



**Federal Motor Carrier
Safety Administration**

March 18, 2020

EXPANDED EMERGENCY DECLARATION
UNDER 49 CFR § 390.23
No. 2020-002

THE FIFTY UNITED STATES OF AMERICA AND THE DISTRICT OF COLUMBIA

The President has declared a nationwide emergency pursuant to 42 U.S.C. § 5191(b), and pursuant to 49 CFR § 390.23(a)(1)(i), an emergency exists that warrants an exemption from Parts 390 through 399 of the Federal Motor Carrier Safety Regulations (FMCSR), except as otherwise restricted by this Emergency Declaration. Such emergency is in response to Coronavirus Disease 2019 (COVID-19) outbreaks and their effects on people and the immediate risk they present to public health, safety and welfare in the fifty States and the District of Columbia. This Declaration addresses National emergency conditions that create a need for immediate transportation of essential supplies, equipment and persons, and provides necessary relief from the FMCSR for motor carriers and drivers engaged in the transport of essential supplies, equipment and persons.

By execution of this Emergency Declaration, motor carriers and drivers providing direct assistance in support of relief efforts related to the COVID-19 outbreaks are granted emergency relief from Parts 390 through 399 of the FMCSR, except as restricted herein. Direct assistance means transportation and other relief services provided by a motor carrier or its driver(s) incident to the immediate restoration of essential services (such as medical care) or essential supplies (such as food and fuel) related to COVID-19 outbreaks during the emergency.

This Emergency Declaration provides regulatory relief for commercial motor vehicle operations providing direct assistance in support of emergency relief efforts related to the COVID-19 outbreaks, including transportation to meet immediate needs for: (1) medical supplies and equipment related to the testing, diagnosis and treatment of COVID-19; (2) supplies and equipment necessary for community safety, sanitation, and prevention of community transmission of COVID-19 such as masks, gloves, hand sanitizer, soap and disinfectants; (3) food, paper products and other groceries for emergency restocking of distribution centers or stores; (4) immediate precursor raw materials—such as paper, plastic or alcohol—that are required and to be used for the manufacture of items in categories (1), (2) or (3); (5) fuel; (6) equipment, supplies and persons necessary to establish and manage temporary housing, quarantine, and isolation facilities related to COVID-19; (7) persons designated by Federal, State or local authorities for medical, isolation, or quarantine purposes; and (8) persons necessary to provide other medical or emergency services, the supply of which may be affected by the COVID-19 response. Direct assistance does not include routine commercial deliveries,

including mixed loads with a nominal quantity of qualifying emergency relief added to obtain the benefits of this emergency declaration.

Direct assistance terminates when a driver or commercial motor vehicle is used in interstate commerce to transport cargo or provide services that are not in support of emergency relief efforts related to the COVID-19 outbreaks or when the motor carrier dispatches a driver or commercial motor vehicle to another location to begin operations in commerce. 49 CFR § 390.23(b). Upon termination of direct assistance to emergency relief efforts related to the COVID-19 outbreaks, the motor carrier and driver are subject to the requirements of 49 CFR 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. However, if the driver informs the motor carrier that he or she needs immediate rest, the driver must be permitted at least 10 consecutive hours off duty before the driver is required to return to the motor carrier's terminal or the driver's normal reporting location. Once the driver has returned to the terminal or the driver's normal reporting location, the driver must be relieved of all duty and responsibilities and must receive a minimum of 10 hours off duty if transporting property, and 8 hours if transporting passengers.

Nothing contained in this Emergency Declaration shall be construed as an exemption from the controlled substances and alcohol use and testing requirements (49 CFR Part 382), the commercial driver's license requirements (49 CFR Part 383), the financial responsibility (insurance) requirements (49 CFR Part 387), the hazardous material regulations (49 CFR Parts 100-180), applicable size and weight requirements, or any other portion of the regulations not specifically exempted under to 49 CFR § 390.23.

Motor carriers or drivers currently subject to an out-of-service order are not eligible for the relief granted by this declaration until they have met the applicable conditions for its rescission and the order has been rescinded by FMCSA.

In accordance with 49 CFR § 390.23, this declaration is effective immediately and shall remain in effect until the termination of the emergency (as defined in 49 CFR § 390.5) or until 11:59 P.M. (ET) on April 12, 2020, whichever occurs sooner.



