



Commercial Vehicle Safety Alliance

Improving commercial motor vehicle safety and enforcement

November 2, 2023

The Honorable Robin Hutcheson
Administrator
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, SE
6th Floor, West Building
Washington, DC 20590-9898

RE: Docket Number: FMCSA-2022-0028
Clarification to the Applicability of Emergency Exemptions

Dear Administrator Hutcheson,

Pursuant to Title 49 Code of Federal Regulations (CFR) § 389.35, the Commercial Vehicle Safety Alliance (CVSA) is filing a petition for reconsideration to the Federal Motor Carrier Safety Administration (FMCSA) regarding the emergency exemption final rule, published in the Federal Register on October 15, 2023, docket number FMCSA–2022–0028, Clarification to the Applicability of Emergency Exemptions. Specifically, CVSA is asking FMCSA to reconsider the duration of the automatic regulatory relief that takes effect upon a regional declaration of emergency by a governor, a governor’s authorized representative or FMCSA.

CVSA is a nonprofit organization comprised of local, state, provincial, territorial and federal commercial motor vehicle safety officials and industry representatives. The Alliance aims to prevent commercial motor vehicle crashes, injuries and fatalities and believes that collaboration between government and industry improves road safety and saves lives. Our mission is to improve commercial motor vehicle safety and enforcement by providing guidance, education and advocacy for enforcement and industry across North America.

Request for Reconsideration

After hearing concerns from many of our state jurisdiction members, CVSA is asking FMCSA to reconsider the duration of the automatic regulatory relief that takes effect upon a regional declaration of emergency by a governor, a governor’s authorized representative or FMCSA. In the final rule, FMCSA revises the duration of the automatic emergency relief from 30 days to 14 days, following the declaration of an emergency by a governor, a governor’s authorized representative or FMCSA.

In CVSA’s comments to the Dec. 8, 2022, notice of proposed rulemaking on this matter, CVSA expressed the Alliance’s support for FMCSA’s stated goal of ensuring that the relief granted through emergency declarations is

“appropriate and tailored to the specifics of the circumstances and emergency being addressed.” CVSA further commented that the original proposed five-day duration of automatic emergency relief effective following the declaration of an emergency by a governor, a governor’s authorized representative or FMCSA was not a sufficient amount of time. This shorter duration may often be enough time to address the needs of the jurisdictions impacted by an emergency declaration, but it does not take into consideration natural disasters and weather emergencies that may be longer in nature, such as droughts, wildfires or extreme winter weather, which may last several weeks.

In the final rule, FMCSA notes that providing for 14 days of automatic relief will allow emergency relief efforts in these severe weather scenarios to continue unabated, without fear that there will be a lapse between the automatic regulatory relief and any FMCSA action to extend or reinstate the regulatory relief. However, while 14 days may seem like a sufficient amount of time, it is important to take into consideration the approvals necessary at the state and local level to submit and then, at the federal level, to receive approval for an extension to an emergency declaration. Many states have indicated that in various scenarios they would need to immediately submit an extension request to FMCSA and then wait to learn if the extension has been approved. This lack of certainty in the length of the relief makes it difficult for the jurisdictions and industry to plan for and coordinate their response to the disaster.

FMCSA has, in the final rule, already limited the scope of the automatic emergency relief, which CVSA supports. In addition, the agency has provided further clarity regarding what types of scenarios qualify for the automatic emergency relief associated with an emergency declaration. As a result, the potential for misuse of this emergency relief has been limited significantly. Given this, and in order to structure emergency relief that takes into account all types of disasters, CVSA reiterates the Alliance’s recommendation that the agency consider eliminating any set duration and rather allow the issuing entity the authority to set the duration as they see fit to adequately address the length of the emergency. This would provide maximum flexibility to tailor each emergency declaration to the specific scenario and best meet the needs of the motor carrier community, enforcement and the general public.

CVSA works to closely monitor, evaluate and identify potentially unsafe transportation processes and procedures as well as to help facilitate and implement best practices for enhancing safety on our highways. Commercial motor vehicle safety continues to be a challenge and we need the involvement of all affected parties to help us better understand these issues and put into place practical solutions. We appreciate your consideration of this request.

If you have further questions or comments, please do not hesitate to contact me at 202-998-1008 or collin.mooney@cvsa.org.

Respectfully,



Collin B. Mooney, MPA, CAE
Executive Director
Commercial Vehicle Safety Alliance