this declaration and the provisions of the North Carolina Emergency Operations Plan ("the Plan").

Section 3.

I delegate to Eddie M. Buffaloe, Jr., the Secretary of the North Carolina Department of Public Safety ("DPS"), or his designee, all power and authority granted to and required of me by Article 1A of Chapter 166A of the North Carolina General Statutes for the purpose of implementing the Plan and deploying the State Emergency Response Team to take the appropriate actions necessary to promote and secure the safety and protection of the populace in North Carolina.

Section 4.

DPS, in conjunction with the North Carolina Department of Transportation ("DOT"), shall waive the maximum hours of service for drivers prescribed by the DPS pursuant to 49 C.F.R. Part 395.3 and N.C. Gen. Stat. § 20-381 for drivers transporting propane or essential heating fuels in the emergency area.

Section 5.

Pursuant to 49 C.F.R. § 390.23, I hereby waive 49 C.F.R. § 395.3 for vehicles transporting propane and other heating fuels.

Section 6.

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 4 and 5 of this Executive Order in a manner that does not endanger motorists in North Carolina.

Section 7.

Upon request by law enforcement officers, exempted vehicles must produce documentation sufficient to establish that their loads are for use in providing direct assistance supporting emergency relief efforts including transporting propane and essential heating fuels.

Direct assistance terminates when a driver or commercial motor vehicle is used in intrastate/interstate commerce to transport cargo or provide services that are not in support of emergency relief efforts related to transporting propane and essential heating fuel in North Carolina, or when the motor carrier dispatches a driver or commercial motor vehicle to another location to begin operations in commerce. (49 C.F.R. § 390.23(b)).

Upon termination of direct assistance to emergency relief efforts related to transporting propane and essential heating fuels in North Carolina or affected states, the motor carrier and driver are subject to the requirements of 49 C.F.R. § 395.3, except that a driver may return empty to the motor carrier's terminal or the driver's normal work reporting location without complying with 49 C.F.R. § 395.3. When a driver is moving from emergency relief efforts to normal operations a 10-hour break is required if the total time a driver operated, whether conducting emergency relief efforts or a combination of emergency relief efforts and normal operations, equals or exceeds fourteen (14) hours.


Section 8.

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 declared emergency area.

Section 9.

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

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 20th day of December in the year of our Lord two thousand and twenty-two.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