Jim Mullen
Acting Administrator



Frequently Asked Questions Related to the FMCSA Emergency Declaration

Version 1.0 (March 19, 2020)

LINK: <https://www.fmcsa.dot.gov/emergency/expanded-emergency-declaration-under-49-cfr-ss-39023-no-2020-002>

Are loads that include supplies related to direct assistance under the emergency declaration mixed with other, un-related materials covered under the declaration?

Generally, yes, however, mixed loads with only a nominal quantity of qualifying emergency relief added to obtain the benefits of this emergency declaration are not covered.

Is a driver required to take a 30-minute break?

No, none of the hours of service regulations apply while the driver is engaged with providing direct assistance under the emergency relief exemption.

How do the hours a driver worked under the emergency exemption impact the 60/70-hour rule when the driver goes back to normal operations?

The hours worked providing direct assistance under the emergency relief exemption do not count toward the 60/70- hour rule.

Is a 34-hour restart required after providing direct assistance under the emergency declaration?

No, however, upon completion of the direct assistance and prior to returning to normal operations, the driver is required to meet the requirements of §§ 395.3(a) and (c) and 395.5(a), which include, for example, the requirement to take 10 hours off duty (8 hours for passenger carriers) and to comply with the on-duty limit of 60/70 hours in 7/8 days before returning to driving.

Is the driver required to use a paper logbook or ELD?

No, the emergency exemption includes relief from all the hours-of-service regulations in 49 CFR part 395, including the recordkeeping requirements (i.e., records of duty status (RODS)).

If there is an ELD in the truck, what should a driver do to account for the miles driven?

There are three options:

1. Use the “authorized personal use” (personal conveyance) function of the ELD to record all of the time providing direct assistance under the exemption. Use of this function will result in the time being recorded as off duty and requires an annotation.

2. Use the ELD in its normal mode and annotate the ELD record to indicate they were driving under the emergency relief exemption; or
3. Turn off the ELD, in which case the carrier would address the unassigned miles in accordance with the current regulation.

What does a driver need to do if taking a backhaul not covered by the exemption after transporting an exempt load?

Upon completion of the direct assistance activities and prior to returning to normal operations, the driver is required to take 10 consecutive hours off duty before driving. All the time the driver spends engaged in work-related activities that are not associated with providing direct assistance must be counted under the HOS rules.

Are livestock a covered commodity under the terms of the emergency declaration?

Yes, Livestock are covered as a precursor to food. The emergency declaration covers “immediate precursor raw materials—such as paper, plastic or alcohol—that are required and to be used for the manufacture of items” including food needed for the emergency restocking of stores.

Are haulers of household waste and medical waste covered under the terms of the declaration?

Yes, transportation for removal of both household and medical waste is covered as “supplies and equipment necessary for community safety, sanitation, and prevention of community transmission of COVID-19.”

What documentation is needed to verify that the driver is operating under the exemption?

There is no specific documentation required for verification. Retention of ordinary business records, such as the bill of lading, may be useful later for the convenience of the motor carrier and driver, to document use of the exemption during a future inspection or enforcement action.

Does FMCSA have preemptive authority over states that decide/attempt to close highway rest stops?

No, however FMCSA is working closely with the States to ensure adequate truck parking and facilities are available.



**Federal Motor Carrier
Safety Administration**

**1200 New Jersey Ave. SE
Washington, D.C. 20590**

March 20, 2020

NOTICE OF ENFORCEMENT DISCRETION DETERMINATION

This is a Notice that the Federal Motor Carrier Safety Administration has exercised agency discretion and determined not to enforce the Temporary Operating Authority Registration fee provisions of 49 C.F.R. 360.3T(d)(2) and (f)(6) against those motor carriers requesting Temporary Operating Authority Registration, including passenger carriers requesting temporary authority to transport property, in order to provide direct assistance to emergency relief efforts pursuant to the Regional Emergency Declaration 2020-002, the original Declaration dated March 13, 2020 and the Expanded Regional Emergency Declaration dated March 18, 2020, including any future amendments or extensions or limitations to the Declaration. Regional Emergency Declaration 2020-002 was issued following the declaration of emergency by the President under 42 U.S.C. § 5191(b) related to outbreaks of Coronavirus Disease 2019 (COVID-19). This Notice will expire upon the termination or expiration of Regional Emergency Declaration 2020-002, including any future extensions.

