

# Federal Motor Carrier Safety Administration (FMCSA)

*Coronavirus Emergency Declaration*

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March 25, 2020



President Donald Trump has issued a nationwide disaster declaration in support of emergency relief efforts related to the COVID-19 pandemic. This declaration provides relief for motor carriers from some parts of the Federal Motor Carrier Safety Regulations only if you are in direct support of the efforts as defined further below.

### Key elements of the declaration:

- Motor carriers/drivers must be in direct support of the relief efforts to exercise the exemption.
- CDL and DOT drug and alcohol testing requirements are not exempted under this declaration.
- The most impactful benefit of the declaration is the exemption from the hours of service rules. Drivers have the obligation to report and companies shall adhere to driver fatigue issues and concerns.
  - The declaration exempts interstate motor carriers from parts 390 – 399 of the federal regulations. This includes:
    - (390) general motor carrier requirements.
    - (391) driver qualification.
    - (392) driving of commercial motor vehicles.
    - (393) parts and accessories.
    - (396) vehicle maintenance.
- The declaration is in effect through April 12, 2020, unless rescinded.
- If you are not in direct support of the emergency, you are not subject to the relief associated with the declaration.

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*Note: When operating in intrastate commerce, the state may declare additional regulatory relief subject to its powers and authority. Motor carriers are required to abide by the specific provisions associated with those provisions.*

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## *Motor carrier emergency declaration best practice guidance:*

**While the declaration provides regulatory relief, motor carriers should monitor and control the use of such relief mechanisms.**

- The declaration provides relief from certain regulations. However it isn't going to absolve you of liability in an accident. Therefore, your actions cannot be reckless, and should to be defensible in regards the need for the delivery outside of the HOS.
- Communicate frequently with your drivers.
  - Drivers must not drive when fatigued and have the authority and responsibility to get adequate rest.
    - Drivers should be communicating with dispatch regularly.
    - Dispatchers/supervisors should be communicating with drivers regularly, preferably via phone when the vehicle is not moving to gauge driver alertness.
  - Be cognizant of the on-duty hours worked.
    - Dispatch and manage accordingly.
  - Your drivers may feel obligated to “push it” given the situation.
    - The declaration may be perceived by some drivers as an opportunity to make more money without regard to the additional fatigue.
- Set realistic expectations with your customers and communicate as needed.
- Continue to evaluate “compliance with the declaration” versus the safety of your drivers and the overall risk management aspect to the company.

## Below is the emergency guidance declaration from the Federal Motor Carrier Safety Administration and frequently asked questions.

### **Direct assistance in support of emergency relief efforts related to the COVID-19 outbreaks, including transportation to meet immediate needs for:**

- Medical supplies and equipment related to the testing, diagnosis and treatment of COVID-19.
- 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.
- 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).
- Fuel.
- Equipment, supplies and persons necessary to establish and manage temporary housing, quarantine and isolation facilities related to COVID-19.
- Persons designated by federal, state or local authorities for medical, isolation or quarantine purposes.
- 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.

## Frequently asked questions

For the most up-to-date frequent asked questions, visit the [FMCSA website](#).

### **Are loads that include supplies related to direct assistance under the emergency declaration mixed with other, unrelated 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 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 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.
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. 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.



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