



**Federal Motor Carrier
Safety Administration**

**Western Service Center
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August 24, 2021

**EXTENSION OF EMERGENCY DECLARATION UNDER 49 CFR § 390.25
No. 2021-007**

CALIFORNIA

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 California, and continuing the exemption granted for certain regulatory requirements in Part 395 of the Federal Motor Carrier Safety Regulations (FMCSRs), except as otherwise restricted herein.

On July 16 and 23, 2021, as a result of widespread wildfire activity, and critical fire danger due to exceptionally high temperatures, drought, and dry fuels, the Governor of the State of California issued a declaration of emergency finding the conditions posed an imminent threat to the safety of persons, infrastructure, and property. In accordance with 49 CFR § 390.23, the State declaration of emergency resulted in relief from regulations in 49 CFR Parts 390-399 for a period of 30 days. Because emergency conditions have not abated, FMCSA is extending the Emergency Declaration and granting regulatory relief in accordance with 49 CFR § 390.25. This Extension to the Emergency Declaration addresses ongoing emergency conditions creating a need for immediate transportation of supplies; goods; equipment; fire retardants; fuel for generators, equipment, emergency vehicles and aircraft related to fire suppression activities, including aviation fuel; and persons, and provides necessary relief.

By execution of this Extension to the Emergency Declaration, motor carriers and drivers providing direct assistance to the wildfires emergency in the State of California are granted emergency relief from 49 CFR § 395.3, maximum driving time for property-carrying vehicles, and 49 CFR § 395.5, maximum driving time for passenger-carrying vehicles, subject to the restrictions and conditions set forth herein.

The Extension to 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; and fuel for generators, equipment, emergency vehicles, and aircraft related to fire suppression activities, including aviation fuel, into the State of California, and transporting persons into and from the State of California, or providing other assistance in the form of emergency services during the wildfires emergency in the State of California.

Restrictions and Conditions

By execution of this Extension to the Emergency Declaration, motor carriers and drivers providing direct assistance to the wildfires emergency in the State of California are granted

emergency relief from 49 CFR § 395.3, maximum driving time for property-carrying vehicles, and 49 CFR § 395.5, maximum driving time for passenger-carrying vehicles, subject to the following restrictions and conditions:

1. Nothing in this Extension to the Emergency Declaration shall be construed as an exemption from any portion of the FMCSRs for which relief is not specifically granted herein. Motor carriers and drivers providing direct assistance to the wildfires emergency in the State of California shall comply with all applicable FMCSRs, including but not limited to:
 - A. 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.
 - B. 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.
 - C. 49 CFR §§ 392.4 and 392.5 related to the prohibitions on drivers using or possessing alcohol, drugs, or other substances.
 - D. 49 CFR §§ 392.80 and 392.82 related to the prohibitions on texting while driving and using a hand-held mobile telephone while driving.
 - E. 49 CFR §§ 395.8(a), 395.8(k), and 395.11 related to driver's records 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 this Extension to the Emergency Declaration. Motor carriers and drivers subject to the ELD requirements must continue to use ELDs, maintain ELD records and data for 6 months from the date the electronic record is generated, and produce, transfer and make ELD records and data accessible to law enforcement and safety officials upon request.
 - F. 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.
 - G. 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 Extension to the 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.

2. 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.
3. Nothing in this Extension to 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); or 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).
4. Motor carriers or drivers currently subject to an out-of-service order are not eligible for the relief granted by this Extension to the Emergency Declaration until they have met the applicable conditions for its rescission and the order has been rescinded by FMCSA in writing.
5. This Extension to the Emergency Declaration provides for regulatory relief from 49 CFR §§ 395.3 and 395.5 for commercial motor vehicle operations while providing direct assistance supporting emergency relief efforts to the wildfires emergency in the State of California. 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 wildfires emergency in the State of California as set forth in this Extension to the Emergency Declaration, 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 wildfires emergency in the State of California, the motor carrier and driver are subject to the all requirements of the FMCSRs, except that a driver may return empty to the motor carrier's terminal or the driver's normal work reporting location without complying with 49 CFR §§ 395.3 and 395.5. 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 to 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 Extension to the Emergency Declaration and may take action to modify or terminate the Emergency Declaration sooner if conditions warrant.



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Western Service Center