

# State of North Carolina

**ROY COOPER**  
GOVERNOR

May 10, 2021

## **EXECUTIVE ORDER NO. 213**

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

**WHEREAS**, the Colonial Pipeline system ("Colonial Pipeline"), a primary fuel pipeline for North Carolina and the East Coast of the United States, reported a ransomware cyber-attack on May 7, 2021, which has resulted in a temporary shutdown of that line, and may cause a disruption in the delivery of refined petroleum products including but not limited to fuel oil, diesel, jet fuel and gasoline; and

**WHEREAS**, the uninterrupted supply of refined petroleum products including but not limited to fuel oil, diesel, jet fuel and gasoline, is essential for the health, safety or economic well-being of persons or property in North Carolina, and any interruption in the delivery of those products threatens the public welfare; 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, with local and federal governments, with interstate organizations, 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**, on May 9, 2021, the Federal Motor Carrier Safety Administration ("FMCSA") issued Regional Emergency Declaration 2021-002 to provide regulatory relief for commercial motor vehicle operations commercial motor vehicle operations while providing direct assistance in supporting emergency relief efforts transporting gasoline, diesel, jet fuel, and other refined petroleum products into the affected states during the emergency from shortages due to the shutdown, partial shutdown, and/or manual operation of the Colonial Pipeline system; and

**WHEREAS**, the unanticipated shutdown of the Colonial Pipeline due to a ransomware cyber-incident and network issues that affect the supply of refined petroleum products including but not limited to fuel oil, diesel, jet fuel and gasoline constitutes a state of emergency for the State of North Carolina as defined in N.C. Gen. Stat. §§ 166A-19.3(6) and 166A-19.3(19); 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**, pursuant to 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**, pursuant to 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**, the undersigned has found that residents may suffer losses and further widespread damage within the meaning of N.C. Gen. Stat. §§ 166A-19.3(3) and 166A-19.21(b); 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**, with the concurrence of the Council of State, the undersigned hereby waives 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 to assist with ensuring adequate fuel supplies within North Carolina or the East Coast of the United States.

**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 unanticipated shutdown of the Colonial Pipeline due to a cyber incident and potential impacts from that incident.

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 Erik A. Hooks, 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.**

Further, Secretary Hooks, as Chief Coordinating Officer for the State of North Carolina, shall exercise the powers prescribed in N.C. Gen. Stat. § 143B-602.

**Section 5.**

I further direct Secretary Hooks or his designee to seek assistance from any and all agencies of the United States Government as may be needed to meet the emergency and seek reimbursement for costs incurred by the state in responding to this emergency.

**Section 6.**

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 7.**

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 supporting emergency relief efforts by transporting gasoline, diesel, jet fuel, and other refined petroleum products in North Carolina and the affected states during the emergency from shortages due to the shutdown, partial shutdown, and/or manual operation of the Colonial Pipeline system in the Emergency Area.

#### **Section 8.**

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 (A) 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 (B) red flags measuring eighteen (18) inches square on all sides at the widest point of the load. In addition, when operating between sunset and sunrise, a certified escort shall be required for loads exceeding eight (8) feet six (6) inches in width.

#### **Section 9.**

Vehicles referenced under Sections 7 and 8 of this Executive Order shall be exempt from the following registration requirements:

- a. The requirement to obtain a temporary trip permit and payment of 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 and 20-382 concerning interstate for-hire authority are waived; 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 10.**

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. This order shall not be in effect on bridges posted pursuant to N.C. Gen. Stat. § 136-72.

#### **Section 11.**

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 12.**

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 6 through 11 of this Executive Order in a manner that does not endanger North Carolina motorists.

### **Section 13.**

Upon request by law enforcement officers, exempted vehicles must produce documentation sufficient to establish that their loads are for direct assistance being used for providing direct assistance supporting emergency relief efforts by transporting gasoline, diesel, jet fuel, and other refined petroleum products in North Carolina and the affected states during the emergency to address shortages due to the shutdown, partial shutdown, and/or manual operation of the Colonial Pipeline system.

Direct assistance terminates when a driver or commercial motor vehicle is used in interstate commerce to transport cargo or provide services not in support of emergency relief efforts related to the shortages of gasoline, diesel, jet fuel, and other refined petroleum products due to the shutdown, partial shutdown, and/or manual operation of the Colonial pipeline system 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 the shortages of gasoline, diesel, jet fuel, and other refined petroleum products due to the shutdown, partial shutdown and/or manual operation of the Colonial pipeline system in the North Carolina or the affected states, the motor carrier and driver are subject to the requirements of 49 C.F.R. Parts 390 through 399, except that a driver may return empty to the motor carrier's terminal or the driver's normal work reporting location without complying with Parts 390 through 399. When a driver is moving from emergency relief efforts to normal operations a 10-hour break is required when the total time a driver operates conducting emergency relief efforts, or a combination of emergency relief and normal operation, equals 14 hours.

### **Section 14.**

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).

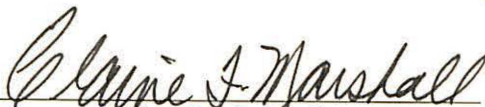
### **Section 15.**

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 10<sup>th</sup> day of May in the year of our Lord two thousand and twenty-one.

  
\_\_\_\_\_  
Roy Cooper  
Governor

**ATTEST:**

  
\_\_\_\_\_  
Elaine F. Marshall  
Secretary of State

