

# DOT Regulated Transportation

*Coronavirus Waivers, Extensions and  
Compliance Guidance*

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April 2020



The United States Department of Transportation (U.S. DOT) and its affiliated agencies continue to address the COVID-19 outbreak and its impacts on the transportation industry. This document is a consolidation of the key waiver provisions, expiration extensions and regulatory guidance into a single source.

## *Federal Motor Carrier Safety Administration (FMCSA) Emergency Declaration*

The federal Emergency Declaration exempts motor carriers from the requirements of 49 CFR Parts 390 – 399 when engaged in direct assistance of the relief effort.

- Among the major regulations exempted under the declaration are the safety rules relating to hours of service, vehicle maintenance and inspection, and general driver qualifications.
- Direct assistance includes the immediate restoration of essential services (such as electricity, medical care, sewer, water, telecommunications and telecommunication transmissions) or essential supplies (such as food and fuel). This includes items used as a precursor necessary to the production and transportation of products covered under the emergency exemption.
- There is no specific documentation required for verification. Drivers should be prepared to explain to law enforcement officers how their previous, current or next shipment qualifies under the emergency provisions.
  - 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.

The Emergency Declaration does not shield a motor carrier from potential liability in the event of a collision. Even though safety regulations may be suspended, drivers and carriers are expected to use good judgment and not to operate vehicles when drivers are fatigued or ill, or under any conditions presenting a clear hazard to other motorists using the highways.



## *CDL and DOT Medical Card Expiration Date Extension*

The waiver is not an exception to the CDL, driver's license or medical card requirements.

- The waiver extends the expiration dates on licenses and medical cards that have or will expire between March 1, 2020 and June 30, 2020.
- Commercial drivers must still hold the appropriate license type for the vehicles they are operating.
- The driver must carry a copy of the medical certification in their possession if they are claiming the medical card waiver.
- This waiver does not apply to drivers whose driving privileges have been suspended or revoked.
- Drivers whose expiring medical card was valid for a period of 90 days or less are ineligible for the waiver.
- A DOT recordable collision that occurs where the driver is operating under the provisions of this waiver **MUST** be reported to the FMCSA within five days. The waiver declaration contains the reporting procedure.

## *DOT Drug and Alcohol Testing Guidance (CDL Drivers)*

The U.S. Department of Transportation (DOT) has not issued a declaration or waiver regarding required testing to date. However, it did issue guidance with respect to certain challenges related to the COVID-19 outbreak. Absent of a waiver or declaration, motor carriers are responsible for ensuring all aspects of regulated testing complies and any inability to comply with the regulations must be thoroughly documented.

### Pre-employment testing

- If you are unable to conduct a pre-employment controlled substances test, in accordance with 49 CFR 382.301(a), you **cannot allow** a prospective employee to perform DOT safety sensitive functions until you receive a negative pre-employment test result, unless the exception in 49 CFR 382.301(b) applies.
  - To meet the exception, a driver must have been enrolled in a DOT random program within the previous 30 days AND must meet all of the provisions outlined in the regulation.
  - Motor carriers exercising this exception should ensure ALL required information and documentation related to the exception are complete prior to allowing the driver to drive a CDL vehicle.

### Random testing

- If, due to disruptions caused by COVID-19, you are unable to perform random selections and tests sufficient to meet the random testing rate for a given testing period in order to achieve the required 50% rate for drug testing, and 10% for alcohol testing, you should make up the tests by the end of the year. You should document in writing the specific reasons why you were unable to conduct tests on drivers randomly selected, and any actions taken to locate an alternative collection site or other testing resources.

### Post-accident testing

- You are required to test each driver for alcohol and controlled substances as soon as practicable following an accident as required by 49 CFR 382.303. However, if you are unable to administer an alcohol test within eight hours following the accident or a controlled substance test within 32 hours following the accident, due to disruptions caused by COVID-19, you must document in writing the specific reasons why the test could not be conducted, as currently required.





## *PHMSA/TSA Hazardous Materials Endorsement Expiration*

The hazardous materials endorsement requires a background screening in order to renew. This screening is independent of the driver's license renewal process, thus is not included in that waiver. The Transportation Security Administration (TSA) is working toward issuing a 120-day waiver regarding Hazardous Materials Endorsements (HME) for commercial drivers. **This has not yet been approved or published.**

- State driver's licensing agencies may now issue an HME to applicants who present a valid Transportation Worker Identification Credential (if you are able to renew your license with the state due to COVID-19 closures).

The Pipeline and Hazardous Materials Safety Administration (PHMSA) has issued a notice regarding recurrent hazardous materials training. Enforcement action will not be taken for failure to conduct recurrent hazardous materials training due to COVID-19. The notice reminds affected companies training can be conducted and meet the training requirements via means other than face-to-face training.

## *State Emergency Declarations*

Each state can declare emergency orders and implement relief measures within its authority. These measures generally include relief from weight limits on state highways, which the federal declaration did not do.

State-by-state declarations can be found here:

- <https://www.fmcsa.dot.gov/emergency-declarations#by-State>



## *Vehicle Licensing and Registration*

If your vehicle licensing and registration has expired or is expiring soon, you should check with your state licensing division to determine if an extension or waiver has been declared. For International Registration Plan (IRP) registrations, check with your state IRP office.

To view the latest reported updates for each state:

- <https://www.aamva.org/>

To view the latest information related to IRP registrations:

- <https://www.irponline.org/page/Covid19waivers>

The waivers and guidance above are in response to the unprecedented times we are facing.

State and local law enforcement should be aware of the federal enforcement guidance. However, it does not guarantee equal understanding of, or intrastate compliance with, such.

You must be in compliance with the provisions of the declaration or applicable waiver to take advantage of it. Please review the complete declaration and/or waiver, as the above guidance paraphrased the highlights of such.

The FMCSA emergency declaration, waivers and future guidance does not preclude a motor carrier from liability, and each should assess their risks appropriately.



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