This Notice:

1. Acknowledges the National emergency conditions creating a need for immediate transportation of essential supplies, equipment and persons as a result of COVID-19 outbreaks as set forth in Regional Declaration of Emergency 2020-002;
2. Considers the interests of public safety and the immediate need for emergency relief;
3. Creates no individual rights of action and establishes no precedent for future determinations;
4. Is inapplicable to motor carriers whose operating authority registration is suspended or revoked.

Jim Mullen, Acting Administrator
Federal Motor Carrier Safety Administration

Notice to State Drivers Licensing Agencies of the Federal Motor Carrier Safety Administration's Policy Regarding Effect of Actions during COVID-19 Emergency

Under the provisions of 49 U.S.C. § 31311(a), the Commercial Motor Vehicle Safety Act of 1986 sets forth the requirements for States to participate in the commercial driver's license (CDL) program. Under 49 U.S.C. § 31312, the Federal Motor Carrier Safety Administration (FMCSA) has the authority to decertify States found to be in substantial non-compliance with the requirements of 49 U.S.C. § 31311(a) from issuing CDLs. Under 49 U.S.C. § 31314, as implemented through 49 CFR Part 384, if, during FMCSA's annual review of a State's compliance with 49 U.S.C. § 31311(a), a State is found to be in substantial non-compliance, FMCSA shall withhold amounts from a State's apportionment of Title 23 Federal-aid Highway funding beginning the first fiscal year following the first fiscal year of substantial non-compliance.

Ensuring that commercial driver's license holders are available to operate commercial motor vehicles during the national emergency declared by the President under 42 U.S.C. § 5191(b) related to Coronavirus Disease 2019 (COVID-19) is critical to the safety of the transportation and energy supply networks and the economic stability of our Nation. This notice sets forth the Agency's view of various actions State Drivers Licensing Agencies (SDLA) may exercise during the emergency relating to COVID-19 for which FMCSA would decline to issue a finding or make a determination of substantial non-compliance.

Question 1: Will FMCSA determine a State to be in substantial non-compliance or issue a finding under 49 CFR Part 384 if the State extends a Commercial Learner's Permit (CLP) or Commercial Driver's License (CDL) that would otherwise expire during the COVID-19 emergency?

Answer 1: No, provided that the State promptly brings its practices back into compliance with 383 and 384 after the national emergency related to COVID-19 ends or when the SDLA resumes normal operations.

Under 383.73(a)(2)(iii) and 383.25(c) a CLP may be valid for up to one year from the date of issuance. Under 383.73(b)(9) and (d)(6) an initial or renewed CDL may be valid up to 8 years from the date of issuance. If a State extends the expiration dates for CDLs or CLPs because the facilities that issue those licenses have been closed or have restricted access or extends those dates for individuals who are unable to access those facilities because of COVID-19 concerns and this extension causes the CDL or CLP to be valid longer than provided in the Federal regulations, FMCSA will not use those extensions as a basis for issuing a finding against the State or for a determination that the State is in substantial non-compliance.

However, the State is expected to promptly bring its CDL and CLP issuance practices back into conformance with the requirements of 383 and 384 as soon as the national emergency ends or the State is once again able to issue CLPs and CDLs that conform to the regulatory requirements, whichever is sooner.

The States should contact the Transportation Security Administration (TSA) for direction on how to handle Hazardous Materials (HM) Endorsements that are expiring. Questions can be directed to: HME.Question@tsa.dhs.gov.

Question 2: May a State renew a CDL/CLP online?

Answer 2: Yes. The CDL regulations do not prohibit State Drivers Licensing Agencies (SDLAs) from providing online renewals. The State of Record (SOR) must continue to adhere to all requirements for renewals, as outlined in Parts 383 and 384, such as checking the Commercial Driver's License Information System.

Question 3: Will FMCSA determine a State to be in substantial non-compliance or issue a finding if a State does not change the medical certification status to "not certified" or downgrade a CDL/CLP holder whose Medical Examiner's Certificate has expired during the COVID-19 emergency?

Answer 3: No. If a State does not change the medical certification status to "not certified" or downgrade a CDL or CLP driver whose Medical Examiner's Certificate has expired during the national emergency related to COVID-19, as required by 49 CFR 383.73(o), FMCSA will not issue a finding or use that action as a basis for determining the State to be in substantial non-compliance. However, the State is expected to promptly bring its CDL and CLP medical certification status and downgrade practices back into conformance as soon as the national emergency ends or when the SDLA resumes normal operations.



