



**Federal Motor Carrier
Safety Administration**

August 31, 2021

**EXTENSION AND AMENDMENT
OF 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 extension of the expanded modified Emergency Declaration No. 2020-002. The extension and amendment of the expanded modified Emergency Declaration continues the exemption granted from certain requirements in Part 395 of the Federal Motor Carrier Safety Regulations (FMCSRs) for the fifty States and the District of Columbia as set forth below.

FMCSA issued Emergency Declaration No. 2020-002 in response to the March 13, 2020 declaration of a national emergency under 42 U.S.C. § 5191(b) related to the coronavirus disease 2019 (COVID-19), and the immediate risk COVID-19 presents to public health and welfare. FMCSA has previously modified Emergency Declaration 2020-002 to expand and remove categories of supplies, equipment and persons covered by the Emergency Declaration to respond to changing needs for emergency relief. On May 26, 2021, FMCSA extended the modified Emergency Declaration No. 2020-002 and associated regulatory relief through August 31, 2021 in accordance with 49 CFR § 390.25. FMCSA is continuing the exemption and associated regulatory relief in accordance with 49 CFR § 390.25, because the presidentially declared emergency remains in place and because, although the number of COVID-19 cases began to decline in the U.S. following widespread introduction of vaccinations, the delta variant and lagging vaccination rates reversed that downward trajectory and have resulted in a rapid rise in infections and hospitalizations around the country. Therefore, a continued exemption is needed to support direct emergency assistance for some supply chains. This notice continues the relief granted in Emergency Declaration 2020-002, as modified on June 15, 2020, August 15, 2020, and December 1, 2020, through November 30, 2021 subject to the restrictions and conditions set forth herein unless modified or terminated sooner. This extension and amendment of the Emergency Declaration 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 and amendment 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 49 CFR § 395.3, maximum driving time for property-carrying vehicles, 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 and amendment 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) vaccines, constituent products, and medical supplies and equipment including ancillary supplies/kits for the administration of vaccines, related to the prevention of COVID-19; (4) 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; (5) food, paper products and other groceries for emergency restocking of distribution centers or stores; (6) gasoline, diesel, jet fuel, and ethyl alcohol; and (7) supplies to assist individuals impacted by the consequences of the COVID-19 pandemic (e.g., building materials for individuals displaced or otherwise impacted as a result of the emergency). Direct assistance does not include non-emergency transportation of qualifying commodities or routine commercial deliveries, including mixed loads with a nominal quantity of qualifying emergency relief added to obtain the benefits of this emergency declaration. To be eligible for the exemption, the transportation must be both (i) of qualifying commodities and (ii) incident to the immediate restoration of those essential supplies.¹

Emergency Declaration Restrictions & Conditions

By execution of this extension and amendment of Emergency Declaration No. 2020-002, motor carriers and drivers providing direct assistance to the national emergency are granted emergency relief only from 49 CFR § 395.3, maximum driving time for property-carrying vehicles, subject to the following restrictions and conditions:

1. Nothing in this extension and amendment of Emergency Declaration No. 2020-002 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 national emergency 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.

¹ This Notice of Extension and Amendment of Emergency Declaration No. 2020-002 and other FMCSA documents related to the COVID-19 national emergency are posted at [fmcsa.dot.gov/COVID-19](https://www.fmcsa.dot.gov/COVID-19).

- 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 and amendment of Emergency Declaration No. 2020-002. 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 and amendment of Emergency Declaration No. 2020-002 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 and amendment of Emergency Declaration No. 2020-002 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 and amendment of Emergency Declaration No. 2020-002 until they have met the applicable conditions for its rescission and the order has been rescinded by FMCSA in writing.
 - 5. This extension and amendment of Emergency Declaration No. 2020-002 provides for regulatory relief from 49 CFR § 395.3 for commercial motor vehicle operations while providing direct assistance supporting emergency relief related to COVID-19. 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 as set forth in this extension and amendment of Emergency Declaration No. 2020-002, 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 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. 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.

6. Motor carriers that voluntarily operate under the terms of this extension and amendment of Emergency Declaration No. 2020-002 are to report within 5 days after the end of each month their reliance on the Declaration. To report, motor carriers will access their portal account at <https://portal.fmcsa.dot.gov/login>, log-in with their FMCSA portal credentials, and access the Emergency Declaration Reporting under the Available FMCSA Systems section of the page.

In accordance with 49 CFR § 390.25, this extension and amendment of Emergency Declaration No. 2020-002 is effective at 12:00 A.M. (ET), September 1, 2021 and shall remain in effect until 11:59 P.M. (ET), November 30, 2021, modification or termination by FMCSA, or revocation of the declaration of national emergency under 42 U.S.C. § 5191(b), whichever is soonest.

Meera Joshi
Deputy Administrator