

TRANSPORTATION EMERGENCY RESPONSE FACTSHEET

USDOT REGULATORY RELIEF

Surface

Motor Carrier Safety Regulation Waivers

Exemptions (“waivers”) from many of the Federal Motor Carrier Safety Regulations (FMCSRs) occur “automatically” in accordance with 49 CFR 390.23 when the President of the United States, a state Governor or a local government official issues a declaration of emergency (as defined in 49 CFR 390.5). Presidential and State declarations are effective for up to 30 days, and local declarations are effective for up to 5 days. Only a Federal Motor Carrier Safety Administration (FMCSA) Field Administrator or Regional Field Administrator has authority to extend the waivers beyond the initial 30 days and to place additional restrictions on the waivers.

The waivers apply to any commercial motor vehicle responding from anywhere in the United States to provide direct relief to the emergency. Emergency Declarations temporarily lift most safety regulations, including hours of service, from interstate motor carrier drivers and operators providing emergency relief.

Utility service vehicles are always exempt from Hours of Service limitations when they are providing for the “operating, repairing and maintaining” of public utilities. Government vehicles are always exempt, but government contractors are not (unless an emergency declaration is in effect).

Federal Motor Carrier Waivers

Regulatory parts of 49 CFR that can be lifted are from 390–399, most significantly:

- 390: General Requirements (e.g., recordkeeping, vehicle marking)
- 391: Driver Qualifications (e.g., physical standards, English language proficiency)
- 392: Driving of CMVs (e.g., pre-trip inspection, fatigued operation)
- 393: Parts and Accessories (e.g., lighting, cargo securement)
- 395: Hours of Service (e.g., 11-hour driving limit, 14-hour on-duty limit)
- 396: Inspection, Repair and Maintenance (e.g., post-and annual trip inspections)

The following are not exempt: Drug and alcohol testing

- CDL requirements
- Insurance requirements
- Hazardous materials regulations
- State vehicle registration requirements
- Household goods movers- consumer protection regulations, and
- Other Federal commercial regulations

The FMCSA provides additional information at www.fmcsa.dot.gov/emergency and has established a toll free hotline number at 1-877-831-2250 for anyone seeking inquiries pertaining to FMCSA regulations during a declared disaster.

Oversize/Overweight Freight Permits

The federal maximum size/weight requirements are:

80,000 gross; 20,000 single axle; 34,000 tandem; as well as bridge formula.

It is the responsibility of the motor carrier to ensure that the permits being requested are appropriate for the States being traveled through. To obtain oversize/overweight permits, the State(s) in which the vehicles will travel will need to be contacted. For information on State permitting offices visit: http://ops.fhwa.dot.gov/freight/sw/permit_report/index.htm.

During a State of Emergency declaration, States normally put a process in place to expedite the permitting process. Section 1511 of the Moving Ahead for Progress in the 21st Century Act (MAP-21) amending 23 U.S.C. § 127, extends the States' authority to issue Special Permits to vehicles with divisible loads that are delivering relief supplies during emergency and disaster responses. In addition, some States have special legislative or 'grandfather' provisions that allow additional weight for interstate travel. On a case-by-case basis a list of states with 'grandfather' provisions can be made available. Special Permits issued under Section 1511 of MAP-21 expire not later than 120 days after the date on which the President declares an emergency or major disaster, whichever declaration occurs first.

Divisible Load Permits

States may issue special divisible load permits during an emergency to overweight vehicles and loads that can easily be dismantled or divided if all of the following conditions are met:

- **The President has declared an emergency or a major disaster under the Stafford Act**
- **The permits are issued in accordance with State law**
- **The permits are issued exclusively to vehicles and loads that are delivering relief supplies**

For more information on Divisible Loads & the FAST ACT visit:

www.fhwa.dot.gov/fastact/factsheets/trucksizeweightfs.cfm

Toll Waivers

Toll waivers are granted on a case-by-case basis during emergency and disaster assistance. This is up to each individual State and/or toll authority.

Truck/Weigh Station Bypass

States can make a judgement call to allow certain vehicles to bypass the truck/weigh stations based on the configurations of known vehicles during emergency and disaster response. This is up to each individual State.

Pipelines and Hazardous Materials

Hazardous Material Permits

The Pipeline and Hazardous Materials Safety Administration (PHMSA) may issue special permits authorizing a variance of specified hazardous materials transportation safety regulations. This provides for transportation of hazardous materials in a way that achieves a safety level at least equal to that required under existing law; or that is consistent with the public interest and Chapter 51, Title 49 USC, if a required safety level does not exist.

There are three types of special permits: (1) those authorizing the offer of a hazardous material for transportation in a different manner than otherwise required in the Hazardous Materials Regulations (HMR); (2) those authorizing the transport of a hazardous material in a different manner than required in the HMR; and (3) those authorizing the manufacture and sale of a packaging for use in transporting hazardous material, when the packaging does not meet the design specification or performance requirements in the HMR.

Railroads

FRA Emergency Relief Docket (ERD)

FRA may provide temporary, expedited waiver relief from its railroad safety regulations in certain emergency situations. Pursuant to 49 C.F.R. 211.45, the FRA Administrator may designate specific events (e.g., hurricanes, severe winter storms) as emergencies which triggers the opening of FRA's Emergency Relief Docket (ERD). Once the ERD is opened, railroads may submit emergency requests for

regulatory waivers to the docket. FRA's Railroad Safety Board may then give these waiver requests expedited review and, if merited, temporary approval.

Maritime

Jones Act Waivers

The Merchant Marine Act of 1920 (Jones Act), 46 U.S.C. § 55102, requires that all goods transported by water between U.S. points be carried on U.S.-flag, coastwise-qualified ships. Requests to waive this requirement under 46 U.S.C. § 501(b) are reviewed by the Department of Homeland Security (DHS) on a case-by-case basis. Waivers can only be granted if requested by the Secretary of Defense, or based on an the interest of national defense, as determined by DHS, and often after consulting with the Maritime Administration (MARAD) of the non-availability of qualified U.S.-flag ships to meet the stated national defense requirements.

For additional information, please visit the USDOT Emergency Website at <http://www.dot.gov/emergency> and/or contact: [24hrs: DOT TOC Watch – 202-366-1863](tel:202-366-1863)