



**Federal Motor Carrier
Safety Administration**

November 23, 2021

REGIONAL EMERGENCY DECLARATION
UNDER 49 CFR § 390.23
No. 2021-010

**CANADIAN MOTOR CARRIERS AND DRIVERS PROVIDING DIRECT ASSISTANCE
TO THE FLOODING AND LANDSLIDES EMERGENCY IN BRITISH COLUMBIA**

On November 17, 2021, a provincial state of emergency was declared by the British Columbia, Canada government due to unprecedented rain resulting in severe flooding and landslides. On November 19, 2021, the Acting Director General of Multimodal and Road Safety Programs on behalf of the Canadian Minister of Transport issued a targeted essential freight exemption to support emergency response. The Canadian government also requested emergency assistance from the United States, to facilitate movement of Canadian goods through the United States in order to bypass road closures and areas in Canada cut off by flooding and landslides.

The U.S. Department of Transportation (USDOT), Federal Motor Carrier Safety Administration (FMCSA) hereby declares that an emergency exists that warrants issuance of a Regional Emergency Declaration and an exemption from certain regulatory requirements in the Federal Motor Carrier Safety (FMCSRs), except as otherwise restricted in this Emergency Declaration. This Declaration addresses the emergency conditions affecting people and property including the immediate threat to human life and public welfare creating a need for immediate transportation of essential goods and supplies, and provides necessary relief.

By execution of this Emergency Declaration, Canadian motor carriers and drivers providing direct assistance to the emergency in British Columbia, who are providing emergency services or transportation of essential goods, supplies and equipment from Canada to other points in Canada through the United States are granted emergency relief from 49 CFR Parts 390-399, subject to the restrictions and conditions set forth herein. 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.

Restrictions and Conditions

By execution of this Extension of Emergency Declaration No. 2021-010, Canadian motor carriers and drivers providing direct assistance to the flooding and landslides emergency in British Columbia, Canada are granted emergency relief from 49 CFR parts 390 through 399, subject to the following restrictions and conditions:

1. The relief provided in this Emergency Declaration is limited to Canadian motor carriers and drivers providing emergency services or transporting essential goods, supplies and equipment from Canada to other points in Canada through the United States in order to bypass road closures and areas in Canada cut off by flooding and landslides. The relief provided in this Emergency Declaration does not apply to Canadian motor carriers picking up or delivering loads in the United States.
2. The relief provided in this Emergency Declaration is limited to Canadian motor carriers and drivers operating commercial motor vehicles required to be operated by drivers holding class 1, 2, or 3 Canadian commercial driver's licenses and emergency vehicles as set forth in 49 CFR § 390.5T(f)(5).
3. All motor carriers operating under this Emergency Declaration must hold a valid National Safety Code (NSC) certificate number issued by the appropriate authority in the base jurisdiction and a proof of registration in Canada.
4. All motor carriers operating under this Emergency Declaration must hold a valid safety fitness certificate issued under section 8(1) of the Canadian Motor Vehicle Transport Act (MVRTA) and equivalent provincial legislation and have not been assigned a Conditional or Unsatisfactory safety rating by their base jurisdiction.
5. Notwithstanding the emergency relief from 49 CFR Parts 390-399 generally granted under this Emergency Declaration, while operating in the United States, motor carriers and drivers shall comply with the following FMCSRs:
 - A. 49 CFR § 392.2 related to the operation of a commercial motor vehicle in accordance with State laws and regulations in the United States, 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. Drivers will record their duty status for each 24-hour period using the method normally used by the driver when not operating under this Emergency Declaration.
 - 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 in the United States under this Emergency Declaration must report any recordable crash within 24 hours, by phone or in writing, to the FMCSA State Division Office where the crash occurred. The carrier must report the date, time, location, NSC certificate number, driver, vehicle identification, and brief description of the crash.
- H. Motor carriers shall not require or allow fatigued drivers to operate a commercial motor vehicle in the United States. 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.
6. Nothing in this Extension of Emergency Declaration shall be construed as an exemption from the controlled substance and alcohol use and testing requirements (49 CFR Part 382) except as set forth in FMCSA's Notice of Enforcement Discretion Determination issued November 23, 2021; 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).
7. Motor carriers or drivers currently subject to an out-of-service order in the United States or Canada 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 in writing by the issuing jurisdiction.
8. This 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 flooding and landslides emergency in British Columbia, Canada. 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 flooding and landslides emergency in British Columbia, Canada as set forth in this 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 flooding and landslides emergency in British Columbia, the motor carrier and driver are subject to the all requirements of the FMCSRs while operating commercial motor vehicles in the United States, 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 Parts 390-399, except as noted herein. When a driver is moving from emergency relief efforts to normal operations in the United States a 10-hour break is required when the total time a driver is engaged in emergency relief efforts, or in a combination of emergency relief and normal operations, equals 14 hours.

9. A copy of this Emergency Declaration must be carried in each vehicle operated in the United States and be made available to any Federal, State, or local law enforcement or commercial motor vehicle safety official.

In accordance with 49 CFR § 390.23, this 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), December 23, 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.

Meera Joshi
Deputy Administrator
Federal Motor Carrier Safety Administration