



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 390

[Docket No. FMCSA-2025-0124]

RIN 2126-AC77

Clarification to the Applicability of Emergency Exemptions; Response to Petitions for Reconsideration

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

ACTION: Final rule.

SUMMARY: FMCSA amends its emergency declaration regulations to revise from 14 days to 30 days the length of the relief automatically triggered subsequent to a regional declaration of emergency by a Governor of a State, the Governor's authorized representative, or FMCSA. This action is in response to several petitions for reconsideration received after publication of a final rule in October 2023.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Petitions for reconsideration of this final rule must be submitted to the FMCSA Administrator no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Ms. Kathryn Sinniger, Regulatory and Legislative Affairs Division, Office of the Chief Counsel, FMCSA, 1200 New Jersey Avenue, S.E., Washington, D.C. 20590-0001; kathryn.sinniger@dot.gov.

SUPPLEMENTARY INFORMATION:

I. AVAILABILITY OF RULEMAKING DOCUMENTS

To view any documents mentioned as being available in the docket, go to <https://www.regulations.gov/docket/FMCSA-2025-0124/document> and choose the document to review. To view comments, go to <https://www.regulations.gov/document/FMCSA-2025-0124-0008> then click “Document Comments.” If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in room W58-213 of the DOT West Building, 1200 New Jersey Avenue, S.E., Washington, D.C. 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

II. ABBREVIATIONS

CE	Categorical exclusion
CVSA	Commercial Vehicle Safety Alliance
DOT	Department of Transportation
EMA	Energy Marketers of America
FMCSA	Federal Motor Carrier Safety Administration
FMCSR	Federal Motor Carrier Safety Regulations
GAWDA	Gases and Welding Distributors Association
HOS	Hours of service
NEFI	National Energy & Fuels Institute
NEPA	National Environmental Policy Act
NPGA	National Propane Gas Association
NPRM	Notice of proposed rulemaking
NRECA	National Rural Electric Cooperative Association
NTTC	National Tank Truck Carriers
OMB	Office of Management and Budget
OOIDA	Owner-Operator Independent Drivers Association
PIA	Privacy Impact Assessment
PII	Personally identifiable information
PTA	Privacy Threshold Assessment
Secretary	The Secretary of Transportation
UMRA	The Unfunded Mandates Reform Act of 1995

III. LEGAL BASIS

This final rule is issued under the authority of 49 U.S.C. 31136(a) and 31133(a)(10). The Secretary of Transportation (the Secretary) has authority under 49 U.S.C. 31136(a) to “prescribe regulations on commercial motor vehicle safety.

The regulations shall prescribe minimum safety standards for commercial motor vehicles.” Where appropriate, the Secretary may provide exceptions to the applicability and scope of such regulations.

Authority to “perform other acts the Secretary considers appropriate” is conferred by 49 U.S.C. 31133(a)(10). The Secretary, acting through FMCSA, finds the use of emergency relief in the wake of an emergency to be appropriate and in the public interest.

The Secretary delegated this authority to the FMCSA Administrator at 49 CFR 1.87.

Because this final rule relieves a restriction in response to petitions for reconsideration on a prior final rule, the Administrative Procedure Act requirement that a rule be made effective at least 30 days after its publication in the *Federal Register* does not apply (5 U.S.C. 553(d)(1)). Delaying the effective date by 30 or more days would unnecessarily delay the relief granted by this final rule

IV. DISCUSSION OF PROPOSED RULEMAKING AND COMMENTS

A. Proposed Rulemaking

On January 9, 2026, FMCSA published in the *Federal Register* (Docket No. FMCSA-2025-0124, 91 FR 940) an NPRM titled “Clarification to the Applicability of Emergency Exemptions; Response to Petitions for Reconsideration.” The NPRM proposed revising from 14 days to 30 days the length of the emergency relief automatically triggered subsequent to a regional declaration of emergency by a Governor of a State, the Governor’s authorized representative, or FMCSA. This action was taken in response to several petitions for reconsideration received after publication of a final rule in October 2023 (“Clarification to the Applicability of Emergency Exemptions,” 88 FR 70897). A

full discussion of the regulatory history and petitions for reconsideration can be found in the NPRM for this final rule (91 FR 940, 941–2).

