



**Federal Motor Carrier
Safety Administration**

July 8, 2024

**EXTENSION OF EMERGENCY DECLARATION UNDER 49 CFR § 390.25
No. 2024-004**

SOUTH DAKOTA

The United States Department of Transportation (USDOT), Federal Motor Carrier Safety Administration (FMCSA) hereby declares that an emergency exists that warrants extension of the emergency declarations issued by the Governor of the State of South Dakota and continuing the emergency relief granted from certain regulatory requirements in Part 395 of the Federal Motor Carrier Safety Regulations (FMCSRs) as set forth herein.

On June 24, 2024, due to severe storms and flooding resulting in significant damage to roads, bridges, dams causing many roads to become impassable posing a threat to property, public safety, and public welfare, the Governor of the State of South Dakota issued an executive order declaring a state of emergency (*See* Executive Order 2024-05). The emergency regulatory relief under 49 CFR § 390.23 related to the South Dakota emergency declaration expires on July 8, 2024. On or about July 8, 2024, the Governor requested FMCSA extend the emergency relief from 49 CFR §§ 395.3 and 395.5 for commercial motor vehicle drivers providing direct assistance to the emergency for an additional fourteen days. Because emergency conditions have not abated, FMCSA is extending the emergency declarations issued by the State of South Dakota and granting regulatory relief in accordance with 49 CFR § 390.25 as set forth herein.

The Extension of the Emergency Declaration provides regulatory relief for commercial motor vehicle operations while providing direct assistance supporting emergency relief efforts related to the emergency resulting from the severe storms and flooding in the State of South Dakota. By execution of this Extension of the Emergency Declaration, motor carriers and drivers providing direct assistance to the severe storms and flooding emergency in the State of South Dakota are granted emergency relief from 49 CFR § 395.3, maximum driving time for property-carrying vehicles and 49 CFR § 395.5, maximum driving time for passenger-carrying vehicles, subject to the restrictions and conditions set forth herein.¹ Direct assistance does not include transportation related to long-term rehabilitation of damaged physical infrastructure or routine commercial deliveries, including mixed loads with a nominal quantity of qualifying emergency relief added to obtain the benefits of this emergency declaration, after the initial threat to life and property has passed.

¹ This extension of the Emergency Declaration is posted at <https://www.fmcsa.dot.gov/emergency-declarations>.

Emergency Declaration Restrictions & Conditions

By execution of this Extension of the Emergency Declaration, motor carriers and drivers providing direct assistance to the emergency as set forth herein are granted emergency relief from 49 CFR § 395.3, maximum driving time for property-carrying vehicles and 49 CFR § 395.5, maximum driving time for passenger-carrying vehicles, subject to the following restrictions and conditions:

1. Nothing in this Extension of the Emergency Declaration shall be construed as a waiver of or exemption from any applicable requirements or any portion of the FMCSRs (49 CFR Parts 350-399) including the controlled substance and alcohol uses and testing requirements (49 CFR Part 382), the commercial driver's license requirements (49 CFR Part 383), or the financial responsibility (insurance) requirements (49 CFR Part 387); Federal Hazardous Materials Safety Regulations (HMRs) (49 CFR Parts 100-180); vehicle size, and weight limitations, as well as route designations administered by the Federal Highway Administration (23 CFR § 658; 23 U.S.C. 127; 49 U.S.C. §§ 31111-31115); or any other regulations for which relief is not specifically granted herein.
2. Motor carriers or drivers currently subject to an out-of-service order are not eligible for the relief granted by this Extension of the Emergency Declaration until they have met the applicable conditions for its rescission and the order has been rescinded in writing by the issuing jurisdiction.
3. This Extension of the Emergency Declaration provides for regulatory relief from 49 CFR §§ 395.3 and 395.5 for commercial motor vehicle operations while providing direct assistance supporting emergency relief efforts in the State of South Dakota. Direct assistance terminates when a driver or commercial motor vehicle is used in interstate commerce to transport cargo, passengers, or provide services that are not in support of emergency relief efforts related to the emergency as set forth in this Extension of the Emergency Declaration, or when the motor carrier dispatches a driver or commercial motor vehicle to another location to begin operations in commerce. (49 CFR § 390.23(b)). Upon termination of direct assistance to emergency relief efforts related to the emergency as set forth in this Extension of the Emergency Declaration, the motor carrier and driver are subject to the requirements of 49 CFR §§ 395.3 and 395.5 while operating commercial motor vehicles, except that a driver may return empty to the motor carrier's terminal or the driver's normal work reporting location without complying with 49 CFR §§ 395.3 and 395.5, except as noted herein. When a driver is moving from emergency relief efforts to normal operations, (1) if a driver is transporting property, a 10-hour break is required when the total time a driver is engaged in emergency relief efforts, or in a combination of emergency relief and normal operations, equals or exceeds 14 hours; and (2) if a driver is transporting passengers, an 8-hour break is required when the total time a driver is engaged in emergency relief efforts, or a combination of emergency relief and normal operations, equals or exceeds 10 hours.

In accordance with 49 CFR § 390.25, this Extension of the Emergency Declaration is effective immediately and shall remain in effect until the end of the emergency (*as defined in 49 CFR § 390.5T*) or until 11:59 P.M. (ET), August 8, 2024, whichever is earlier. FMCSA intends to continually review the status of this Extension of the Emergency Declaration and the relief granted herein. As necessary, FMCSA may take action to modify this Extension of the Emergency Declaration, including modification of the transportations and commodities covered by the Emergency Declaration, extend, or terminate the Emergency Declaration if conditions warrant.

Issued this 8th day of July 2024

Sue Lawless

Sue Lawless, Acting Deputy Administrator
Federal Motor Carrier Safety Administration