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

NOTICE OF ENFORCEMENT POLICY REGARDING TRAINING REQUIREMENTS

The U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) understands that many offerors and carriers of hazardous materials may be experiencing difficulty in either obtaining or providing recurrent training as required by the Hazardous Materials Regulations (HMR, 49 CFR Parts 171-180) due to the Coronavirus Disease 2019 (COVID-19) outbreak.

PHMSA gives notice that it will not take enforcement action against any offeror or carrier who is unable to provide recurrent training consistent with HMR training requirements. This enforcement discretion is in response to unprecedented changes in business practices related to the COVID-19 outbreak and is intended to minimize disruptions in the supply-chain. This enforcement discretion will be exercised by the Federal Aviation Administration, the Federal Motor Carrier Safety Administration, the Federal Railroad Administration, PHMSA, and the United States Coast Guard.

PHMSA does want to take this opportunity to remind employers that the HMR does not require training to be provided in a traditional classroom setting or through on the job training. Any method of training delivery, including web based, self-paced computer instruction, remotely delivered classroom instruction, on the job training, or some combination of those methods that cover the required elements in 49 CFR 172 Subpart H are acceptable. PHMSA encourages the utilization of any of these training methods to provide hazmat employees with appropriate recurrent training even if testing is not possible.

This notice is limited to the recurrent training requirements found in 49 CFR 172.704(c)(2). Offerors and carriers must comply with all other obligations under the HMR and other applicable laws. This notice will remain in effect for 90 days from the date of issuance.

Issued March 23, 2020, in Washington D.C.

A handwritten signature in blue ink that reads "William S. Schoonover".

William S. Schoonover
Associate Administrator
for Hazardous Materials Safety



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

**NOTICE OF ENFORCEMENT POLICY
REGARDING EXPIRING DRIVER'S LICENSES
AND MEDICAL EXAMINER'S CERTIFICATES
DURING COVID-19 NATIONAL EMERGENCY**

The President has declared a national emergency under 42 U.S.C. § 5191(b) related to Coronavirus Disease 2019 (COVID-19). This Notice is in response to COVID-19 outbreaks and their effects on people and the immediate risk they present to public health, safety, and welfare in the fifty States and the District of Columbia. Many States are experiencing greater than normal employee absences or have closed offices of their State Driver Licensing Agencies in response to the guidance from the U.S. Center for Disease Control to use social distancing to reduce the spread of COVID-19. Because of these actions, many commercial motor vehicle (CMV) drivers are unable to renew their driver's license and are unable to provide medical certificates to their State Driver Licensing Agencies.

In addition, many medical providers nationwide have canceled regularly scheduled appointments to dedicate resources to the COVID-19 response or for related reasons, and drivers are unable to obtain appointments for physical examinations with medical examiners to comply with the Federal Motor Carrier Safety Regulations (FMCSRs). Given the national emergency, there is a public need for immediate transportation of essential supplies, equipment, and persons, which requires an adequate and sustained supply of CMV drivers including Commercial Learner's Permit (CLP) holders, Commercial Driver's License (CDL) holders, and non-CDL commercial drivers. Ensuring that drivers are available to operate CMVs during the national emergency declaration is critical to continued operation of the transportation and energy supply networks and the safety and economic stability of our Nation.

This Notice of Enforcement Policy, effective from March 24, 2020 to June 30, 2020, provides needed relief from specified FMCSRs for CLP holders, CDL holders, and non-CDL drivers and motor carriers using those drivers. This Notice of Enforcement Policy applies to all CLP holders, CDL holders, and non-CDL drivers whose license was issued for less than the maximum period established by 49 CFR 383.25 and 383.73 and was valid on February 29, 2020 and expired on or after March 1, 2020.

FMCSA will exercise its enforcement discretion to not take enforcement action for the following:

1. 49 CFR 383.23(a)(2) – a CLP or CDL holder operating a CMV with an expired license, but only if the CLP or CDL was valid on February 29, 2020, and expired on or after March 1, 2020.
2. 49 CFR 383.37(a) – a motor carrier that allows a CLP or CDL driver to operate a CMV during a period in which the driver does not have a current CLP or CDL, but only if the CLP or CDL was valid on February 29, 2020, and expired on or after March 1, 2020.