B. Comments and Responses

FMCSA solicited comments concerning the NPRM for 60 days ending March 10, 2026. By that date, 17 comments were received; four of which were not responsive to the NPRM and will not be discussed further. The remaining 13 comments were received from the following parties: Commercial Vehicle Safety Alliance (CVSA), Energy Marketers of America (EMA), Gases and Welding Distributors Association (GAWDA), Montana Department of Transportation, National Energy & Fuels Institute (NEFI), National Propane Gas Association (NPGA), the National Rural Electric Cooperative Association (NRECA), National Tank Truck Carriers (NTTC), the Shippers Coalition, Owner-Operator Independent Drivers Association (OOIDA), a joint comment from the Departments of Transportation of Idaho, Montana, North Dakota, South Dakota and Wyoming (“joint State comment”), and two private citizens.

The Shippers Coalition, Montana Department of Transportation, OOIDA, CVSA, NPGA, GAWDA, NEFI, and the joint State comment all supported the NPRM. NTTC neither supported nor opposed the NPRM, noting that the change would likely have limited practical effect on the tank truck industry.

EMA supported the proposal, making additional recommendations. EMA requested that FMCSA take a proactive approach to declarations of emergency by issuing guidance outlining when certain meteorological events warrant advance (or preemptive) declarations of emergency. EMA also requested that FMCSA be more proactive in using its authority to declare regional emergencies, to ensure consistency in the emergency relief available among neighboring States. EMA noted that “[w]hen covered supplies, effective dates, and conditions vary from

one jurisdiction to another, even well-intentioned enforcement personnel may misinterpret the scope of relief.”¹ FMCSA appreciates EMA’s support for the NPRM and will evaluate the additional suggestions as appropriate but declines to make changes in this rulemaking.

NRECA also supported the proposal and made additional recommendations. NRECA requested a change to the residential heating fuel exemption found in 49 CFR 390.23(b)(1) to clarify that it applies to electricity. NRECA pointed out that electric lines are maintained by drivers of commercial motor vehicles and that electricity can be a home heating source. However, this provision comes directly from statute (49 U.S.C. 31136 (note)), and residential heating fuel is defined to include heating oil, natural gas, and propane. FMCSA declines to expand on the statutory language. NRECA also recommended that FMCSA consider suspension of the registration requirements in subpart E (Unified Registration System) of 49 CFR part 390 during times of disaster, to provide intrastate carriers with greater flexibility to operate interstate. This authority already exists under the current rule and no regulatory change is needed to implement the suggestion should FMCSA determine that doing so is appropriate. Suspending registration rules found in subpart E of 49 CFR part 390 is not routinely needed in response to emergencies, so FMCSA determined it is not appropriate to include it as part of the automatic exemption for all emergency declarations.

The final two comments came from private citizens, who disagreed with the proposed change. One commenter opposed the proposal to return the automatic exemption to 30 days, noting that leaving the automatic exemption at

¹ EMA, Comment, FMCSA-2025-0124-0023, at 3 (Mar. 9, 2026), available at <https://www.regulations.gov/comment/FMCSA-2025-0124-0023>.

14 days ensures there will be a continuous ongoing review to determine if the exemption is still needed. This commenter also argued that 14 days is enough time to allow for verification of the need for an exemption and granting the exemption. However, this commenter did not address the numerous examples of instances where the 14-day period were found to be troublesome, cited both by those who filed petitions for reconsideration of the October 2023 final rule and by FMCSA in the NPRM. FMCSA expects that returning the automatic exemption period to 30 days will alleviate the administrative burdens the October 2023 final rule created, while still ensuring safe operations during an emergency period.² The joint State comment observed that “there is no record of adverse safety effects from regulatory relief provided on an emergency basis from FMCSA’s hours of service (HOS) regulations.”³

