Federal Motor Carrier
Safety Administration

September 11, 2020

EXTENSION OF THE MODIFIED EXPANDED EMERGENCY DECLARATION No. 2020-002 UNDER 49 CFR § 390.25

THE FIFTY UNITED STATES OF AMERICA AND THE DISTRICT OF COLUMBIA

The Federal Motor Carrier Safety Administration (FMCSA) hereby declares that the continuing national emergency warrants the extension of Emergency Declaration No. 2020-002. This extension continues the exemption granted from Parts 390 through 399 of the Federal Motor Carrier Safety Regulations (FMCSRs) for the fifty States and the District of Columbia as set forth below. This notice extends the exemption through December 31, 2020, subject to the restrictions and limitations set forth in this Extension.

Emergency Declaration No. 2020-002 was issued following the declaration of a national emergency by the President pursuant to 42 U.S.C. § 5191(b) in response to the Coronavirus Disease 2019 (COVID-19), the public health emergency declared by the Health and Human Services Secretary, and the immediate risk COVID-19 presents to public health and welfare. Emergency Declaration No. 2020-002 was previously set to expire on September 14, 2020. FMCSA is continuing the exemption because the presidentially declared national emergency remains in place, and because a continued exemption is needed to support direct emergency assistance for some supply chains. FMCSA is extending the modified expanded Emergency Declaration No. 2020-002 and associated regulatory relief in accordance with 49 CFR § 390.25. This extension addresses national emergency conditions that create a need for immediate transportation of essential supplies, and provides necessary relief from the FMCSRs for motor carriers and drivers.

By execution of this extension of Emergency Declaration No. 2020-002, motor carriers and drivers providing direct assistance in support of relief efforts related to the COVID-19 public health emergency are granted emergency relief from Parts 390 through 399 of the FMCSRs, 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 related to COVID-19 during the emergency.

The extension of Emergency Declaration No. 2020-002 provides regulatory relief for commercial motor vehicle operations providing direct assistance in support of emergency relief efforts related to COVID-19 and is limited to transportation of (1) livestock and livestock feed; (2) medical supplies and equipment related to the testing, diagnosis and treatment of COVID-19; (3) 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; and (4) food, paper products and other groceries for emergency restocking of distribution centers or stores. 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.[1] In its modification of Emergency Declaration No. 2020-002 effective June 15, 2020, FMCSA concluded that there was no longer a need for emergency relief with respect to the other categories of supplies, equipment, and persons covered by the May 13 extension and expansion of Emergency Declaration No. 2020-002, and modified the Emergency Declaration to remove those categories. Effective August 15, 2020, FMCSA reinstated emergency relief for emergency restocking of food, paper products and other groceries at distribution centers or stores. This extension continues the relief granted in Emergency Declaration 2020-002 as modified on June 15, 2020 and August 15, 2020.

Emergency Declaration Restrictions & Limitations

By execution of this extension of the modified expanded Emergency Declaration No. 2020-002, motor carriers and drivers providing direct assistance to the national emergency are **not granted** emergency relief from, and must continue to comply with, the following Federal Motor Carrier Safety Regulations and conditions:

1. 49 CFR § 392.2 related to the operation of a commercial motor vehicle in accordance with State laws and regulations, including compliance with applicable speed limits and other traffic restrictions.

2. 49 CFR § 392.3 related to the operation of a commercial motor vehicle while a driver's ability or alertness is so impaired, or so likely to become impaired, through fatigue, illness, or any other cause, as to make it unsafe for him/her to begin or continue to operate the motor vehicle.

3. Motor carriers shall not require or allow fatigued drivers to operate a commercial motor vehicle. A driver who informs a carrier that he/she needs immediate rest shall be given at least ten consecutive hours before the driver is required to return to service.

4. 49 CFR §§ 392.80 and 392.82 related to the prohibitions on texting while driving and using a hand-held mobile telephone while driving.

5. A motor carrier whose driver is involved in a crash while operating under this emergency declaration must report any recordable crash within 24 hours, by phone or in writing, to the FMCSA Division Office where the motor carrier is domiciled. The carrier must report the date, time, location, driver, vehicle identification, and brief description of the crash.

6. Nothing in the Emergency Declaration or this Extension shall be construed as an exemption from the controlled substance and alcohol uses 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 49 CFR § 390.23.

[1] This Declaration extension and other FMCSA documents related to the COVID-19 national emergency are posted at fmcsa.dot.gov/COVID-19.

7. 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 writing.

8. 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 COVID-19 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 COVID-19, 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. 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 operations, equals 14 hours.

In accordance with 49 CFR § 390.25, this extension of Emergency Declaration No. 2020-002 is effective at 12:00 A.M. (ET), September 15, 2020 and shall remain in effect until 11:59 P.M. (ET), December 31, 2020, or until the revocation of the Presidentially declared COVID-19 national emergency, whichever is sooner.

Wiley Deck
Deputy Administrator