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Categories:

[Coronavirus Response](#)

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[Publications](#)

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DOT Suspends Safety Rules for Coronavirus Relief Efforts

On March 13, 2020, the Department of Transportation (DOT) issued a historic Emergency Declaration that suspends the enforcement of most Federal Motor Carrier Safety Regulations (FMCSR) for coronavirus (COVID-19) supply and passenger transportation. The emergency declaration will remain in effect until the termination of the emergency (as defined in 49 CFR § 390.5) or until 11:59 P.M. (ET) on April 12, 2020, whichever occurs sooner.

Under the declaration, motor carriers and drivers providing “direct assistance” anywhere in the United States are not required to comply with Parts 390 through 399 of the Federal Motor Carrier Safety Regulations (FMCSRs). It also includes rules for hours of service and driver qualification, among others.

Limitations

The exemption applies only to carriers and drivers who are performing transportation or other relief services related to the immediate restoration of essential services or supplies. It aims to allow transportation to meet immediate needs for:

- Medical supplies and equipment related to the testing, diagnosis, and treatment of COVID-19.
- 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.
- Food for emergency restocking of stores.
- Equipment, supplies, and people necessary to establish and manage temporary housing, quarantine, and isolation facilities related to COVID-19.
- People designated by federal, state, or local authorities for medical, isolation, or quarantine purposes; and
- People necessary to provide other medical or emergency services, the supply of which may be affected by the COVID-

19 response.

Because the emergency is nationwide, drivers may cross state lines and still claim the exemption.

Drivers are NOT considered to be providing direct assistance if they:

- Engage in routine commercial deliveries; or
- Transport mixed loads that include both essential and non-essential supplies, equipment, and/or people.

Once a driver or vehicle is used to transport cargo or provide services that are not in support of emergency relief efforts or is dispatched to another location to begin operations in commerce, the exemption no longer applies. However, a driver who provides direct assistance may travel back to his or her terminal with an empty vehicle and still claim the exemption for that return trip.

Hours-of-service provision

Eligible drivers are exempt from the hours-of-service rules while providing direct assistance, including the need to comply with any driving limits, rest requirements, or logging rules. Driving while ill or fatigued is never advised, however. Getting into compliance after the emergency-relief work is done could be a little tricky to manage.

First, immediate needs must be met. When direct assistance ends, if a driver says he or she is fatigued and needs rest before returning to the normal work-reporting location, the driver must be given at least 10 consecutive hours off duty.

After a driver has returned to his or her normal work-reporting location and is no longer providing direct assistance, drivers operating a property-carrying vehicle must have at least ten hours off duty. Those operating a passenger-carrying vehicle must have eight hours off duty.

After that, you'll need to determine where drivers stand on compliance with the 60- or 70-hour rule. For a truck driver getting 34 hours off is the easiest solution. If that's not an option, you'll need to add up the hours worked in the past seven or eight days to

see where each driver stands.

Notably, this includes all hours spent on emergency relief efforts. That's why tracking that time is still necessary. Drivers using electronic logging devices (ELDs) can use the "personal use" setting on their ELD to track their time. However, they should annotate the record to indicate that the time was spent providing emergency relief. Using "personal use" requires drivers to log in to their ELDs, avoiding the creation of unassigned driving records that would need to be managed later.

Compliance with many regulations still required

Drivers and motor carriers operating under the exemption must continue to comply with safety rules, including those for:

- Commercial drivers' licenses,
- Drug and alcohol testing,
- Financial responsibility (insurance),
- Hazardous materials, and
- Size and weight requirements.

Motor carriers and drivers currently under an out-of-service order are not eligible to use the exemption.

Some states are implementing additional measures

Michigan: The Michigan Department of Transportation (MDOT) will exempt motor carriers and drivers providing direct assistance in support of relief efforts related to the COVID-19 outbreaks from seasonal weight restrictions. Direct assistance, according to MDOT, means transportation and other relief services provided by a motor carrier or its driver to the immediate restoration of essential services, such as medical care, or essential supplies such as food, related to COVID-19 outbreaks during the emergency.

Missouri: The Missouri Department of Transportation announced an allowance for heavier-than-normal truckloads of supplies and equipment to travel on Missouri highways in the direct effort to prevent, contain, mitigate and treat the effects of the COVID-19 virus. The waiver allows private and for-hire motor carriers to haul up to 10% more than their licensed weight on Missouri highways and

remains in effect through April 30.

Ohio: Hours of service rules have been suspended for motor carriers providing intrastate transportation of relief supplies. Those rules include consumer goods and medical supplies as part of the COVID-19 response. "Unless otherwise directed, drivers must keep a written or electronic copy of [this notice](#) in each vehicle affected by this grant of regulatory relief. This regulatory relief will not apply to vehicles that do not have a copy of this notice."

Texas: In Texas, three sets of statutes are suspended, subject to federal law and DMV safety limitations:

- The oversize and overweight permitting requirements under Transportation Code, Chapters 621 through 623, as well as Title 43, Chapter 219 of the Texas Administrative Code, for all divisible and non-divisible vehicles and loads.
- The International Registration Plan (IRP) vehicle registration under Transportation Code § 502.091 and 43 Tex. Admin. Code § 217.56, as long as the vehicle is registered in one of the 48 contiguous states of the U.S.: and
- The 72-hour and 144-hour temporary registration permits under Transportation Code § 502.094 and 43 Tex. Admin. Code § 217.40(b)(3), if the vehicle is registered in one of the states of the United States.

To read FMCSA's national emergency declaration, [visit here](#).

To provide guidance and support to clients as this global public-health crisis unfolds, Frost Brown Todd has created a [Coronavirus Response Team](#). Our attorneys are on hand to answer your questions and provide guidance on how to proactively prepare for and manage any coronavirus-related threats to your business operations and workforce.

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