



FMCSA HOS Emergency Declaration Question and Answers

Overview

The Federal Motor Carrier Safety Administration (FMCSA) issued an Emergency Declaration on March 13 allowing an hours of service (HOS) exemption for drivers transporting certain products used to support the COVID-19 response. The list of commodities has since been expanded to include fertilizer and some additional essential items. The Declaration has also been extended through May 15.

The following links to FMCSA related documents may be of interest:

- [FMCSA HOS Emergency Declaration](#) (March 13)
- [FMCSA FAQ Guidance Document \(part 1\)](#) (March 20)
- [FMCSA FAQ Guidance Document \(part 2, including fertilizer\)](#) (March 25)
- [FMCSA Extension and Expansion of Emergency Declaration](#) (April 8)
- [FMCSA Extension of Emergency Declaration](#) (May 13)

Question and Answers

- **Is this the HOS declaration from March 13?**
 - TFI Response -- Yes. FMCSA has expanded and clarified the list of commodities under the March 13 exemption three times. Previously, it expanded the list to include precursors to food production (fertilizer and feed). Yesterday, it extended the Emergency Declaration end date and expanded the list a third time to include liquefied gases used for refrigeration. More on that below.
- **Is there an end date?**
 - TFI Response -- Yes. It goes through June 14 or whenever FMCSA and the President declare the emergency to be over, if prior to June 14. An extension of the June 14 date is possible depending on circumstances.
 - Per FMCSA extension of the Emergency Declaration -- “This Declaration extends the exemption through June 14, 2020.”
- **Is there a simple list of commodities included in FMCSA’s Emergency Declaration?**
 - TFI Response -- No. The ATWG document highlights (found [HERE](#)) will be helpful. Agricultural commodities included are “fertilizer”, “feed”, “paper”, and “livestock”. “Pet food” is specifically excluded from the HOS Emergency Declaration.
- **Did FMCSA modify/expand the commodities included in the Emergency Declaration?**
 - TFI Response: Yes. Liquefied gases used for refrigeration is newly included with the previously included commodities.

- FMCSA Response: "...expands the relief expressly to cover liquefied gases to be used in refrigeration or cooling systems."
- **Does "feed" include grain?**
 - TFI Response -- TFI understands this is relevant to shippers who may want/need to haul "feed" on the backhaul. Thus far, "feed" is just "feed" and FMCSA has declined to include grain, oilseeds, pulse crops and feed ingredients in the Emergency Declaration.
- **Does the Emergency Declaration include fertilizer being transported from the production facility to a terminal/warehouse?**
 - TFI Response -- Yes. All fertilizer shipments are included. This includes all motor carrier shipping points in the fertilizer supply chain from production to the farm.
- **What documentation is needed to verify that the driver is operating under the exemption?**
 - FMCSA Response -- "There is no specific documentation required for verification. Retention of ordinary business records, such as the bill of lading, may be useful later for the convenience of the motor carrier and driver, to document use of the exemption during a future inspection or enforcement action."
 - TFI Response -- Follow FMCSA's directive. In addition, fertilizer shippers may want to also consider providing drivers with a copy of the FMCSA Emergency Declaration and FAQ Sheet(s) in the cab. Highlight portion that references fertilizer or relevant commodity. Per FMCSA directive, documentation is not required, though it may be helpful to drivers.
- **When do you follow Federal or State HOS rules?**
 - TFI Response -- *Interstate* commerce follows the Federal rules, as dictated by FMCSA. *Intrastate* commerce follows an individual State's HOS rules. Often, but not always, State rules closely follow the Federal rules.
 - FMCSA Response -- Please see [FMCSA's online Guide](#) for more on the following. "Interstate commerce occurs when the shipper intends to have cargo transported to another State or country. That cargo is in interstate commerce from the moment it leaves that shipper until it arrives at its destination. If your truck hauls that cargo, even within a single State, that transportation is considered to be in interstate commerce...Intrastate commerce means transportation not covered by the definition of interstate commerce. Usually (but not always) that means the cargo stays, or the services occur, within a single State."
- **How Can I find more information on various changes to State laws and rules?**
 - TFI has been distributing information as it becomes available on Federal changes, and TFI's COVID-19 resource center can be found [HERE](#). For transportation matters, you can always reach out to [Justin Louchheim](#) at TFI. The American Trucking Associations (ATA) also has an excellent hub page (State tracker found [HERE](#) and Federal tracker found [HERE](#)) that is tracking COVID-19 related Federal and State acts applicable to motor carriers.