



U.S. Department
of Transportation

Federal Motor Carrier
Safety Administration

Office of the Administrator

1200 New Jersey Ave, SE
Washington, DC 20590

ACTION MEMORANDUM TO THE OFFICE OF MANAGEMENT AND BUDGET

From: Meera Joshi *MJ/SA*
Acting Administrator
202-366-1927

Prepared by: Larry Minor
Associate Administrator for Policy
202-366-4012

Subject: Requesting Emergency Clearance from OMB for a New Information Collection to Support FMCSA's Response to COVID-19 Recovery

ACTION REQUESTED

The Federal Motor Carrier Safety Administration (FMCSA) requests the Office of Management and Budget (OMB) to provide an emergency clearance for a new information collection to inform FMCSA's continued actions to support the nation's Coronavirus Disease 2019 (COVID-19) recovery efforts, including future extensions of Emergency Declaration No. 2020-002.

SUMMARY

FMCSA is requesting emergency clearance to collect information regarding the number of motor carriers and drivers that are operating under Emergency Declaration No. 2020-002, in order to make a determination as to whether to continue to extend or modify the Emergency Declaration beyond the next extension that will be in place on or before September 1, 2021. This information is necessary as FMCSA currently has no way of monitoring how many motor carriers and drivers are operating under terms of the Emergency Declaration, which allows drivers to disregard certain portions of the Federal Motor Carrier Safety Regulations (FMCSRs), including hours-of-service limits. FMCSA would like to ensure that the exemptions from the FMCSRs are only being allowed if necessary.

BACKGROUND

Relief from the Federal hours-of-service rules was available to motor carriers and drivers responding to disasters from about 1941 through 1991 before the decision was made to propose regulatory relief from 49 CFR parts 390 through 399. FMCSA's predecessor agency, the Federal Highway Administration, proposed revisions to the emergency relief provision in 1991, and issued the final rule in 1992 providing relief from parts 390 through 399 for motor carriers and drivers engaged in direct assistance in an emergency. The language in 49 CFR 390.23 and 390.25 has remained unchanged since then.

FMCSA issued Emergency Declaration No. 2020-002 in response to the March 13, 2020 declaration of a national emergency under 42 U.S.C. § 5191(b) related to COVID-19, and the immediate risk COVID-19 presents to public health and welfare. FMCSA modified Emergency Declaration 2020-002 to expand and remove categories of supplies, equipment, and persons covered by the Emergency Declaration to respond to changing needs for emergency relief. Most recently, on May 26, 2021, FMCSA extended the modified Emergency Declaration No. 2020-002 and associated regulatory relief through August 31, 2021, in accordance with 49 CFR § 390.25. FMCSA continued the exemption and associated regulatory relief in accordance with 49 CFR § 390.25, because the presidentially declared emergency remained in place and because a continued exemption was needed to support direct emergency assistance for some supply chains. This extension of the expanded modified Emergency Declaration addresses national emergency conditions that create a need for immediate transportation of essential supplies and provides necessary relief from the FMCSRs for motor carriers and drivers.

In accordance with the expanded modified Emergency Declaration No. 2020-002, motor carriers and drivers providing direct assistance in support of relief efforts related to the COVID-19 public health emergency are granted emergency relief from certain portions of 49 CFR parts 390 through 399 of the FMCSRs, except as restricted in the Emergency Declaration. Direct assistance means transportation and other relief services provided by a motor carrier or its driver(s) incident to the immediate restoration of essential services (such as medical care) or essential supplies related to COVID-19 during the emergency.

Neither the Emergency Declaration nor 49 CFR §§ 390.23 or 390.25 require that motor carriers or drivers operating under the Emergency Declaration report their operation to FMCSA. As a result, FMCSA does not know how many motor carriers or drivers are relying upon the Emergency Declaration. Given the unprecedented period that expanded modified Emergency Declaration No. 2020-002 has now been in place, FMCSA has determined that it is necessary to seek information on the number of motor carriers and drivers relying upon Emergency Declaration No. 2020-002 to determine how long to extend the Emergency Declaration.

FMCSA has determined that the continuing national emergency warrants the extension of Emergency Declaration No. 2020-002 once again. In that extension, FMCSA intends to request that motor carriers and drivers (if self-employed) provide data to FMCSA on a monthly basis regarding the extent to which they are operating in reliance on the Emergency Declaration. The Emergency Declaration will include a URL link that takes users to FMCSA's website, where they will provide the information. The data collection will be limited to a small number of fields – USDOT number, month and year of the reporting period, the number of commercial motor vehicles trips that relied upon the Emergency Declaration in the preceding month (using a choice of one of 5 ranges), and the commodity(ies) being transported when operating under the Emergency Declaration (using a drop down list).

It is imperative that FMCSA begin collecting this information once the next extension of the Emergency Declaration is in place, which must be on or before September 1, 2021. FMCSA will continue to collect the information on a monthly basis until the end of the next extension, or until the end of the emergency approval period.

In addition to the emergency clearance, FMCSA will also complete the normal OMB review process, at which time both 60-day and 30-day Federal Register notices will be published.

RECOMMENDATION

FMCSA recommends that OMB review and approve the new information collection to inform FMCSA’s continued actions to support the nation’s COVID-19 recovery efforts. Due to FMCSA’s urgent need for this information to determine the need for further extensions of Emergency Declaration No. 2020-20, FMCSA requests approval by August 31, 2021. This will allow FMCSA to include the reporting requirement in the next extension of the Emergency Declaration, which must be issued no later than September 1, 2021. Reports will be collected from motor carriers and drivers within 5 days after the end of each month.

Attachments

1. Supporting Statement
2. Federal Register Notice on Agency Information Collection Activity

The Office of Management and Budget

APPROVED: _____

DISAPPROVED: _____

COMMENTS: _____

DATE: _____