



**U.S. Department  
Of Transportation**

**Federal Motor Carrier  
Safety Administration**

Western Service Center  
12600 West Colfax Avenue, Suite B-300  
Lakewood, CO 80215

July 31, 2017

AMENDED DECLARATION OF EMERGENCY UNDER 49 CFR § 390.23  
and  
EXTENSION OF STATE DECLARATION NOTICE UNDER 49 CFR §390.25

The Field Administrator for the Federal Motor Carrier Safety Administration (FMCSA), hereby declares that an emergency exists that warrants issuance of a Regional Emergency Declaration in the States of South Dakota, North Dakota and Montana under the provisions of 49 CFR § 390.23 from Parts 390 through 399 of the Federal Motor Carrier Safety Regulations (FMCSRs), except as otherwise restricted by this Emergency Declaration. On June 16, 2017, as a result of widespread severe drought conditions affecting the State of South Dakota threatening livestock, property and citizens, the Governor of the State of South Dakota signed Executive Order 2017-06 declaring that a state of emergency exists in the State of South Dakota. The Governor of the State of North Dakota signed Executive Order 2017-06.1 on June 30, 2017 declaring a state of drought emergency exists in the State of North Dakota. Additionally, the Governor of the State of Nebraska signed Executive Order 17-05 on July 13, 2017 based on the declarations in South Dakota and North Dakota issuing an Emergency Declaration applying to motor carriers directly participating in drought relief efforts in those states. In June and July 2017, the Governor of the State of Montana issued Executive Orders 5-2017 and 6-2017 declaring a drought emergency exists in the state of Montana. Because emergency conditions have not abated, on July 26-31, 2017, the States of South Dakota, North Dakota and Montana requested FMCSA extend the State declarations and issue a regional declaration of emergency. This Regional Declaration is needed to address ongoing emergency conditions and provide necessary relief to drought stricken areas creating a need for the immediate transportation of hay, feed, livestock, supplies and equipment into and from those States.

By execution of this Emergency Declaration, motor carriers and drivers providing direct assistance to the drought emergency in the States of South Dakota, North Dakota and Montana are granted emergency relief from Parts 390 through 399 of Title 49 Code of Federal Regulations except as restricted herein.

This Emergency Declaration provides for the regulatory relief for commercial motor vehicle operations while providing direct assistance supporting emergency relief efforts transporting hay, feed, livestock, supplies and equipment into or from the States of South Dakota, North Dakota and/or Montana or providing other assistance in the form of emergency services during the severe drought emergency in the States of South Dakota, North Dakota and/or Montana. Direct assistance terminates when a driver or commercial motor vehicle is used in interstate commerce to transport cargo or provide services not directly supporting the emergency relief effort.

Nothing contained in this Emergency Declaration shall be construed as an exemption from the controlled substances and alcohol use and testing requirements (49 CFR Part 382), the commercial driver's license requirements (49 CFR Part 383), the financial responsibility (insurance) requirements (49 CFR Part 387), applicable size and weight requirements, or any other portion of the regulations not specifically authorized pursuant to 49 CFR § 390.23.

### **Emergency Declaration Restrictions & Limitations**

By execution of this Emergency Declaration, motor carriers and drivers providing direct assistance to the drought emergency in South Dakota, North Dakota and/or Montana are **not granted** emergency relief from, and must continue to comply with, the following Federal Motor Carrier Safety Regulations (FMCSRs) and conditions:

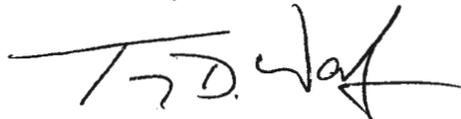
1. 49 CFR § 392.2 related to the operation of a commercial motor vehicle in accordance with State laws and regulations, including compliance with applicable speed limits and other traffic restrictions.
2. 49 CFR § 392.3 related to operation of a commercial motor vehicle while a driver's ability or alertness is so impaired, or so likely to become impaired, through fatigue, illness, or any other cause, as to make it unsafe for him/her to begin or continue to operate the commercial motor vehicle.
3. Motor carriers shall not require or allow fatigued drivers to operate a commercial motor vehicle. A driver who informs a carrier that he/she needs immediate rest shall be given at least ten consecutive hours before the driver is required to return to service.
4. Drivers are required to comply with the portions of 49 CFR Part 395 related to the preparation, retention and accuracy of a driver's record of duty status (RODS). Drivers are directed to note "Emergency Declaration" in the remarks section of the RODS to identify that their operation is in direct assistance to the emergency relief.
5. A motor carrier whose driver is involved in a crash while operating under this emergency declaration must report any recordable crash within 24 hours, by phone or in writing, to the FMCSA Division Office where the motor carrier is domiciled. The carrier must report the date, time, location, driver, vehicle identification, and brief description of the crash.
6. Motor carriers or drivers currently subject to an out-of-service order are not eligible for the relief granted by this declaration until they have met the applicable conditions for its rescission and the order has been rescinded by FMCSA.
7. Drivers for motor carriers operating under this declaration must have a copy of the declaration in their possession.
8. Upon termination of direct assistance to the emergency relief effort, the motor carrier and driver are subject to the requirements of 49 CFR Parts 390 through 399, except that a driver may return empty to the motor carrier's terminal or the driver's normal work reporting location under the terms of the declaration. Direct assistance

terminates when a driver or commercial motor vehicle is used in interstate commerce to transport cargo not in direct furtherance of the emergency relief efforts. Upon return to the terminal or other location, such driver must be relieved of all duty and responsibilities.

9. Upon termination of direct assistance to the emergency relief effort, no motor carrier shall require or permit any driver used by it to drive, nor shall any such driver drive in interstate commerce until the driver has met the minimum hours off duty requirements of 49 CFR §395.3 (property carriers), and § 395.5 (passenger carriers).

In accordance with 49 CFR § 390.23, this declaration is effective immediately and shall remain in effect for the duration of the emergency (*as defined in 49 CFR § 390.5*) or until 11:59 P.M. (ET), August 26, 2017, whichever is less.

Sincerely,

A handwritten signature in black ink, appearing to read "T.D. Wolf", with a long horizontal line extending to the left.

Terry D. Wolf, Field Administrator  
Federal Motor Carrier Safety Administration