3. 49 CFR 391.11(b)(5) – a CMV driver (i.e., CLP, CDL, or non-CDL license holder) or motor carrier that allows a CMV driver to operate a CMV during a period in which the driver’s operator license has expired, but only if the driver’s license was valid on February 29, 2020, and expired on or after March 1, 2020, and the driver is otherwise qualified to drive under 391.11.
4. 49 CFR 391.45(b) – a CMV driver or motor carrier that allows a CMV driver to operate a CMV during a period in which the driver does not have the current medical certificate as required by 49 CFR 391.45(b), but only if the driver has evidence of a medical certification that was valid on February 29, 2020 and expired on or after March 1, 2020.

All CLP and CDL drivers are required to comply with all other applicable obligations under the FMCSRs and other applicable laws.

This Notice creates no individual rights of action and establishes no precedent for future determinations.

This Notice is effective from March 24, 2020, through June 30, 2020.

Issued: March 24, 2020

A handwritten signature in black ink, appearing to read "Joseph P. DeLorenzo". The signature is fluid and cursive, with the first name "Joseph" and last name "DeLorenzo" clearly legible.

Joseph P. DeLorenzo
Acting Associate Administrator for Enforcement



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

**Waiver in Response to the COVID-19 Emergency –
For States, CDL Holders, CLP Holders, and Interstate Drivers Operating
Commercial Motor Vehicles**

March 24, 2020

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Grant of waiver.

SUMMARY: FMCSA grants, until June 30, 2020, a waiver from certain regulations applicable to interstate and intrastate commercial driver's license (CDL) and commercial learner's permit (CLP) holders and to other interstate drivers operating commercial motor vehicles (CMVs). The Agency has initiated this action in response to the President's declaration of a national emergency under 42 U.S.C. § 5191(b) related to Coronavirus Disease 2019 (COVID-19).

DATES: This waiver is effective March 20, 2020 and expires on June 30, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Nikki McDavid, Chief of the Commercial Driver's License Division, Office of Safety Programs, 202-366-0831, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

Legal Basis

The Transportation Equity Act for the 21st Century (TEA-21) (Pub. L. 105-178, 112 Stat. 107, June 9, 1998) provides the Secretary of Transportation (the Secretary) authority to grant waivers from any of the Federal Motor Carrier Safety Regulations issued under Chapter 313 of Title 49 of the United States Code or 49 U.S.C. § 31136, to a person(s) seeking regulatory relief (49 U.S.C. §§ 31136(e), 31315(a)). The Secretary must make a determination that the waiver is in the public interest and that it is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the waiver. Individual waivers may be granted only for a specific unique event for a period up to three months. TEA-21 authorizes the Secretary to grant waivers without requesting public comment, and without providing public notice.

The Administrator of FMCSA has been delegated authority under 49 CFR 1.87(e) and (f) to carry out the functions vested in the Secretary by 49 U.S.C. chapter 313, relating to commercial motor vehicle operators, and 49 U.S.C. chapter 311, subchapter I and III, relating to commercial motor vehicle programs and safety regulations.

Background

The President has declared a national emergency under 42 U.S.C. § 5191(b) related to Coronavirus Disease 2019 (COVID-19). This waiver is in response to COVID-19 outbreaks and

their effects on people and the immediate risk they present to public health, safety, and welfare in the fifty States and the District of Columbia. Several States are experiencing greater than normal employee absences or have closed offices of their State Driver Licensing Agencies in response to the guidance from the U.S. Center for Disease Control to use social distancing to reduce the spread of COVID-19. As a result, many CDL and CLP holders are unable to renew their CDLs and CLPs and are unable to provide medical certificates to their State Driver Licensing Agencies. In addition, many medical providers nationwide have canceled regularly scheduled appointments to dedicate resources to the COVID-19 response. As a result, drivers are unable to obtain appointments for physical examinations with medical examiners to comply with the Federal Motor Carrier Safety Regulations (FMCSRs). Given the national emergency, there is a public need for immediate transportation of essential supplies, equipment, and persons, which requires an adequate and sustained supply of CDL holders, CLP holders, and drivers operating CMVs (non-CDL drivers). This waiver provides needed relief from specified FMCSRs for CDL holders, CLP holders, and non-CDL drivers.

