

National Safety Code

BULLETIN

RE: Hours of Service Regulations during the Provincial State of Emergency declared on November 17, 2021

This bulletin provides clarity regarding B.C.'s Hours of Service (HOS) regulations while providing relief related to the Provincial State of Emergency [declared on November 17, 2021](#). This state of emergency exists to “mitigate impacts on transportation networks and movement of essential goods and supplies, and to support the provincewide response and recovery from the widespread damage caused by severe flooding and landslides in British Columbia.”

The *Motor Vehicle Act Regulations* (MVAR) Division 37, Part 3, s. 37.11 states:

This Part [Part 3 Hours of Service] does not apply to a driver who is driving: ...

(d) a commercial motor vehicle transporting passengers or goods for the purpose of providing relief in the case of an earthquake, flood, fire, famine, drought, epidemic, pestilence or other disaster

In order to assist in the province's recovery efforts during this state of emergency, drivers operating commercial motor vehicles to transport passengers, goods and supplies for the purpose of providing relief in relation to flooding and landslides in B.C. are exempt under MVAR 37.11(d).

Carrier and Driver Responsibilities

When a driver is exempt from MVAR Division 37 Part 3 – Hours of Service, there is no requirement to maintain a daily log. However, as a driver may not be continuously operating under MVAR 37.11(d), it is recommended that, for future reference, a driver explain the activity in the Remarks section of the daily log without completing the detailed Schedule 2 graph grid. A driver is required to comply with the requirements in MVAR Division 37 Part 3 when not otherwise exempt and this step will help ensure the driver is able to comply.

There is no requirement to notify the Director of CVSE if a driver is operating under this exemption, and, therefore, no requirement for the driver to carry a copy of an exemption letter in B.C.

As the use of this exemption does not require a letter from the Director of CVSE, carriers and drivers are advised to ensure that they maintain records for any trip where the driver is exempt under MVAR 37.11(d) that provide a clear indication of how the trip was transporting essential goods and supplies or was for essential purposes. It is recommended that carriers encourage shippers to include this information on the bill of lading.

While the exemption in MVAR 37.11(d) indicates that drivers claiming this exemption are exempt from all of Part 3 – Hours of Service, this exemption only applies to drivers. Carriers, shippers, consignees and other persons must ensure compliance with Part 3 – Hours of Service including the requirements in MVAR 37.12 (a)(b) or (c) which states:

A carrier, shipper, consignee or other person must not request, require or allow a driver to drive and a driver must not drive if

- (a) the driver's faculties are impaired by fatigue, illness or a mental or physical infirmity to the point that it is unsafe for the driver to drive,
- (b) driving would jeopardize or be likely to jeopardize the safety or health of the public, the driver or the employees of the carrier,
- (c) the driver is the subject of an out-of-service declaration,

Drivers must not drive a motor vehicle on a highway without due care and attention or without reasonable consideration for other persons using the highway under Motor Vehicle Act (MVA) s. 144 and in accordance with these requirements drivers should ensure continued compliance with MVAR 37.12(a)(b)(c). It is everyone's responsibility to ensure that people, goods and supplies move safely, even in emergency situations.

To help ensure that drivers are not operating while fatigued, CVSE provides the following direction to carriers:

- If driver informs the carrier that they are in need of rest, the driver must be permitted to take at least 8 consecutive hours of off-duty time before having to report again to work.
- The carrier shall ensure all drivers operating under this exemption take a minimum of 24 consecutive hour of off-duty time in every 14-day period.
- Carriers must monitor drivers and take all necessary and reasonable steps to ensure that drivers are not fatigued.

Federal Exemption Available for Extra-Provincial Undertakings

Under Section 16 of the *Motor Vehicle Transport Act*, Transport Canada has issued a [Targeted Essential Freight Exemption to Support the Emergency Response to the Flooding in B.C. \(ASF-E-2021-03E\)](#) which is available to extra-provincial truck undertakings and their drivers. Details of the exemption purpose, application and conditions can be found using the link above.

For carriers with B.C.-plated vehicles that need to operate under the federal exemption, notification to the provincial hours of service director should be sent to NSC@gov.bc.ca. Please include the exemption tracking number (ASF-E-2021-03E) and the name on the NSC safety certificate in the subject line of the email.

FMCSA Regional Emergency Declaration

Under 49 CFR § 390.23, the FMCSA has issued [Regional Emergency Declaration No. 2021-010 for Canadian Motor Carriers and Drivers Providing Direct Assistance to the Flooding and Landslides Emergency in British Columbia](#). This declaration facilitates the movement of Canadian goods through the United States in order to bypass road closures and areas cut off by flooding and landslides. Details of the exemption purpose, application and conditions can be found using the link above.

We recognize that this is an evolving situation. CVSE will continue to monitor and provide guidance through updating this bulletin as issues emerge and more information becomes available.



If you have questions regarding whether a driver is exempt under MVAR 37.11(d), please do not hesitate to contact the NSC program office (NSC@gov.bc.ca or 250-952-0576).

A handwritten signature in black ink that reads "Karen Coverett".

Karen Coverett
Manager, National Safety Code
Commercial Vehicle Safety and Enforcement

Date	Status	Notes
23 Nov 2021	Issued	
24 Nov 2021	Updated	<ul style="list-style-type: none">• Link to FMCSA Regional Emergency Declaration No. 2021-010 added