



March 9, 2026

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Federal Motor Carrier Safety Administration
U.S. Department of Transportation
Dockets Operations
1200 New Jersey Avenue, S.E.
West Building, Ground Floor,
Washington, D.C. 20590-0001

RE: Docket No. FMCSA-2025-0124 – Clarification to the Applicability of Emergency Exemptions; Response to Petitions for Reconsideration

Dear Sir or Madam:

The Energy Marketers of America (EMA) appreciates the opportunity to comment on the Federal Motor Carrier Safety Administration's (FMCSA) notice of proposed rulemaking regarding the restoration of the 30-day automatic relief period triggered by a regional emergency declaration pursuant to 49 CFR § 390.23(b). EMA supports the Agency's proposal to reverse the 2023 rule and reinstate the 30-day automatic relief period for regional declarations, rather than 14 days, as a practical and necessary step to minimize administrative burdens and regulatory confusion during fuel-related emergencies. EMA also offers additional recommendations to strengthen the regional emergency response framework and ensure the uninterrupted flow of essential fuel supplies during increasingly frequent and severe disasters and emergencies.

EMA is a federation of 48 state and regional trade associations representing family-owned and operated small business energy marketers across the United States. As a vital link in the motor fuels and heating oil supply chains, EMA marketers supply approximately 80 percent of motor and heating fuel products nationwide. EMA marketers distribute motor fuels to approximately 40,000 retail outlets, operate an additional 60,000 gas stations, and deliver heating fuel to more than five million homes and businesses.

EMA works closely with FMCSA and other federal agencies—including the Department of Energy's Office of Cybersecurity, Energy Security, and Emergency Response (CESER) and the Federal Emergency Management Agency (FEMA)—on fuel resiliency, emergency preparedness, and disaster response. Emergency Hours of Service (HOS) relief is indispensable to maintaining fuel distribution continuity before, during, and after emergencies. An efficient and predictable administrative process for granting such relief is therefore of critical national importance.

1. Restoring the 30-Day Automatic Relief Period is Essential to Prevent Fuel Supply Disruptions During Extended Emergency Recoveries.

EMA supports FMCSA’s proposal to restore the automatic relief period for HOS from 14 days back to 30 days. As transporters of essential energy goods during times of crisis, EMA companies have firsthand experience supplying motor fuels and heating oil to affected areas. Time and again, fuel marketers have relied on HOS relief to maintain an uninterrupted flow of energy products to regions where fuel supply disruptions can create serious public safety risks, hinder evacuation efforts, disrupt emergency services, and delay broader recovery operations.

HOS relief allows marketers to navigate complex conditions depending on the emergency—such as surged demand, road closures, hazardous routes, longer pickup distances, and extended terminal wait times—while ensuring safe and reliable delivery.

EMA marketers’ experience has shown that the 14-day limit established in the 2023 rule is frequently insufficient for recovery efforts. Short HOS relief often will lead to requests for extensions, creating an administrative burden on transporters of essential goods at the very moment they should face the fewest obstacles. The inadequacy of the 14-day limit is evidenced by *Regional Emergency Declaration No. 2025-012*¹, issued by FMCSA on December 12, 2025. To date, this declaration has required four extensions to address winter storms and the Marcus Hook refinery outage. Critically, the second extension was issued on January 15, 2026, the very day the prior relief expired. This last-minute renewal created significant uncertainty for energy marketers, nearly halting the delivery of essential heating fuels.

Further, a shortened HOS relief period fails to account for the reality that recovery efforts often extend well beyond the immediate disaster. Strict, shortened timelines can cause fuel shortages due to administrative burdens rather than actual supply problems. Restoring the 30-day relief period ensures that the nation is better positioned to respond to and recover from emergencies without unnecessary regulatory uncertainty.

2. Preemptive Regional Declarations by FMCSA are Essential to Adequately Prepare for Emergencies Destabilizing Fuel Distribution.

While the duration of relief is critical, the timing of its implementation is equally vital. Because HOS relief is automatically triggered upon issuance of a regional emergency declaration under 49 CFR § 390.23(b), a key policy question affecting emergency preparedness is when the declaration is issued. While EMA acknowledges that states have the authority to preemptively issue regional emergency declarations, FMCSA is best positioned to take a proactive approach when addressing multi-state regional emergencies that can be reliably predicted, such as a hurricane or a severe winter storm.