The second individual commenter objected to the change made by the October 2023 final rule and to the change proposed in the NPRM, arguing instead that the automatic exemption period should be extended to 90 days, citing the Stafford Act at 42 U.S.C. 5170. FMCSA does not agree with this suggested change. The automatic emergency exemption triggered by an emergency declaration is designed to be limited, exempting only those commercial motor vehicles that are acting in direct assistance in response to a declared emergency from the HOS regulations found in 49 CFR 395.3 and 395.5. It is aimed at restoring essential services and supplies only. As such, these emergency periods tend to be shorter and cover a much narrower range of activities than an

² Under this final rule, the applicable time limit for an automatic emergency exemption will be 30 days, as it was prior to the effective date of the October 2023 final rule. However, the terms of the exemption will require that it not continue after the emergency period if that period is less than 30 days.

³ Transportation Departments of Idaho, Montana, North Dakota, South Dakota, and Wyoming, Comment, FMCSA-2025-0124-0020, at 2 (Mar. 2, 2026), available at <https://www.regulations.gov/comment/FMCSA-2025-0124-0020>.

emergency declaration under the Stafford Act, which is primarily designed to maximize the flow of Federal relief funds to a State or local government that needs assistance. In addition, FMCSA retains the ability to extend the emergency exemptions beyond 30 days under 49 CFR 390.25. FMCSA's experience is that regional emergency exemptions rarely require more than 30 days to restore essential services and supplies. To the extent that the October 2023 final rule's change from a 30-day to a 14-day automatic exemption period introduced additional filing burdens, this final rule will alleviate those burdens by returning to the pre-October 2023 baseline.

V. CHANGES FROM THE NPRM

This final rule makes no changes to the regulatory text proposed in the NPRM. It adopts a single amendment, as proposed.

VI. INTERNATIONAL IMPACTS

Motor carriers and drivers are subject to the laws and regulations of the countries in which they operate, unless an international agreement states otherwise. Non-U.S. domiciled carriers and drivers would be able to provide direct assistance in some scenarios, under the terms of the exemption provisions found in 49 CFR 390.23.

VII. SECTION-BY-SECTION ANALYSIS

This final rule makes one change. In 49 CFR 390.23, in paragraph (b), the number "14" is changed to "30," thereby increasing the length of time for an emergency exemption based on a regional declaration of an emergency.

VIII. REGULATORY ANALYSES

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review) and DOT Rulemaking Procedures

FMCSA has considered the impact of this final rule under E.O. 12866 (58

FR 51735, Oct. 4, 1993), Regulatory Planning and Review, and DOT Rulemaking Procedures, 49 CFR part 5, subpart B. The Office of Management and Budget (OMB) determined that this final rule is not a significant regulatory action under section 3(f) of E.O. 12866 and has not reviewed it under that E.O.

In the October 2023 final rule, FMCSA stated that it did not expect the final rule to result in substantive incremental impacts relative to the baseline established in the Federal Motor Carrier Safety Regulations (FMCSR) (88 FR 70897, 70903). The final rule included an analysis of costs and benefits. One cost cited was the increase in the number of extension requests from motor carriers and drivers, resulting from the reduction in the automatic exemption from 30 days to 14 days. FMCSA reported this extension request cost as part of its Paperwork Reduction Act (44 U.S.C. 3501–3520) compliance, where the Agency estimated a total cost of \$1,011 for the submission of the extension requests and a total Federal Government cost of \$1,589 to review and approve the requests (see 88 FR 70897, 70904). FMCSA assumed that 50 individuals would submit requests for extensions each year based on input from the FMCSA Crisis Management Center, and that extension requests would take 15 minutes to complete, for a total of 12.5 hours of labor (50 respondents x 15 minutes). FMCSA also assumed that a motor carrier employee equivalent to General and Operations Managers with a loaded hourly wage of \$80.88 will submit the extension request. As such, there would have been an annual cost of \$1,011 ($\80.88×12.5 hours) to submit extension requests. For the estimate of government costs, FMCSA assumed that requests for extensions would take 15 minutes each to review by a GS-13, step 5 in the Washington, D.C. area with a loaded hourly wage of \$127.13. The annual cost to review these extension requests would have been \$1,589 ($\127.13×12.5 hours).

