

**Encourage the Federal Motor Carrier Safety Administration (FMCSA) to Modify Federal Hours of Service Waiver Process**

# Background

The Energy Marketers of America (EMA) fully supports an effort spearheaded by Congressman Bost (R-IL) to gather signatures on a letter urging the Federal Motor Carrier and Safety Administration (FMCSA) to streamline the Hours of Service (HOS) automatic waiver process under 49 C.F.R. § 390.23(b). Specifically, the letter requests FMCSA to modify its emergency declaration policy to provide effective HOS relief for marketers preparing for and responding to disasters and emergencies.

As you are aware, the number and intensity of disasters and emergencies interrupting the flow of essential services and supplies has been growing in recent years. FMCSA holds a critical responsibility for safely addressing strained logistics during such events in a timely and predictable manner. To enhance state and regional preparedness and recovery efforts, a preemptive and proactive HOS exemptions policy is imperative for the immediate restoration of essential services and supplies in interstate commerce.

Liquid fuel marketers provide vital services before, during, and after emergencies. They ensure fueling stations remain adequately supplied and, in cold weather occurrences, allow households to heat their homes throughout life-threatening events, facilitating safe and swift recovery in affected areas. One of the most important actions FMCSA can take to support marketers’ transportation operations in direct assistance of an emergency or disaster response is to provide HOS regulatory relief under 49 C.F.R. § 390.23(b). This relief allows marketers to navigate complex conditions –– such as increased fuel demand, road closures, challenging travel routes, longer fuel pickup distances, and extended wait times at terminals –– while ensuring safe and reliable fuel delivery.

FMCSA should adopt a preemptive and proactive approach for automatic waivers, consistent with the statute and its legislative intent to provide timely and predictable relief during emergencies by providing for HOS exemptions in advance of major disasters and emergencies and in response to regional events.

# The Solution

# *FMCSA Should:*

# Develop internal guidance to facilitate federal declaration of an emergency and trigger automatic relief at least 5 days before a reliably predicted disaster or emergency.

A preemptive policy is crucial for preparedness and recovery efforts. Marketers must keep stations and homes adequately fueled ahead of an emergency or disaster to support evacuations and prepare for forthcoming logistics complications that could result in shortages. Likewise, heating oil marketers and their customers would benefit from advanced preparation to meet increased demand during severe weather events.

# Implement agency policy on automatic regional relief to promote uniformity in disaster and emergency response.

Having only state-level regulatory relief in response to state and local emergency declarations often creates an uneven regulatory environment and confusion and delay in regional responses to emergencies and disasters, particularly for multi-state suppliers and retailers. A uniform federal approach to regional emergencies is essential to prevent confusion and compliance challenges caused by the piecemeal adoption of state emergency declarations with varying conditions (e.g., heating fuels covered in one state but not in another, and different start and end dates).

FMCSA has the authority to issue an emergency declaration prior to state declarations. In the preamble to its final rulemaking on HOS relief in 2023, the agency emphasized its authority to declare emergencies and noted that it has exercised this authority many times. While coordination with state regulators is encouraged, FMCSA should proactively address logistical challenges in interstate commerce. Establishing clear internal guidance on the issuance of regional relief will eliminate confusion when drivers must rely on multiple declarations to transport fuel across state lines. Clarity and consistency will enable drivers to make the best route decisions for the efficient restoration of essential fuel supplies.

# “The Ask”

EMA urges Members of Congress to sign the letter that will urge FMCSA to establish a preemptive and proactive approach in the issuance of regional emergency declarations and regulatory relief.

If your lawmaker would like to sign, please contact: Noah Barger in Congressman Bost’s office at: [Noah.Barger@mail.house.gov](mailto:Noah.Barger@mail.house.gov)

(*Committees: House Committee on Transportation and Infrastructure, All Lawmakers)*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**EMA Staff Contact:** Rob Underwood, runderwood@emamerica.org, Sherri Stone, sstone@emamerica.org