



# Federal Motor Carrier Safety Administration

## 2009 – 2010 Winter Fuels Outlook Conference

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### FMCSA Emergency Regulatory Relief

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# Federal Motor Carrier Safety Administration

## FMCSA

### Emergency Regulatory Relief

- History
- Definitions
- Regulations Exempted
- Regulations Not Exempted
- Process
- Preparation

## Rulemaking History

- 1992 – Response to Hurricane Hugo  
First Federal Regulatory Relief Standard
- 1995 – Amended in Response to Hurricane Andrew  
Allowing State and Local Authorities



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## 49 CFR §390.5 – Emergency

**Emergency** means any hurricane, tornado, storm (e.g. thunderstorm, snowstorm, ice storm, blizzard, sandstorm, etc.), high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, mud slide, drought, forest fire, explosion, blackout or other occurrence, natural or man-made, **which interrupts the delivery of essential services** (such as, electricity, medical care, sewer, water, telecommunications, and telecommunication transmissions) or essential supplies (such as, food and fuel) or otherwise **immediately threatens human life or public welfare**, provided such hurricane, tornado, or other event results in:

- (1) A declaration of an emergency by the **President of the United States**, the **Governor of a State, or their authorized representatives** having authority to declare emergencies; by the **FMCSA Field Administrator** for the geographical area in which the occurrence happens; or by other Federal, State or local government officials having authority to declare emergencies



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## 49 CFR §390.5 – Emergency Relief

**Emergency relief** means an operation in which a motor carrier or driver of a commercial motor vehicle is **providing direct assistance** to supplement State and local efforts and capabilities **to save lives or property or to protect public health and safety** as a result of an **emergency as defined in this section.**



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## 49 CFR §390.23 – Relief from Regulations

**(a) Parts 390 through 399 of this chapter shall not apply** to any motor carrier or driver operating a commercial motor vehicle to provide emergency relief during an emergency, subject to the following time limits:

**(1) Regional emergencies.**

(i) The exemption provided by paragraph (a)(1) of this section is effective only when:

(A) An **emergency has been declared** by the President of the United States, the Governor of a State, or their authorized representatives having authority to declare emergencies; or

(B) The FMCSA Field Administrator has declared that a regional emergency exists which justifies an exemption from parts 390 through 399 of this chapter.

(ii) Except as provided in Sec. 390.25, this exemption **shall not exceed the duration of the motor carrier's or driver's direct assistance** in providing emergency relief, **or 30 days from the date of the initial declaration of the emergency** or the exemption from the regulations by the FMCSA Field Administrator, **whichever is less.**



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## 49 CFR Parts 390 through 399

- **Part 390 – General Applicability**
- **Part 391 – Qualification of Drivers**
- **Part 392 – Driving of Commercial Motor Vehicles**
- **Part 393 – Parts and Accessories Necessary for Safe Operation of a CMV**
- **Part 395 – Hours-of-Service of Drivers**
- **Part 396 – Inspection, Repair and Maintenance**
- **Part 397 – Transportation of Hazardous Materials – Driving and Parking Rules**
- **Part 398 – Transportation of Migrant Workers**
- **Part 399 – Employee Safety and Health Standards**



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## Regulations Not Exempted

- **49 CFR Parts 100 to 185 – Hazardous Materials Regulations**
- **49 CFR Part 382 – Controlled Substances and Alcohol Use and Testing**
- **49 CFR Part 383 – Commercial Driver’s License Standards; Requirements & Penalties**
- **49 CFR Part 387 – Minimum Levels of Financial Responsibility (Insurance)**
- **FHWA Size & Weight Standards**
- **International Registration Plan Requirements**
- **International Fuel Tax Agreement Requirements**



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## Regulatory Relief Process

- Emergency Declared by Any Authorized Official
- Copy of Declaration Shared with State and Federal Officials
- Any Motor Carrier Providing Direct Relief to the Emergency is Relieved from ALL of 49 CFR Parts 390 to 399 (Not Just Hours-of-Service)
- Motor Carrier is Encouraged to Carry Copy of Declaration in Vehicle
- Regulations are Relieved in ANY State the “Supporting CMV” is Operating, Regardless of Whether the State in which they are Operating has Declared an Emergency
- Manifest Must Clearly Show a Destination for Delivery of Essential Service/Commodity in the State Declaring the Emergency
- When Emergency Declaration Ends or No Longer Providing Direct Support - Drivers Must Comply with ALL Regulations



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## Fuel Provider Preparation

- **Winter is NOT an Emergency** – It Comes Every Year
- Ensure Contracts are in Place Now to Obtain Product Supply
- Identify/Hire Temporary Drivers to Assist During Peak Demand
- Hours-of-Service is Generally the Relief Sought by Industry
- Reality is **ALL Safety Regulations** Relieved
- Safety is FMCSA's Primary Mission – Not Economics
- Regulatory Relief is Not Provided Lightly by FMCSA
- FMCSA Will Act when Lives are in Jeopardy or Supply Line Affected
- States are Most Aware of Emergency Conditions in their State



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Questions?