This final rule reverts one change from the October 2023 final rule in 49

CFR 390.23, in paragraph (b), to what it was prior to the final rule—30 days.

FMCSA does not expect that making this change will result in substantive incremental impacts relative to the baseline established in the FMCSR, nor will it result in substantive incremental impacts relative to the baseline established by the October 2023 final rule. Generally, emergency exemptions are issued and extended to cover whatever period of time is needed for CMV operators to provide direct assistance to restore essential supplies and services. This was the case before the October 2023 final rule, has been the case since the October 2023 final rule came into effect, and will continue to be the case under this final rule. The only expected impact from this final rule is a reduction in the number of extension requests needed, as more emergencies will be initially scheduled to be concluded within 30 days than were concluded in the 14-day period.

FMCSA has updated the cost figures previously referenced to reflect inflation and wage growth. A General and Operations Manager has a loaded hourly wage of \$85.25 and a GS-13, step 5 in the Washington, D.C. area currently has a loaded hourly wage of \$143.33. By reverting to the 30-day timeframe for regional emergency declarations, the Agency estimates that 25 extension requests will be submitted annually. This reduction brings the projected annual industry burden down to 6.25 hours (25 requests x 0.25 hours) at a cost of \$533 ($\85.25×6.25 hours). The government review cost for extension requests is now \$896 ($\143.33×6.25 hours). Accounting for these updated wages and the reduction in paperwork, FMCSA anticipates a total annual cost savings of approximately \$1,429 (25 requests eliminated x 0.25 hours) x ($\$85.25 + \143.33), representing the saved labor time for both motor carriers and the Federal government.

B. E.O. 14192 (Unleashing Prosperity Through Deregulation)

E.O. 14192, Unleashing Prosperity Through Deregulation, issued on

January 31, 2025 (90 FR 9065), requires that, for every new regulation issued by an agency, at least 10 prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process. This rulemaking is expected to have total costs less than zero and therefore is considered an E.O. 14192 deregulatory action.

C. Congressional Review Act

This rule is not a *major rule* as defined under the Congressional Review Act (5 U.S.C. 801–808).⁴

D. Regulatory Flexibility Act (Small Entities)

The Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term *small entities* comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 (5 U.S.C. 601(6)). Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities, and mandates that agencies strive to lessen any adverse effects on these businesses. As noted elsewhere in this final rule, FMCSA does not expect the change in this final rule will result in substantive incremental impacts relative to the baseline established in the FMCSR, nor will it result in substantive incremental impacts relative to the baseline established by the October 2023 final

⁴ A *major rule* means any rule that OMB finds has resulted in or is likely to result in (a) an annual effect on the economy of \$100 million or more; (b) a major increase in costs or prices for consumers, individual industries, geographic regions, Federal, State, or local government agencies; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. *See* 49 CFR 389.3; *see also* 5 U.S.C. § 804(2).

rule.

Consequently, I certify that this action will not have a significant economic impact on a substantial number of small entities.

E. Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. No. 104–121, 110 Stat. 857), FMCSA wants to assist small entities in understanding this final rule so they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the final rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the person listed under FOR FURTHER INFORMATION CONTACT.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business Administration’s Small Business and Agriculture Regulatory Enforcement Ombudsman (Office of the National Ombudsman, see <https://www.sba.gov/about-sba/oversight-advocacy/office-national-ombudsman>) and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small businesses. If you wish to comment on actions by employees of FMCSA, call 1-888-REG-FAIR (1-888-734-3247). DOT has a policy regarding the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.

F. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA, 2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary

regulatory actions. The Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of \$206 million (which is the value equivalent of \$100 million in 1995, adjusted for inflation to 2024) or more in any one year. Although this final rule will not result in such an expenditure, and the analytical requirements of UMRA do not apply as a result, the Agency discusses the effects of this rule elsewhere in this preamble.

