

ISSUE NUMBER

20-019-PRA

ISSUE NAME

§390.23 and §390.25 - Request for Amendment

STATUS

Closed

Policy and Regulatory Affairs Committee

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Current FMCSA regulations in §390.23 and §390.25 that cover emergency declarations, require FMCSA to exempt motor carriers from the regulations in Parts 390 through 399. This includes Part 392, which covers prohibitions against alcohol and drug use, cell phone use and texting while driving and other safety related regulations. It also includes Part 395, which covers drivers hours of service regulations.

JUSTIFICATION OR NEED

§ 390.23 and § 390.25 need to be updated to provide federal and state representatives with the authority to select which regulations are waived as a part of an emergency declaration pursuant to § 390.23 and clarify that the FMCSA Administrator has the authority to issue a national emergency declaration.

Also, § 390.23(a)(1)(i)(B) and § 390.25 specifically state that when certain conditions are met the FMCSA Field Administrator has the authority to issue regional emergency declarations or extensions. Both § 390.23(a)(1)(i)(B) and § 390.25 should be amended to clarify that the FMCSA Administrator has the authority to issue emergency declarations, not just the FMCSA Field Administrators. One way this could be accomplished is by replacing "FMCSA Field Administrator" with "FMCSA Administrator or their authorized representative" in § 390.23 and § 390.25. This change would clearly establish that the FMCSA Administrator has the authority to issue emergency declarations.

REQUEST FOR ACTION

CVSA should send the attached letter to FMCSA requesting they amend §390.23 and §390.25 to address the gaps identified in the regulations.

SUPPORTING DOCUMENTS/PHOTOS

- [DRAFT-Emergency-Declarations-Petition.pdf](#)

ACTION TAKEN BY COMMITTEE

The proposed petition was passed by the committee and board at the virtual conference and sent to FMCSA on Oct. 7, 2020.