FMCSA's Determination and Regulatory Provisions Waived

Consistent with the statutory requirements for waivers, FMCSA has determined that it is in the public interest to issue a waiver, limited in scope and circumstances, that is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the waiver until June 30, 2020.

To respond to this unique event and to continue the ability of intrastate and interstate CDL and CLP holders and interstate non-CDL drivers to transport goods in response to the COVID-19 emergency, this waiver:

- Extends until June 30, 2020 the maximum period of CDL validity by waiving 49 CFR 383.73(b)(9) and 383.73(d)(6) for CDLs due for renewal on or after March 1, 2020.
- Extends until June 30, 2020 the maximum period of CLP validity by waiving 49 CFR 383.73(a)(2)(iii) and 383.25(c) for CLPs that are due for renewal on or after March 1, 2020, without requiring the CLP holders to retake the general and endorsement knowledge tests.
- Waives the requirement under 49 CFR 383.25(e) that CLP holders wait 14 days to take the CDL skills test.
- Waives the requirement under 49 CFR 391.45 that CDL holders, CLP holders, and non-CDL drivers have a medical examination and certification, provided that they have proof of a valid medical certification that was issued for a period of 90 days or longer and that expired on or after March 1, 2020. e.
- Waives the requirement under 49 CFR 383.71(h)(3) that, in order to maintain the medical certification status of "certified," CDL or CLP holders provide the State Driver Licensing Agency with an original or copy of a subsequently issued medical examiner's certificate, provided that they have proof of a valid medical certification that expired on or after March 1, 2020.

- Waives the requirement under 49 CFR 383.73(o)(2) that the State Driver Licensing Agency change the CDL or CLP holder's medical certification status to "not certified" upon the expiration of the medical examiner's certificate or medical variance, provided that the CDL or CLP holders have proof of a valid medical certification that expired on or after March 1, 2020.
- Waives the requirements under 49 CFR 383.73(o)(4) that the State Driver Licensing Agency initiate a CDL or CLP downgrade upon the expiration of the medical examiner's certificate or medical variance, provided that the CDL or CLP holders have proof of a valid medical certification or medical variance that expired on or after March 1, 2020.
- In accordance with 49 CFR 383.23(a)(1) and 391.41(a)(1)(i), FMCSA continues to recognize the validity of commercial driver's licenses issued by Canadian Provinces and Territories and Licencias Federales de Conductor issued by the United Mexican States, in accordance with 49 CFR part 383, when such jurisdictions issue a similar notice or declaration extending the validity date of the medical examination and certification and/or validity of the corresponding commercial driver's license due to interruption to government service resulting from COVID-19.

States, CDL holders, CLP holders, and interstate non-CDL CMV drivers are covered under this waiver without further action.

FMCSA will not issue a finding of noncompliance under 49 CFR part 384 against States for action or inaction consistent with this waiver.

FMCSA's legal authorities extend to waiver of the maximum period under the FMCSRs for State issuance of CDLs (8-years). While many States have adopted the maximum 8-year renewal period, other States have adopted shorter periods, and waiving the 8-year limit would provide no relief to drivers with CDLs issued by those States. In the interest of effectively providing automatic CDL renewal relief for as many drivers with recently expired CDLs as possible, FMCSA is therefore issuing a separate Notice of Enforcement Policy stating that, through June 30, 2020, the Agency will not take enforcement against drivers for operation of a CMV if the driver held a valid CDL on February 29, 2020, or against motor carriers for use of such a driver. Most States have adopted the full 1-year maximum period of CLP validity, but FMCSA is similarly including its Enforcement Policy a comparable provision on non-enforcement of recently expired CLPs.

Public Interest

FMCSA finds that the granting of this waiver is in the public interest, given interstate and intrastate CDL and CLP holders' and interstate non-CDL drivers' critical role in delivering necessary property and passengers, including, but not limited to, shipments of essential supplies and persons to respond to the COVID-19 outbreaks. This waiver is in the public interest because it would allow drivers covered under this waiver to deliver essential supplies and persons across State lines to address the national emergency. This waiver will also reduce the administrative burden on State Driver Licensing Agencies and CDL, CLP, and interstate non-CDL drivers during this national emergency.

Safety Equivalence Due to the limited scope of this waiver, the short duration, and the ample precautions that remain in place, FMCSA has determined that the waiver is likely to achieve a level of safety that is equivalent to the level of safety that would be obtained absent the waiver.