G. Paperwork Reduction Act

This final rule contains no new information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). The existing collections of information contained in 49 CFR 390.25 are covered by an approved information collection, OMB Control Number 2126-0077, “Emergency Declaration Exemption Reporting under 49 CFR 390.25.”

H. E.O. 13132 (Federalism)

A rule has implications for federalism under section 1(a) of E.O. 13132 (64 FR 43255, Aug. 10, 1999), Federalism, if it has “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.”

FMCSA has determined that this rule will not have substantial direct costs on or for States, nor will it limit the policymaking discretion of States. Nothing in this document changes any preexisting preemption of State law or regulation. Therefore, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Impact Statement.

I. Privacy

The Consolidated Appropriations Act, 2005,⁵ requires the Agency to assess the privacy impact of a regulation that will affect the privacy of individuals. This rule will not require the collection of personally identifiable information (PII).

The Privacy Act (5 U.S.C. 552a) applies only to Federal agencies and any non-Federal agency that receives records contained in a system of records from a Federal agency for use in a matching program. This rule does not concern a system of records.

The E-Government Act of 2002,⁶ requires Federal agencies to conduct a Privacy Impact Assessment (PIA) for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form. No new or substantially changed technology will collect, maintain, or disseminate information as a result of this rule. Accordingly, FMCSA has not conducted a PIA.

In addition, the Agency submitted a Privacy Threshold Assessment (PTA) to evaluate the risks and effects the rulemaking may have on collecting, storing, and sharing PII. The PTA was adjudicated by DOT's Chief Privacy Officer on April 24, 2026.

J. E.O. 13175 (Indian Tribal Governments)

This rule does not have Tribal implications under E.O. 13175 (65 FR 67249, Nov. 9, 2000), Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal

⁵ Pub. L. No. 108-447, 118 Stat. 2809, 3268, note following 5 U.S.C. 552a (Dec. 8, 2004).

⁶ Pub. L. No. 107-347, sec. 208, 116 Stat. 2899, 2921 (Dec. 17, 2002).

Government and Indian Tribes.

K. National Environmental Policy Act of 1969

FMCSA analyzed this rule pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*) and determined this action is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under DOT Order 5610.1D, Subpart B, paragraph e(6)(y)(4). The categorical exclusion (CE) in paragraph e(6)(y)(4) covers relief during regional and local emergencies. Therefore, this rulemaking is covered by this CE.

List of Subjects in 49 CFR Part 390

Highway safety, Intermodal transportation, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

Accordingly, FMCSA amends 49 CFR part 390 as follows:

PART 390--FEDERAL MOTOR CARRIER SAFETY REGULATIONS:

GENERAL

1. The authority citation continues to read as follows:

Authority: 49 U.S.C. 113, 504, 508, 31132, 31133, 31134, 31136, 31137, 31144, 31149, 31151, 31502; sec. 114, Pub. L. 103-311, 108 Stat. 1673, 1677; secs. 212 and 217, Pub. L. 106-159, 113 Stat. 1748, 1766, 1767; sec. 229, Pub. L. 106-159 (as added and transferred by sec. 4115 and amended by secs. 4130-4132, Pub. L. 109-59, 119 Stat. 1144, 1726, 1743, 1744), 113 Stat. 1748, 1773; sec. 4136, Pub. L. 109-59, 119 Stat. 1144, 1745; secs. 32101(d) and 32934, Pub. L. 112-141, 126 Stat. 405, 778, 830; sec. 2, Pub. L. 113-125, 128 Stat. 1388; secs. 5403, 5518, and 5524, Pub. L. 114-94, 129 Stat. 1312, 1548, 1558, 1560; sec. 2, Pub. L. 115-105, 131 Stat. 2263; and 49 CFR 1.81, 1.81a, 1.87.

§ 390.23 [Amended]

2. Amend § 390.23(b) by removing the number “14” and adding, in its place, the number “30”.

Issued under authority delegated in 49 CFR 1.87.

Derek Barrs,
Administrator.

[FR Doc. 2026-20325 Filed: 10/2/2026 8:45 am; Publication Date: 10/5/2026]