



**Federal Motor Carrier
Safety Administration**

May 23, 2022

**REGIONAL EMERGENCY DECLARATION
UNDER 49 CFR § 390.23
No. 2022-005**

THE FIFTY UNITED STATES OF AMERICA AND THE DISTRICT OF COLUMBIA

In accordance with the provisions of 49 CFR § 390.23, the U.S. Department of Transportation (USDOT), Federal Motor Carrier Safety Administration's (FMCSA) hereby declares that an emergency exists that warrants issuance of a Regional Emergency Declaration for all four FMCSA regional service centers, and an exemption from certain regulatory requirements in Part 395 of the Federal Motor Carrier Safety (FMCSRs), except as otherwise restricted in this Emergency Declaration. Such emergency is in response to product recall and unplanned closure of a key manufacturing facility of baby formula, an essential supply. On May 18, 2022, the President of the United States invoked the Defense Production Act to increase baby formula production and requiring suppliers to direct ingredients to baby formula manufacturers as a priority. This Emergency Declaration addresses nationwide emergency conditions creating a need for immediate transportation of baby formula, ingredients for the production of baby formula including but not limited to whey, casein, corn syrup and hydrolyzed protein, and containers and packaging for baby formula, and provides necessary relief.

By execution of this Emergency Declaration, motor carriers and drivers providing direct assistance to the emergency in direct support of relief efforts related to the emergency as set out in this declaration are granted relief from 49 CFR § 395.3, maximum driving time for property-carrying vehicles, subject to the restrictions and conditions set forth herein. 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. To be eligible for relief from 49 CFR § 395.3, the transportation must be incident to the immediate restoration of baby formula supplies.¹

Emergency Declaration Restrictions & Conditions

By execution of this Emergency Declaration No. 2022-005, motor carriers and drivers providing direct assistance to the nationwide emergency are granted emergency relief from 49 CFR § 395.3, maximum driving time for property-carrying vehicles, subject to the following restrictions and conditions:

1. Nothing in this Emergency Declaration shall be construed as a waiver of or exemption from any applicable requirements or any portion of the FMCSRs or other regulations for which relief is not specifically granted herein.

¹ This Emergency Declaration No. 2022-005 is posted at <https://www.fmcsa.dot.gov/emergency-declarations>.

2. Motor carriers or drivers currently subject to an out-of-service order are not eligible for the relief granted by this Emergency Declaration until they have met the applicable conditions for its rescission and the order has been rescinded in writing by the issuing jurisdiction.

3. This Emergency Declaration provides for regulatory relief from 49 CFR § 395.3 for commercial motor vehicle operations while providing direct assistance supporting emergency relief efforts. Direct assistance terminates when a driver or commercial motor vehicle is used in interstate commerce to transport cargo or provide services that are not in support of emergency relief efforts related to the emergency as set forth in this Emergency Declaration, or when the motor carrier dispatches a driver or commercial motor vehicle to another location to begin operations in commerce. (49 CFR § 390.23(b)). Upon termination of direct assistance to emergency relief efforts related to the emergency as set forth in this Emergency Declaration, the motor carrier and driver are subject to the requirements of 49 CFR § 395.3 while operating commercial motor vehicles, except that a driver may return empty to the motor carrier's terminal or the driver's normal work reporting location without complying with 49 CFR § 395.3, except as noted herein. When a driver is moving from emergency relief efforts to normal operations, a 10-hour break is required when the total time a driver is engaged in emergency relief efforts, or in a combination of emergency relief and normal operations, equals 14 hours.

In accordance with 49 CFR § 390.23, this Emergency Declaration is effective immediately and shall remain in effect until the end of the emergency (*as defined in 49 CFR § 390.5T*) or until 11:59 P.M. (ET), June 30, 2022, whichever is earlier. FMCSA intends to continually review the status of this Emergency Declaration and may take action to extend, modify or terminate the Emergency Declaration if conditions warrant.



Robin Hutcheson
Deputy Administrator