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

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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](#), [April 8, 2020](#), [May 13, 2020](#), [June 8, 2020](#), and [July 13, 2020](#), [August 11, 2020](#), [September 11, 2020](#), and [December 1, 2020](#) – FMCSA’s Emergency Declarations, Expansions and Extensions**

**What does it mean for carriers/drivers?** – This series of actions exempts motor carriers and drivers delivering nine different categories of goods in direct support of the emergency relief effort from federal safety rules (parts 390-399) 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. Those using the exemption are not exempted from operating in accordance with state laws and regulations (including speeding) or operating while the driver’s ability or alertness is impaired, and stipulates that a carrier whose driver is involved in a crash while operating under the Declaration must report the crash to the FMCSA Division Office within 24 hours. The exemption ends when the driver hauls freight not intended for emergency relief.

*The exemption is currently restricted to hauling the following commodities in direct assistance to the emergency: livestock and livestock feed; medical supplies and equipment related to the testing, diagnosis and treatment of COVID-19; vaccines, constituent products, and medical supplies and equipment including ancillary supplies/kits for the administration of vaccines, related to the prevention of COVID-19; supplies and*

*equipment necessary for community safety, sanitation, and prevention of community transmission of COVID-19 such as masks, gloves, hand sanitizer, soap and disinfectants; and food, paper products and other groceries for emergency restocking of distribution centers or stores. Direct assistance does not include routine commercial deliveries, including mixed loads with a nominal quantity of qualifying emergency relief added to obtain the benefits of this emergency declaration.*

**Effective through** – The end of the national emergency or February 28, 2021, whichever is sooner.

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**Action #2 – [March 19, 2020](#), [August 18, 2020](#)– DHS – “Memorandum on Ensuring Essential Critical Infrastructure Workers Ability To Work During The 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. It also states that the list can be useful in identifying the universe of essential workers that may require specialized risk management strategies to ensure that they can work safely.

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

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**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.

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**Action #4 -- [March 20, 2020](#), [September 11, 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 seeking 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 end of the national emergency or December 31, 2020 whichever is sooner.

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**Action #5 – [March 24, 2020](#), [July 1, 2020](#), [September 18, 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 end of the national emergency or December 31, 2020 whichever is sooner.

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**Action #6 – [March 24, 2020](#), [June 15, 2020](#), [September 18, 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 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 end of the national emergency or December 31, 2020 whichever is sooner.

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**Action #7 – July 6, 2020 – FMCSA [Notice of Enforcement Discretion Determination: Random Controlled Substance and Alcohol Testing](#)**

**What does it mean for carriers/drivers?** –FMCSA has granted limited discretion to carriers who may be unable to complete required random drug tests due to the COVID-19 emergency. The 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 attempt to test the minimum percentages of persons annually. The guidance advises carriers unable to complete required tests to thoroughly document why they could not perform the test and their efforts to secure alternative testing facilities. In the event a carrier fails to meet the required random controlled substance testing rate of 50% of their average number of driver positions, FMCSA will likewise consider documentation proving the carrier conducted due diligence in attempting to complete the required tests. 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 the end of 2020.

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**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.

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**Action #9 – [March 28, 2020](#), [June 17, 2020](#), [September 18, 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, who has passed the CDL skills test 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 waiver expires December 31, 2020.

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**Action #10 – [April 3, 2020](#), [July 31, 2020](#), [October 30, 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 December 31, 2020 unless extended.

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**Action #11 – [April 3, 2020](#), [June 19, 2020](#), [September 18, 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.

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**Action #12 – [March 23, 2020](#), [June 17, 2020](#), [September 22, 2020](#) – ODAPC – “DOT COVID-19 Drug & Alcohol Testing Statement of Enforcement Discretion for Substance Abuse Professional and Service Agents**

**What does it mean for carriers/drivers?** This notice allows Substance Abuse Professionals (SAP) the opportunity to conduct remote “face-to-face” evaluation and

assessment provided the technology used permits real-time two-way audio and visual communication and interaction between the driver and the SAP.

**Effective Through** – The enforcement policy is effective through December 31, 2020.

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**Action #13 – [April 9, 2020](#), [June 22, 2020](#), [September 18, 2020](#) – FMCSA “Waiver for States Concerning Third Party CDL Skills Test Examiners in Response to the COVID-19 Emergency”**

**What does it mean for carriers/driver?** – The waiver makes it easier for a third-party to administer the CDL knowledge test to trainees by waiving the requirement that third-party testers complete a required training course and that state licensing agency employees be present for the testing.

