



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 395

[Docket No. FMCSA-2022-0189]

Assessment of the Continued Need for COVID-19 Emergency Declaration, Regulatory Relief for Commercial Motor Vehicle Operations

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Request for comments.

SUMMARY: On August 31, 2022, FMCSA announced the extension of its coronavirus disease 2019 (COVID-19) Emergency Declaration which provides regulatory relief for motor carriers and drivers engaged in providing direct assistance in continued support of the Nation’s COVID-19 national emergency. The extension of the emergency declaration expires on October 15, 2022. FMCSA (the “Agency”) seeks public comment concerning the extent to which motor carriers currently rely on the emergency declaration to deliver certain commodities and whether there has been any impact on safety.

DATES: Comments on this document must be received by [INSERT DATE 14 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA-2022-0189 by any of the following methods:

- **Federal eRulemaking Portal:** www.regulations.gov. See the **Public Participation and Request for Comments** section below for further information.
- **Mail:** Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.

- **Hand Delivery or Courier:** West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.
- **Fax:** (202) 493-2251.

Each submission must include the Agency name and the docket number (FMCSA-2022-0189) for this document. Note that DOT posts all comments received without change to www.regulations.gov, including any personal information included in a comment. Please see the **Privacy Act** heading below.

Docket: For access to the docket to read background documents or comments, go to www.regulations.gov at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

Privacy Act: In accordance with 49 U.S.C. 31315(b), DOT solicits comments from the public to better inform its exemption process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov. As described in the system of records notice DOT/ALL 14 – FDMS, which can be reviewed at www.transportation.gov/privacy, the comments are searchable by the name of the submitter.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, Driver and Carrier Operations Division, Office of Carrier, Driver, and Vehicle Safety Standards, FMCSA, at (202) 366-2722 or MCPSD@dot.gov. If you have questions on viewing or submitting material to the docket, contact Dockets Operations at (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Background

On May 27, 2022, FMCSA issued a declaration that the Nation's ongoing response to the COVID-19 national emergency warrants an extension and amendment of Emergency Declaration No. 2020-002. The extension and amendment of the Emergency Declaration continued the relief from certain requirements in 49 CFR part 395 of the Federal Motor Carrier Safety Regulations for interstate motor carriers and drivers operating in the 50 States and the District of Columbia. The extension of the emergency declaration issued on May 27, 2022, expired on August 31, 2022.

FMCSA first issued Emergency Declaration No. 2020-002 in response to the March 13, 2020, declaration of a national emergency under 42 U.S.C. 5191(b) related to COVID-19, and the immediate risk COVID-19 presented to public health and welfare. FMCSA subsequently modified Emergency Declaration No. 2020-002 concerning the categories of supplies, equipment, and persons covered by the Emergency Declaration to respond to changing needs for emergency relief.

The May 27, 2022, announcement explained that the continuation of the exemption and associated regulatory relief in accordance with 49 CFR 390.25, was necessary because the presidentially declared emergency remains in place, persistent issues arising out of COVID-19 continue to affect the U.S. including impacts on supply chains, and nationwide reporting continues to demonstrate substantial ongoing use of the regulatory relief under Emergency Declaration No. 2020-002.

With the August 31, 2022, announcement, the Agency extended the modified Emergency Declaration No. 2020-002 as amended on May 27, 2022, such that subject to the restrictions and conditions set forth in the declaration motor carriers and drivers providing direct assistance in support of relief efforts related to the COVID-19 public health emergency are granted emergency relief from 49 CFR 395.3, maximum driving time for property-carrying vehicles. Direct assistance means transportation and other relief services provided by a motor carrier or its driver(s) incident to the immediate

restoration of essential services (such as medical care) or essential supplies during the COVID-19 emergency.

The extension of the modified Emergency Declaration No. 2020-002 provides regulatory relief for commercial motor vehicle operations providing direct assistance in support of emergency relief efforts related to COVID-19 and is limited to transportation of: (1) livestock and livestock feed; (2) medical supplies and equipment related to the testing, diagnosis, and treatment of COVID-19; (3) vaccines, constituent products, and medical supplies and equipment including ancillary supplies/kits for the administration of vaccines, related to the prevention of COVID-19; (4) 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; (5) food, paper products, and other groceries for emergency restocking of distribution centers or stores; and (6) gasoline, diesel, diesel exhaust fluid, jet fuel, ethyl alcohol, and heating fuel including propane, natural gas, and heating oil. Direct assistance does not include non-emergency transportation of qualifying commodities or routine commercial deliveries, including mixed loads with a nominal quantity of qualifying emergency relief added to obtain the benefits of this emergency declaration. To be eligible for the exemption, the transportation must be both (1) of qualifying commodities and (2) incident to the immediate restoration of those essential supplies.

REQUEST FOR COMMENTS

FMCSA believes the emergency declaration and subsequent extensions have provided the transportation industry essential regulatory relief in supporting the Nation's efforts to address the challenges associated with responding to the COVID-19 emergency. Since September 2021, FMCSA has requested that motor carriers operating under the emergency declaration report certain information to the Agency. This information included the number of trips conducted under the declaration and the

commodities transported. Based on a review of the carriers' self-reported information, the primary categories of commodities transported under the declaration are: food, paper products and other groceries for emergency restocking of distributions centers or stores; and livestock and livestock feed. Two categories which have seen the usage between October 2021 and July 2022 decrease by almost 50 percent are: medical supplies and equipment related to the testing, diagnosis, and treatment of COVID-19; and supplies and equipment necessary for community safety, sanitation, and prevention of community transmission of COVID-19.

The Agency seeks public comment on the usage of the emergency declaration for the covered products. Specifically, if the usage is fit for the intended purpose of the limited relief. Commenters are encouraged to share with the Agency the source of the data or information and provide recommendations on additional actions the Agency should consider in monitoring the use of the declaration. Further, any data or information the Agency should use in determining whether continued extension or modification of the declaration is needed. The Agency also seeks public comment on the safety and supply chain impacts of the emergency declaration.

Robin Hutcheson,
Deputy Administrator.