



November 9, 2023

The Honorable Robin Hutcherson
Administrator
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, SE
Washington, D.C. 20590

Re: Reconsideration of the Emergency Exemptions Final Rule Published on Oct. 15, 2023, Docket No. FMCSA-2022-0028

Greetings,

Pursuant to Title 49 Code of Federal Regulations (CFR) § 389.35, the State of North Dakota is filing a petition for reconsideration to the Federal Motor Carrier Safety Administration (FMCSA) regarding the emergency exemption final rule published in the Federal Register on Oct. 15, 2023, docket number FMCSA–2022–0028, Clarification to the Applicability of Emergency Exemptions. We urge FMCSA to reconsider the duration of the automatic regulatory relief that takes effect upon a regional declaration of emergency by a governor, and request that the FMCSA continue to allow each state’s governor to institute regulatory relief based on a regional declaration of an emergency and issue the 30-day relief period from all Federal Motor Carrier Safety Regulations in parts 390 through 399.

The final rule change would severely impact operations in North Dakota during emergencies and have a direct impact on all citizens of our great state.

As we noted in our comments on the Proposed Rule on Feb. 6, 2023, we have needed to waive hours of service by three executive orders over the last two years for haulers of propane, gasoline, diesel fuel and heating oil. Six additional executive orders were issued for haulers of agricultural inputs, fertilizer, milk for students, rural electric workers, and haulers of hay, water and livestock. As an agricultural state, these executive orders are carefully considered and determined necessary to combat significant winter storms, drought and staff shortages in the CDL industry that last longer than the 14-day anticipated change. While FMCSA states that providing 14 days of automatic relief will allow emergency relief efforts in these situations to continue unabated, this does not take into account the approvals necessary at the state and local level to submit and then, at the federal level, to receive approval for an extension to an emergency declaration, which may exceed the 14 days.

North Dakota heavily depends on CDL drivers, and as a rural state, it is critical that we be able to move products and get resources to where they are needed most. The above conditions could create life-and-death situations.

In conclusion, we urge you to reconsider the final rule and continue to allow governors the authority to issue an emergency waiver for the 30-day relief period when necessary to provide the services required by the citizens of North Dakota.

Sincerely,

A handwritten signature in blue ink, appearing to read "Doug Burgum". The signature is fluid and cursive, with the first name "Doug" being more prominent.

Doug Burgum
Governor