



**Federal Motor Carrier
Safety Administration**

**Western Service Center
12600 West Colfax Ave., Suite B-300
Lakewood, CO 80215**

August 19, 2021

REGIONAL EMERGENCY DECLARATION

No. 2021-006

SOUTH DAKOTA

The Regional Field Administrator for the Federal Motor Carrier Safety Administration's (FMCSA) Western Service Center hereby declares that an emergency exists that warrants issuance of a Regional Emergency Declaration and an exemption from certain regulatory requirements in Part 395 of the Federal Motor Carrier Safety (FMCSRs), except as otherwise restricted in this Emergency Declaration. Such emergency is in response to the ongoing drought and shortage of fuel products for use in fueling aircraft and emergency vehicles to combat wildfires. This Emergency Declaration addresses the emergency conditions creating a need for immediate transportation of gasoline, diesel, jet fuel, and ethyl alcohol for use in fueling aircraft and emergency vehicles to combat wildfires in the State of South Dakota and provides necessary relief.

By execution of this Emergency Declaration, motor carriers and drivers providing direct assistance to the emergency in the State of South Dakota in direct support of relief efforts related to the ongoing drought and shortage of gasoline, diesel, jet fuel, and ethyl alcohol for use in fueling aircraft and emergency vehicles to combat wildfires are granted relief from 49 CFR § 395.3, maximum driving time for property-carrying vehicles, subject to the conditions set forth below:

1. Nothing in this Emergency Declaration shall be construed as an exemption from any portion of the FMCSRs for which relief is not specifically granted in this Emergency Declaration. Motor carriers and drivers providing direct assistance to the emergency in the State of South Dakota 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 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 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 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 Emergency Declaration until they have met the applicable conditions for its rescission and the order has been rescinded by FMCSA in writing.
 5. This Emergency Declaration provides for regulatory relief from 49 CFR § 395.3 for commercial motor vehicle operations while providing direct assistance supporting emergency relief efforts transporting gasoline, diesel, jet fuel, and ethyl alcohol for use in fueling aircraft and emergency vehicles to combat wildfires. 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 emergency in the State of South Dakota 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 emergency in the State of South Dakota, 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 § 390.23, this 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), or September 19, 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.



Scott G. Hernandez, Regional Field Administrator
Federal Motor Carrier Safety Administration
Western Service Center