



# update

Michael J. O'Connor, President

February 7, 2018

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## **HOS Waiver Has Been Extended Through 2-28-18**

*From PMAA*

Extension of Regional Declaration of Emergency Under 49 CFR 390.25

ALABAMA, ARKANSAS, CONNECTICUT, DELA WARE, FLORIDA, GEORGIA, ILLINOIS, INDIANA, IOWA, KANSAS, KENTUCKY, LOUISIANA, MARYLAND, MASSACHUSETTS, MAINE, MICHIGAN, MINNESOTA, MISSISSIPPI, MISSOURI, NEBRASKA, NEW HAMPSHIRE, NEW JERSEY, NEW YORK, NORTH CAROLINA, NORTH DAKOTA, OHIO, OKLAHOMA, PENNSYLVANIA, RHODE ISLAND, SOUTH CAROLINA, SOUTH DAKOTA, TENNESSEE, TEXAS, VERMONT, VIRGINIA, WASHINGTON, D.C., WEST VIRGINIA AND WISCONSIN

The Regional Field Administrators for the Federal Motor Carrier Safety Administration's (FMCSA) Eastern Service Center, Southern Service Center, Midwestern Service Center and Western Service Center hereby declare that an emergency exists that warrants extension of the Regional Declaration of Emergency issued on December 30, 2017, and continuing the exemption granted in accordance with 49 CFR 390.23(a)(I) from Parts 390 through 399 of the Federal Motor Carrier Safety Regulations (FMCSRs), except as otherwise restricted herein. Affected States and jurisdictions included in this extension of the Emergency Declaration are: Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Maine, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, D.C., West Virginia and Wisconsin.

On December 30, 2017, as a result of the effects of severe winter weather, including Winter Storms Frankie and Grayson, FMCSA issued a Regional Declaration of Emergency for the Affected States and jurisdictions. Because emergency conditions have not abated, FMCSA is extending the Emergency Declaration and associated regulatory relief in accordance with 49 CFR 390.25.

This extension of the Regional Declaration of Emergency addresses ongoing emergency conditions creating a need for immediate transportation of heating fuel, including propane, natural gas, and heating oil, into and from the Affected States and jurisdictions and provides necessary relief.

By execution of this extension of the Emergency Declaration, motor carriers and drivers providing direct assistance supporting emergency relief efforts transporting heating fuel, including propane, natural gas and heating oil, into and from the Affected States and jurisdictions are granted emergency relief from Parts 390 through 399 of Title 49 Code of Federal Regulations except as restricted herein.

Nothing contained in this extension of the Emergency 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), hazardous materials regulations (49 CFR Parts 100 through 180), applicable size and weight requirements, or any other portion of the regulations not specifically authorized pursuant to 49 CFR 390.23.

#### Emergency Declaration Restrictions & Limitations

By execution of this extension to the Emergency Declaration, motor carriers and drivers transporting heating fuel, including natural gas, propane and heating oil, providing direct assistance to the emergency in Affected States and jurisdictions are not granted emergency relief from, and must continue to comply with, the following Federal Motor Carrier Safety Regulations (FMCSRs) and conditions:

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.

49 CFR 392.3 related to 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 commercial motor vehicle.

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.

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.

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.

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.

Drivers for motor carriers operating under this declaration must have a copy of the declaration in their possession.

Upon termination of direct assistance to the emergency relief effort, 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 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.

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 minimum hours off duty requirements of 49 CFR 395.3 (property carriers), and 395.5 (passenger carriers).

In accordance with 49 CFR 390.25, this extension to the Emergency Declaration is effective immediately and shall remain in effect for the duration of the emergency (as defined in 49 CFR 390.5) or until 11:59 P.M. (ET), February 28, 2018, whichever is less.

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