

## **Summary of Select Federal COVID-19 Emergency Actions & Regulatory Relief Affecting Trucking**

*Created by Scopelitis Transportation Consulting LLC: Updated April 6, 2020*

As the COVID-19 national emergency continues, the federal government is using its authority to grant carriers and drivers flexibility to expedite emergency relief. Below is a compilation and summary, in date order, of specific federal emergency relief actions directly affecting the trucking industry. The purpose of this compilation is to provide a single source describing the most relevant federal actions and what they mean for trucking companies and commercial drivers. This summary will be updated as additional, relevant federal actions are taken.

### **Action #1 – March 18, 2020 – FMCSA “[Expanded Emergency Declaration Under 49 CFR 390.23](#)”**

**What does it mean for carriers/drivers?** – The second and more comprehensive emergency declaration, it exempts drivers delivering specific emergency supplies identified by FMCSA including grocery items, from federal safety rules like hours of service, ELDs, driver-vehicle inspection reports and others. Importantly, this means that time spent in response to the emergency do not need to be counted toward daily and weekly work limits. The exemption ends when the driver hauls freight not intended for emergency relief.

**Effective through** – The end of the national emergency or April 12, 2020 whichever is sooner.

### **Action #2 – March 19, 2020 – DHS – [Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response](#)**

**What does it mean for carriers/drivers?** – Issued by the Cybersecurity and Infrastructure Security Agency, this memorandum contains a list of “essential critical infrastructure workers” to help state and local official protect their communities. The list includes employees supporting or enabling transportation, including truck drivers. This guidance was provided to help inform decisions by state and local jurisdictions, but does not compel any particular action. While not a directive, this guidance should allow truck drivers to continue to cross international and state borders as well as operate in shelter-in-place jurisdictions.

**Effective through** – There is no expiration date to this memorandum.

**Action #3 – March 19, 2020 – FMCSA “[Frequently Asked Questions Related to the FMCSA Emergency Declaration](#)”**

**What does it mean for carriers/drivers?** – Issued in to address confusion about the emergency declarations, this document provides clarity around questions about which loads qualify, how to document the trip, and when the exempt ends.

**Effective through** – The termination of FMCSA’s emergency declaration.

**Action #4 – March 20, 2020 – FMCSA “[Notice of Enforcement Discretion Determination](#)” on Temporary Operating Authority”**

**What does it mean for carriers/drivers?** This notice waives the \$100 fee typically collected for carriers seeing temporary for-hire operating authority to provide emergency relief. This will make it easier for carriers to enter the industry or augment their operating authority to quickly haul emergency supplies.

**Effective through** – The termination of FMCSA’s emergency declaration.

**Action #5 – March 24, 2020 – FMCSA “[Waiver in Response to the COVID-19 Emergency – For States, CDL Holders and Interstate Drivers Operating Commercial Motor Vehicles](#)”**

**What does it mean for carriers/drivers?** – Issued in response to the closing of many state licensing agencies, this notice allows states to extend the validity of CDLs that expired on or after March 1, 2020 and permits drivers to operate a CMV if their medical certificate expired on or after March 1, 2020 and was originally issued for 90 days or longer.

**Effective through** – The waiver is effective through June 30, 2020

**Action #6 – March 24, 2020 – FMCSA “[Notice of Enforcement Policy Regarding Expiring Driver’s Licenses and Medical Examiner’s Certificates During COVID-19 National Emergency](#)”**

**What does it mean for carriers/drivers?** – In this notice goes hand-in-glove with the waiver described in #4 above and advises the industry of FMCSA’s new, temporary policy to not take enforcement action against drivers operating with a CDL, CLP or medical certificate that expired on or after March 1, 2020. A note of caution is appropriate here. This enforcement discretion only applies to FMCSA. States could still enforce against drivers in the unlikely event they elect not to take advantage of the FMCSA waiver.

**Effective through** – The enforcement policy is effective through June 30, 2020.

**Action #7 – March 24, 2020 – FMCSA “[Disruptions to Drug and Alcohol Testing Due to Coronavirus Disease 2019 \(COVID-19\) Presidentially Declared National Emergency](#)”**

**What does it mean for carriers/drivers?** – Issued in response to questions and concerns about the availability of drug testing services during the national emergency, this guidance clarifies that, while the drug testing regulations remain in effect, carriers have flexibility in how they comply. Specifically, the guidance advises carriers that if

random testing cannot be conducted as a result of the emergency, carriers can make up the tests by the end of the year to be sure they test the minimum percentages of persons annually. The guidance also advises carriers that if they are unable to complete required tests due to disruptions cause by COVID-19, carriers must thoroughly document why they could perform the test and their efforts to secure alternative testing facilities. Finally, the guidance clarifies that pre-employment testing must be completed before a driver is allowed to driver a vehicle requiring a CDL.

**Effective through** – The enforcement policy is effective through June 30, 2020.

**Action #8 – March 25, 2020 – FMCSA [“Frequently Asked Questions Related to FMCSA Emergency Declaration Part 2”](#)**

**What does it mean for carriers/drivers?** – This second round of FAQs seeks to clarify the commodities the national declaration applies to as well as answering additional questions related to Hours of Service rules applicability. In short, FMCSA clarified that the delivery of raw materials used to make essential commodities qualifies for the exemption and that drivers must take 10-hours off duty at the nearest, reasonable, safe location after finishing delivering emergency goods.

**Effective through** – The termination of FMCSA’s emergency declaration.

**Action #9 – March 28, 2020 – FMCSA [“Three-Month Waiver in Response to the COVID-19 Emergency For States and CLP Holders Operating Commercial Motor Vehicles”](#)**

**What does it mean for carriers/drivers?** – This waiver allows a CLP holder to operate a CMV without an accompanying CDL holder present in the front seat of the vehicle, provided that the CDL holder is elsewhere in the truck cab (i.e., in the sleeper). It also allows a State to give a driving skills test to any nondomiciled CDL applicant, regardless of where the applicant received driver training, which accelerates the CDL licensing process.

**Effective through** – The end of the national emergency or June 30, 2020, whichever is sooner.

**Action #10 – April 3, 2020 – TSA [“Exemption from Renewal of the Hazardous Materials Endorsement Security Threat Assessment for Certain Individuals”](#)**

**What does it mean for carriers/drivers?** – This TSA exemption allows, but does not require, State Driver’s License Agencies to grant an extension of a Hazardous Materials Endorsement of up to 180 days for HMEs that expire between March 1 and July 31, 2020. If the state grants an extension, the individual with an expired HME must initiate the renewal process no later than 60 days before the end of the State-granted extension. TSA may extend this exemption at a future date depending on the status of the COVID-19 crisis

**Effective Through** – The waiver is effective through July 31, 2020 unless extended.

**Action #11 – April 3, 2020 – FMCSA [“Guidance on Cross-Border Transportation and coronavirus Disease 2019 \(COVID-19\)”](#)**

**What does it mean for carriers/drivers?** – The guidance clarifies that FMCSA’s Expanded Emergency Declaration applies to foreign drivers operating in the U.S. if they have licenses issued by a Canadian Province or Territory or the Licencias Federales de Conductor, issued by the United Mexican States. The guidance also explains that the March 24, 2020 Enforcement Policy applies to holders of CDLs issued by these agencies provided they too have issued a similar notice declaring the extension of the validity date of the medical certification or CDL due to COVID-19.

**Effective Through** -- The termination of FMCSA’s emergency declaration.