



**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.