



December 5, 2014

## EXTENSION OF STATE DECLARATION NOTICE 49 CFR § 390.25

Pursuant to Title 49 CFR § 390.25, I, William R. Paden, Regional Field Administrator of the Federal Motor Carrier Safety Administration, declare an emergency exists that warrants extension of the State Emergency Declarations continuing the exemption granted in accordance with 49 CFR § 390.23 from Part 390 through 399 of the Federal Regulations (Federal Motor Carrier Safety Regulations), except as otherwise restricted by this declaration. The emergency declarations were in response to the shortage of motor fuels, particularly diesel fuel and its components such as ethanol and biodiesel, due to inadequate supplies at terminals and increased demand, resulting in an immediate threat to the distribution chain that supplies essential diesel fuel to farmers, ranchers, and other industry supporting the public welfare within the State of North Dakota.

This emergency exemption is issued as a result of the Governor's Declarations of Emergency regarding the need to allow drivers and carriers transporting motor fuels to obtain such fuel from greater distances to supply the people of North Dakota.

This declaration provides for the regulatory relief for commercial motor vehicles operations while providing direct assistance supporting the delivery of motor fuels into North Dakota during the emergency. Direct assistance terminates when a driver or commercial motor vehicle is used in interstate commerce to transport cargo or provide services not directly supporting the emergency relief effort.

Nothing contained in this declaration shall be construed as an exemption from the controlled substances and alcohol use and testing requirements (49 CFR Part 382), the commercial driver's license requirements (49 CFR Part 383), the financial responsibility (insurance) requirements (49 CFR Part 387), applicable size and weight requirements, or any other portion of the regulations not specifically authorized pursuant 49 CFR §390.23.

### **Emergency Declaration Extension Restrictions & Limitations**

By execution of this Emergency Declaration Extension, motor carriers and drivers providing direct assistance to the motor fuels emergency within North Dakota are **granted** emergency relief **only** from the hours of service limitations contained in 49 CFR Part 395 and must also comply with the following conditions:

1. Carriers, while under this order, 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.
2. Drivers are required to comply with the portions of 49 CFR Part 395 related to the preparation, retention and accuracy of a driver's record of duty status (RODS). Drivers are directed to note "Emergency Declaration" in the remarks section of the RODS to identify that their operation is in direct assistance to the emergency relief.
3. 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.
4. 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.
5. Drivers for motor carriers operating under this declaration must have a copy of the declaration in their possession.
6. Upon termination of direct assistance to the emergency relief effort, the motor carrier and driver is 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 under the terms of the declaration. Direct assistance terminates when a driver or commercial motor vehicle is used in interstate commerce to transport cargo not in direct furtherance of the emergency relief efforts. Upon return to the terminal or other location, such driver must be relieved of all duty and responsibilities.
7. Upon termination of direct assistance to the emergency relief effort, no motor carrier shall require or permit any driver used by it to drive, nor shall any such driver drive in interstate commerce until the driver has met the requirements of §395.3(a) and (c), and § 395.5(a).

In accordance with 49 CFR § 390.25, this declaration is effective immediately and shall remain in effect for the duration of the emergency (*as defined in Title 49 CFR § 390.5*) or until 11:59 P.M., December 13, 2014, whichever is less.

Sincerely,

A handwritten signature in blue ink, appearing to read "W. R. Paden", with a stylized flourish at the end.

William R. Paden  
Regional Field Administrator