**Effective Through** – The waiver is effective through December 31, 2020 or the end of the emergency, whichever is sooner.

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**Action #14 – April 10, 2020, [May 19, 2020](#) – OSHA “Enforcement Guidance for Recording Cases of Coronavirus Disease 2019 (COVID-19)”**

**What does it mean for carriers/drivers?** – In areas of community spread, OSHA has determined it will grant enforcement discretion allowing carriers to not record confirmed COVID-19 cases unless there is objective evidence the cases may be work-related (such as multiple cases developing among employees that work in close proximity) or evidence is reasonably available that the cases may be work-related.

**Effective Through** – The guidance is effective through the end of the public health crisis.

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**Action #15 – [April 13, 2020](#), [September 18, 2020](#) – FMCSA “Revised Expanded Frequently sked Questions for State Driver Licensing Agencies and Commercial Drivers Regarding Permissible Actions During the COVID-19 Emergency”**

**What does it mean for carriers/drivers?** – The FAQ answers several questions specific to SDLA and CDL drivers having trouble obtaining or issuing new or renewed driving credentials. Specifically, the guidance reminds stakeholders that drivers wishing to renew a HazMat endorsement and those wishing to obtain a double/triple

trailer endorsement for the first time must still pass the required knowledge exam and clarifies that a driver who has never had a medical certificate is not covered by the existing emergency waiver, among other things.

**Effective Through** – The guidance is effective until the termination of FMCSA’s emergency declaration.

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**Action #16 – April 15, 2020 – TSA [“Exemption to Extend the Expiration Date of Certain Transportation Workers Identification Credentials \(TWIC\)”](#)**

**What does it mean for carriers/drivers?** – The validity of TWIC credentials that expire between March 1, 2020 and July 31, 2020 are extended for 180 days from the date of expiration.

**Effective Through** – 180 days from the expiration of any TWIC card that expired between March 1 and July 31, 2020.

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**Action #17 – May 19, 2020 -- FMCSA [“Guidance on Leveraging Technology to Conduct Compliance Reviews During COVID-19 Health Emergency”](#)**

**What does it mean for carriers/drivers?** FMCSA will continue to conduct compliance reviews during the COVID-19 emergency but they will be entirely off-site. FMCSA will continue to assign safety ratings where appropriate even if those compliance reviews do not include an on-site component.

**Effective Through** – The guidance is effective until the end of the Presidentially declared COVID-19 national emergency.

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**Action #18 – June 1, 2020 – FMCSA [“Limited Waiver in Response to the COVID-19 Public Health Emergency to Permit the Operation of Intermodal Equipment with Expired Annual Inspection Decals”](#)**

**What does it mean for carriers/drivers?** Drivers may use intermodal chassis with annual inspection decals (or similar documentation) that expired on or after March 31, 2020, provided they have conducted a thorough pre-trip inspection to confirm “there are no visible defects or deficiencies likely to cause a mechanical breakdown while on public roads.”

**Effective Through** – The guidance is effective until September 1, 2020. **EXPIRED**

**Action #19 – June 5, 2020 – FMCSA [“Three-Month Waiver in Response to the Economic Consequences of the COVID-19 Public Health Emergency – To Relieve Employers of Commercial Motor Vehicle Drivers Subject to 49 CFR Part 382 from Certain Pre-Employment Testing Requirements.”](#)**

**What does it mean for carriers/drivers?** FMCSA has extended the time under which drivers qualify for the pre-employment testing exception in [49 CFR §382.301\(b\)](#). This means they can forego pre-employment drug testing for drivers who have participated in a drug testing program that meets the part 382 rules within the previous 90 days. FMCSA has imposed several conditions on use of the waiver including that employers conduct pre-employment full queries on drivers and complete the customary drug and alcohol testing history screening.

**Effective Through** – The guidance is effective until September 30, 2020. **EXPIRED**

**Action #20 – March 25, 2020, [June 24, 2020](#) – PHMSA “Notice of Extension of Enforcement Discretion for Hazardous Materials Training Requirements.”**

**What does it mean for carriers/drivers?** PHMSA has extended the amount of time that it will excuse any offeror or carrier who is unable to provide the recurring training requirements found in [49 CFR 172.704\(c\)\(2\)](#). This enforcement discretion will continue to be exercised by the [Federal Aviation Administration](#), the [Federal Motor Carrier Safety Administration](#), the [Federal Railroad Administration](#), PHMSA, and the [United States Coast Guard](#).

**Effective Through** - The guidance is effective until October 31, 2020.