Fuel supply is paramount not only during and after a disaster, but also in the days leading up to emergencies. Indeed, having five days of advance relief provides a crucial window for fuel marketers to stage supply, coordinate logistics, and ultimately meet consumer demand in critical situations. While FMCSA has acknowledged that “in some cases, emergency declarations [can be] issued in advance of an event that can be reliably predicted,” there is not

¹ FMCSA, *Regional Emergency Declaration No. 2025-012* (issued Dec. 12, 2025) <https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2026-02/ESC%20and%20MSC%20-%20Extension%20of%20Emergency%20Declaration%20-%20No.%202025-012%20-%20Heating%20Fuels%20-%2002-27-2026%20.pdf>

a reliable framework delineating those “cases.” EMA urges FMCSA to establish a formal preemptive policy outlining when certain meteorological events warrant advance HOS relief.

EMA certainly recognizes the difficulty and sensitivity of making a “reliable prediction” to trigger automatic HOS relief. However, we do note that many significant meteorological events can be forecasted days in advance. For example, the National Oceanic and Atmospheric Administration (NOAA) continues to make notable modeling advancements to accurately predict hurricane conditions.² FMCSA can set up a process to rely on NOAA forecast data to issue HOS relief preemptively as an adequate emergency preparedness measure. On the other hand, CESER can play a fundamental role in triggering advance relief when severe winter storms are reliably estimated to impact fuel resiliency.

FMCSA should adopt a preemptive framework and process, leveraging interagency coordination channels, when a reliably predicted emergency threatens fuel supplies. Ideally, FMCSA should issue regional emergency declarations five days before a reliably forecasted emergency is expected to impact a region. A preemptive FMCSA-led regional declaration would automatically activate HOS relief in time for marketers to prepare and subsequently respond to a complicated logistical landscape.

3. Proactive Federal Regional Declarations are Necessary to Eliminate the Conflicting Patchwork of State Rules That Complicate Interstate Fuel Distribution.

Related to the comments above regarding adoption of a preemptive policy approach, it is critical for FMCSA to ensure a uniform regulatory framework during regional emergencies. When individual states lead emergency declarations, fuel transporters are often forced to navigate a patchwork of varying requirements—such as differences in covered supplies (e.g., heating fuel covered in one state but excluded in a neighboring state), inconsistent effective and expiration timelines, and differing operational conditions or limitations. For interstate fuel marketers, this lack of uniformity creates avoidable compliance complexity, operational confusion, and distribution delays at precisely the moment when speed and clarity are most critical.

This patchwork approach has led to citations precisely because state enforcement officials themselves are often confronted with inconsistent or overlapping emergency directives. When covered supplies, effective dates, and conditions vary from one jurisdiction to another, even well-intentioned enforcement personnel may misinterpret the scope of relief. The resulting confusion has, in some instances, led to citations against fuel transporters acting lawfully under rapidly evolving and non-uniform emergency orders.

FMCSA has the clear authority to issue regional emergency declarations independently and prior to state declarations. While coordination with the states is important, FMCSA should proactively exercise its authority to address logistical challenges in interstate commerce. The current approach, where FMCSA waits for the states to declare the emergency, makes preemptive action impossible.

² See NOAA, *New NOAA system ushers in next generation of hurricane modeling, forecasting* (Jan. 13, 2025), <https://www.noaa.gov/news/new-noaa-system-ushers-in-next-generation-of-hurricane-modeling-forecasting>; see also Congressional Report “Forecasting Tropical Cyclones: Overview and Issues for Congress” (Aug. 11, 2020) (noting that “[t]ropical cyclone forecast model simulations typically predict the track (path) and intensity (the wind speeds) over a period of three to five days.”), <https://www.congress.gov/crs-product/R46416#ifn12>.

A coordinated, regionally scoped federal declaration issued by FMCSA would provide consistency across affected states, reduce regulatory uncertainty, assist state enforcement, and ensure that fuel supply chains can operate safely as part of emergency response efforts. Thus, EMA encourages FMCSA to establish clear internal guidance for the proactive issuance of federal regional relief to eliminate the confusion drivers face when crossing state lines under multiple conflicting declarations.

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Please contact EMA's regulatory counsel, Jeffrey Leiter (jleiter@bmalaw.net) or Jorge Roman (jroman@bmalaw.net), if you have any questions on this submission.

Sincerely,

Rob Underwood
President

cc: Sherri Stone, EMA Vice President