

**STATE OF NEW YORK
DEPARTMENT OF TRANSPORTATION
ALBANY, NEW YORK 12232**

At the Office of the Department of
Transportation in the City of Albany
on September 4, 2021

PRESENT:

Clifford A. Thomas, Director
Office of Modal Safety and Security

CASE 27647 - In the matter of motor carrier compliance with regulations pertaining to hours of service for operators of motor trucks, pursuant to 17 NYCRR 820.6.

APPLICATION BY THE COUNTY OF WESTCHESTER FOR EXCEPTION TO THE PROVISIONS OF 17 NYCRR 820.6

On September 2021, the Governor of New York State declared that an emergency exists that warrants issuance of an Emergency Declaration and exemption from certain parts of the Federal Motor Carrier Safety Regulations. Such emergency is in response to the unprecedented damage and threats to the public health and safety caused by Post-Tropical Depression Ida.

The declaration satisfies the requirements of 49 C.F.R. 390.23(a)(1)(A), which provides relief from Parts 390 through 399 of the Federal Motor Carrier Safety Regulations (FMCSR). Such relief from the FMCSR is necessary to ensure that crews can clear vital roadways and hasten the movement of utility power restoration crews into New York State. The declaration expires on October 2, 2021 and is applicable to the following counties: Bronx, Dutchess, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Sullivan, Ulster, Westchester, and contiguous counties.

Additionally, The County of Westchester has requested the Department of Transportation to waive the provisions of 17 NYCRR 820.6, due to the compounding impacts of the emergency to their contracted emergency relief companies. It has been determined that action is necessary to address this emergency and the threat it poses to public health and safety and that certain rules should be temporarily waived to ensure an adequate response to the restoration of vital public services.

ORDERED:

The hours-of-service regulations contained in 17 NYCRR 820.6 are hereby waived with respect to intrastate transportation performed by motor carriers providing direct support to emergency relief operations within the counties of Bronx, Dutchess, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Sullivan, Ulster, Westchester, and contiguous counties effective at the beginning of September 2, 2021 and terminating at the end of October 2, 2021 unless otherwise ordered:

- (1) Section 820.6 is temporarily waived except that:
 - a. When a driver is moving from emergency relief efforts to normal operations, compliance with the provisions of CFR Part 395.3a (Maximum Driving Times) must be complied with.
- (2) That no motor carrier operating under the terms of this order shall require or allow a fatigued or ill driver to operate a commercial motor vehicle. A driver who informs a motor carrier that he or she is not fit to drive shall be given a minimum of 10 consecutive off-duty hours before the driver may return to service.
- (3) That all other regulations, including, but not limited to, the transportation of Hazardous Materials, Size & Weight compliance, Commercial Driver License requirements, Controlled Substances & Alcohol Use & Testing requirements, and Financial Responsibility requirements remain in force and in effect for all motor carriers and drivers.
- (4) That motor carriers that have an Out-of-Service Order in effect, or a suspension or revocation of a New York State Certificate as a motor carrier of property, are not eligible to take advantage of the relief from the regulation that this order provides.
- (5) New York State will continually review the status of the Emergency and may take action to modify or terminate this order prior to its' expiration.

By the Office of Modal Safety and Security

A handwritten signature in black ink, appearing to read "Clifford A. Thomas", with a large, stylized flourish extending from the end of the signature.

Clifford A. Thomas, Director