The waiver of a particular regulation should not be looked at in isolation but rather as part of the whole of all regulations governing the safety of drivers. Waiver determinations are made holistically, taking all relevant factors into account. See *International Bhd of Teamsters v. DOT*, 724 F.3d 206 (D.C. Cir. 2013). Notably, although the maximum period of time for CDL and CLP expiration is set by regulation, it is not one of the core of regulations that FMCSA evaluates to determine whether a State program is in “substantial compliance.” See 49 CFR 384.301. This waiver also enhances safety by not requiring or incentivizing State offices to remain open during the pandemic and CDC recommendations to social distance.

The waiver does not alter any of the knowledge and skills testing requirements for obtaining either a CDL, a CLP, or a necessary endorsement. It does not allow CDL or CLP holders to extend their licenses if they expired prior to March 1, 2020. It does not apply to a CDL or CLP holder if the driver’s privileges have been suspended or withdrawn for traffic offenses. This waiver does not cover CDL holders, CLP holders, or non-CDL drivers whose medical certifications expired prior to March 1, 2020.

In this case, FMCSA believes that the measures listed below under Terms, Conditions, and Restrictions of the Waiver, including proof of a recently expired valid CDL, CLP or medical certificate, the inapplicability of the waiver to expired medical certificates issued for less than 90 days, and the requirement to notify FMCSA in the event of accidents involving drivers operating under the waiver, taken collectively, provide the assurance needed to meet the legal standard that granting the waiver is likely to achieve an “equivalent level of safety.”

As such, FMCSA has determined that a waiver from the regulations noted above during the period of the waiver will achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the waiver.

Unique Circumstances

COVID-19 outbreaks have led to widespread closures of State and Federal government offices, reduction of government and medical services, and disruption of transportation systems, including driver shortages and related interruption of supply chains, which are heavily dependent on continued CMV operations. FMCSA finds that the circumstances surrounding this waiver are unique because such government and medical operations are not providing their usual level of service.

For the reasons above, FMCSA grants, until June 30, 2020, a waiver as provided above, subject to the terms and conditions below.

Terms, Conditions, and Restrictions of the Waiver

This waiver covers States, CDL holders, CLP holders and interstate non-CDL CMV drivers for the period beginning at 12:01 a.m. (ET) on March 20, 2020, continuing through 11:59 p.m. on June 30, 2020.

- (1) This waiver does not apply to a CDL or CLP holder if the driver's license expired before March 1, 2020.
- (2) This waiver does not apply to a CDL or CLP holder if the driver's privileges have been suspended or withdrawn for traffic offenses.
- (3) Drivers claiming relief under this waiver from the requirement for a valid medical certificate must have proof of a valid medical certificate that expired on or after March 1, 2020, and carry a paper copy of their expired medical certificates.
- (4) Drivers who cannot produce evidence of a prior medical certification that expired on or after March 1, 2020, are not covered under this waiver, including new drivers who have never obtained a medical certification.
- (5) Drivers who, since their last medical certificate was issued, have been diagnosed with a medical condition that would disqualify the driver from operating in interstate commerce, or who, since their last medical certificate was issued, have developed a condition that requires an exemption or Skill Performance Evaluation from FMCSA are not covered under this waiver.
- (6) This waiver does not apply to medical examiner's certificates originally issued for less than 90 days.
- (7) Notification to FMCSA of Accidents. Each motor carrier must notify FMCSA within 5 business days of an accident (as defined in 49 CFR 390.5), involving any CDL holder, CLP holder, or non-CDL driver operating under the terms of this waiver. See 49 CFR 390.15(b) (requiring maintenance of accident registry.) Notification shall be by email to MCPSD@DOT.GOV. The notification must include the following information:
 - i. Date of the accident;
 - ii. City or town, and State in which the accident occurred, or closest to the accident scene;
 - iii. Driver's name and license number;
 - iv. Vehicle number and State license number;
 - v. Number of individuals suffering physical injury;
 - vi. Number of fatalities;
 - vii. The police-reported cause of the accident (if available at time of the report); and
 - viii. Whether the driver was cited for violation of any traffic laws, or motor carrier safety regulations.
- (8) FMCSA reserves the right to revoke this waiver for drivers' involvement in accidents, motor carriers' failure to report accidents, and drivers' failure to comply with the restrictions of this waiver.

Jim Mullen
Acting Administrator