



**Federal Motor Carrier
Safety Administration**

**Western Service Center
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Lakewood, CO 80215**

July 27, 2021

**EXTENSION OF EMERGENCY DECLARATION UNDER 49 CFR § 390.25
No. 2021-003**

MONTANA

The Field Administrator for the Federal Motor Carrier Safety Administration's (FMCSA) Western Service Center hereby declares that an emergency exists that warrants extension of the Emergency Declaration issued by the Governor of the State of Montana, and continuing the exemption granted in accordance with 49 CFR § 390.23(a)(1) from Parts 390 through 399 of the Federal Motor Carrier Safety Regulations (FMCSRs), except as otherwise restricted herein.

On June 15, 2021, as a result of an early and severe wildfire season, wildfire activity, and critical fire danger due to hot, dry conditions, the Governor of the State of Montana issued a State declaration of emergency (No. 9-2021) finding the conditions posed an imminent threat to the safety of persons and property. In accordance with 49 CFR § 390.23, the State declaration of emergency resulted in relief from 49 CFR Parts 390-399 for a period of 30 days. Because emergency conditions have not abated, FMCSA is extending the Emergency Declaration and associated regulatory relief in accordance with 49 CFR § 390.25. This Extension of the Emergency Declaration addresses ongoing emergency conditions creating a need for immediate transportation of supplies, goods, equipment, fire retardants, fuel for generators, equipment, vehicles and aircraft related to fire suppression activities including aviation fuel, and persons and provides necessary relief.

By execution of this Extension of the Emergency Declaration, motor carriers and drivers providing direct assistance to the wildfire emergency in the State of Montana are granted emergency relief from Parts 390 through 399 of Title 49 Code of Federal Regulations except as restricted herein.

The Extension of the Emergency Declaration provides regulatory relief for commercial motor vehicle operations while providing direct assistance supporting emergency relief efforts transporting supplies, goods, equipment, fire retardants, fuel for generators, equipment, vehicles and aircraft related to fire suppression activities including aviation fuel into the State of Montana, and transporting persons into and from the State of Montana, or providing other assistance in the form of emergency services during the wildfire emergency in the State of Montana.

Restrictions & Limitations

By execution of this Extension to the Emergency Declaration, motor carriers and drivers providing direct assistance to the emergency in the State of Montana are **not granted**

emergency relief from, and must continue to comply with, the following Federal Motor Carrier Safety Regulations (FMCSRs) 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. 49 CFR §§ 392.4 and 392.5 related to the prohibitions on drivers using or possessing alcohol, drugs or other substances.
4. 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.
5. 49 CFR §§ 392.80 and 392.82 related to the prohibitions on texting while driving and using a hand-held mobile telephone while driving.
6. 49 CFR §§ 395.8(a), 395.8(k), and 395.11 related to driver's record of duty status, supporting documents, and retention of driver's records of duty status and supporting documents, and subpart B of Part 395 related to electronic logging devices. Drivers will record their duty status for each 24-hour period using the method normally used by the driver when not operating under the Emergency Declaration. Drivers subject to the ELD requirements when not operating under the Emergency Declaration must continue to use ELDs, maintain ELD data for 6 months from the date the electronic record is generated, and make ELD data accessible to law enforcement upon request.
7. 49 CFR §§ 396.7 and 396.9 related to the prohibitions on operating a vehicle in a condition likely to cause an accident or breakdown of the vehicle and operating a vehicle declared and marked out-of-service until all repairs required by the out-of-service notice have been satisfactorily completed.
8. 49 CFR § 390.15(a) related to making all records and information pertaining to a crash available to FMCSA, State and local enforcement agencies and providing assistance in the investigation of a crash, as requested. 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.
9. Nothing in the Emergency Declaration or this Extension of the Emergency Declaration 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 hazardous material safety permit requirements (49 CFR Part 385); the financial responsibility (insurance) requirements (49 CFR Part 387); the hazardous material regulations (49 CFR Parts 100-180); vehicle size, length, width,

and weight limitations, as well as route designations administered by the Federal Highway Administration (23 CFR § 658; 23 U.S.C. 127; 49 U.S.C. §§ 31111-31115); or any other portion of the regulations not specifically exempted under 49 CFR § 390.23.

10. 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.
11. 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 wildfire emergency 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 wildfire emergency, 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 the Emergency Declaration is effective immediately and shall remain in effect until the end of the emergency (*as defined in 49 CFR § 390.5*) or until 11:59 P.M. (ET), September 30, 2021, whichever is earlier. FMCSA intends to continually review the status of this Emergency Declaration and may take action to modify or terminate the Emergency Declaration sooner if conditions warrant.



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Western Service Center