



BARBARA J. FIALA  
Commissioner

# STATE OF NEW YORK DEPARTMENT OF MOTOR VEHICLES

6 EMPIRE STATE PLAZA, ALBANY, NY 12228

"P" 4 (2014)

Albany, New York

February 14, 2014

TO: All Enforcement Agencies

SUBJECT: IRP Update – Emergency Declarations

In response to extreme weather conditions, the U.S. Department of Transportation Federal Motor Carrier Safety Administration (FMCSA) has issued an Emergency Declaration and has issued extensions of the State Emergency Declarations for the midwest, western, southern, and eastern regions of the country to provide relief for commercial vehicle operations while providing assistance to support the delivery of propane and other home heating fuels during the emergency.

The declaration for the Eastern Region also provides regulatory relief for the operation of commercial motor vehicles while providing direct assistance that supports the delivery of salt or other ice/snow melt supplies into affected states in the Eastern Region, which includes Connecticut, Delaware, District of Columbia, Massachusetts, Maryland, Maine, New Jersey, New Hampshire, New York, Pennsylvania, Rhode Island, Virginia, Vermont, and West Virginia.

Under the authority of 49 CFR § 390.23, carriers and drivers who participate in emergency relief efforts are relieved from compliance with 49 CFR Parts 390 – 399, which includes hours of service regulations, while the declarations are in effect. Carriers and drivers must continue to comply with the regulations relating to controlled substances and alcohol use and testing (Part 382), commercial driver license requirements (Part 383), insurance requirements (Part 387), requirements relating to the operation of commercial motor vehicles (Part 392), applicable size and weight requirements, and any other portion of the regulations that are not specifically authorized in 49 CFR § 390.23.

The declarations are currently in effect and will remain in effect for the duration of the emergency or until 11:59PM EST on March 1, 2014, whichever is less. Drivers of motor

carriers that operate under a declaration must have a copy of the declaration in their possession.

A copy of the declaration for the Eastern Region is attached. You can find information about the declarations for the other regions on FMCSA's website at [www.fmcsa.dot.gov/about/alerts/emergency-declarations\\_2013.aspx](http://www.fmcsa.dot.gov/about/alerts/emergency-declarations_2013.aspx).

Please share this information with appropriate staff, including all road patrol enforcement. Thank you.

Barbara J. Fiala  
Commissioner

Attachment



U.S. Department of Transportation  
Federal Motor Carrier Safety Administration

Eastern Service Center  
802 Cromwell Park Drive-Suite N  
Glen Burnie, MD 21061

February 5, 2014

**EMERGENCY DECLARATION 49 CFR § 390.23  
&  
EXTENSION OF STATE DECLARATIONS NOTICE 49 CFR § 390.25**

Pursuant to Title 49 CFR §§ 390.23 and 390.25, I, Curtis L. Thomas, Regional Field Administrator of the Federal Motor Carrier Safety Administration, declare an emergency exists that warrants issuance and extension of the State Regional Emergency Declarations continuing the exemptions granted in accordance with §§ 390.23 and 390.25 from Part 390 through 399 of the Federal Regulations (Federal Motor Carrier Safety Regulations), except as otherwise restricted by this declaration. The emergency declarations were in response to the extreme cold experienced throughout the Eastern states from the polar vortex and the possible continuing effects of the arctic cold on people and property, including an immediate threat to human life or public welfare in the Eastern United States.

The emergency exemption is issued as a result of extreme arctic cold weather conditions causing shortages and interruptions in the availability and/or delivery of propane and other home heating throughout the States affected in the Eastern Region to include the following: Connecticut, Delaware, District of Columbia, Massachusetts, Maryland, Maine, New Jersey, New Hampshire, New York, Pennsylvania, Rhode Island, Virginia, Vermont and West Virginia. The exemption also applies region wide to the transportation of salt or other ice/ snow melt supplies needed to maintain the safety of the roadways.

This declaration provides for the regulatory relief for commercial motor vehicles operations while providing direct assistance supporting the delivery of propane, home heating fuels, salt or other ice/snow melt supplies into the affected areas and consumers in the above mentioned states during the emergency. 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 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 49 CFR §390.23.

**Emergency Declaration Restrictions & Limitations**

By execution of this Emergency Declaration Extension, motor carriers and drivers providing direct assistance to the propane and home heating fuel emergency within the identified states are **not granted** emergency relief from and must comply with the following Federal Motor Carrier Safety Regulations (FMCSR) and conditions:

1. 49 CFR Part 392 related to the operation of a commercial motor vehicle in accordance with state laws and regulations, including compliance with applicable speed limits.
2. 49 CFR Part 392 related to operation of a commercial motor vehicle while a driver's ability or alertness is so impaired, or so like 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. 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.
4. 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 date, time, location, driver and vehicle identification and brief description of the crash.
5. 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.
6. Drivers for motor carriers operating under this declaration must have a copy of the declaration in their possession.
7. Upon termination of direct assistance to the emergency relief effort, the motor carrier and driver is 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, the driver must be relieved of all duty and responsibilities.
8. 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 requirements of §395.3(a) and (c), and §395.5(a).

In accordance with Title 49 CFR § 390.25, this declaration is effective today and shall remain in effect for the duration of the emergency (*as defined in Title 49 CFR § 390.5*) or until 11:59 P.M., EST, March 1, 2014 whichever is less.

Sincerely,

A handwritten signature in blue ink, appearing to read "Curtis L. Thomas", with a stylized flourish at the end.

Curtis L. Thomas  
Regional Field Administrator