

U.S. Senators Call on FMCSA for Preemptive Hours-of-Service Flexibility to Bolster Disaster Response

Last week, Senator Roger Wicker (R-MS), along with Senators Marsha Blackburn (R-TN), Katie Britt (R-AL), Bill Cassidy (R-LA), Cindy Hyde-Smith (R-MS), Tom Cotton (R-AR) and Tim Scott (R-SC) sent a letter to Acting Administrator and Chief Counsel Jesse Ellison urging the Federal Motor Carrier Safety Administration (FMCSA) to implement a preemptive and proactive policy for hours-of-service (HOS) exemptions to ensure the seamless delivery of essential motor fuels during major disasters, hurricanes, and regional emergencies. EMA has been working closely with these Senate offices to ensure that hours of service exemption requests receive the attention they deserve.

As hurricanes intensify and become more frequent, the nation's fuel supply chains are under unprecedented strain. Fuel marketers – the frontline heroes keeping gas stations stocked, homes heated, and emergency services fueled – argue that rigid HOS regulations under 49 C.F.R. § 395.3 often hinder rapid response efforts. These rules cap daily driving times, mandate off-duty periods, and require restarts, which can prove impossible amid chaos.

The Atlantic hurricane season (June 1 – November 30) exemplifies the challenge. As storms brew:

- Supply disruptions hit: Terminals shut down from storm surges, high winds, or power outages; ports close; pipelines go offline.
- Demand explodes: Panic buying, evacuation orders, and pre-stocking by critical services create massive surges.
- Logistical nightmares emerge: Longer hauls to operational terminals, endless wait times, road closures, and treacherous routes.

Without HOS flexibility under 49 C.F.R. § 390.23(b), drivers are "hamstrung," the letter states, unable to meet skyrocketing needs while staying compliant. The letter proposes three bold solutions to make FMCSA's response predictable, uniform, and effective:

1. Automatic Preemptive Exemptions – 5 Days in Advance

- Trigger federal HOS relief at least five days before reliably forecasted disasters (e.g., named hurricanes).
- Why? Allows pre-positioning of fuels for evacuations and prepares for post-storm shortages.
- Benefits heating oil deliveries during severe weather too.

2. Regional Uniformity to End State-by-State Confusion

- Implement automatic regional flexibility tied to federal declarations, overriding patchwork state exemptions.

- Problem solved: No more inefficiency from varying state rules – e.g., heating fuels exempt in one state but not the next, or mismatched start/end dates.
- FMCSA has precedent and authority: It can declare emergencies before states do, as affirmed in its 2023 HOS rulemaking preamble.

3. Standing Exemption for Hurricane Season

- Grant a permanent HOS waiver under 49 C.F.R. § 381.300 for interstate motor fuel transport (gasoline, diesel, ethanol/biodiesel blends) from June 1 to November 30.
- Rationale: The season is predictable; this ensures year-after-year readiness without annual scrambling.

The agency has issued HOS exemptions numerous times, but the letter emphasizes the need for internal guidance to streamline processes to enhance safety, boost efficiency by issuing clear rules to prevent delays in interstate hauls thereby supporting faster fuel restoration.

"Fuel marketers are uniquely situated at the front lines," the letter notes. "Timely and flexible delivery is essential to community preparedness, emergency evacuations, utility operations, and economic stability." The signatories invite FMCSA to partner on crafting these policies, promising a "much-needed" upgrade to regulatory flexibility.

[Click here](#) to read the letter.