

**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 May 11, 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 TRUCKING ASSOCIATION OF NEW YORK FOR EXCEPTION TO THE PROVISIONS OF 17 NYCRR 820.6

On May 9, 2021, the Federal Motor Carrier Safety Administration 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 unanticipated shutdown of the Colonial pipeline due to network issues that affect the supply of gasoline, diesel, jet fuel, and other refined petroleum products throughout various States including New York. The federal Declaration addresses the emergency conditions creating a need for immediate transportation of gasoline, diesel, jet fuel, and other refined petroleum products and provides necessary relief. The Declaration waives Parts 390-399 of the Federal Motor Carrier Safety Regulation for those motor carriers engaged in interstate commerce providing direct assistance to the emergency in the Affected States.

The Trucking Association of New York has requested the Department of Transportation to waive the provisions of 17 NYCRR 820.6, due to the compounding impacts of the Colonial pipeline and a scheduled maintenance shutdown of the Buckeye pipeline and a driver shortage. This waiver would allow motor carrier flexibility in meeting the demands of the required transportation of petroleum products. It will also eliminate confusion among drivers and carriers as to their operational status of being in Inter or Intra State commerce thus lessening the burden of having to determine applicability of the hours of service regulations in effect.

It has been determined that action is necessary to address this emergency situation and the threat it poses to public health and safety and that certain rules should be temporarily waived in order to ensure the adequate supply and delivery of vital heating, power plant, and transportation fuels throughout the State. Therefore, it is

ORDERED:

The hours of service regulations contained in 17 NYCRR 820.6 are hereby waived with respect to the intrastate transportation of fuels performed by motor carriers effective at the beginning of May 11, 2021 and terminating at the end of June 8, 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 a 10-hour break is required when the total time a driver operates conducting emergency relief efforts, or a combination of emergency relief and normal operation, equals 14 hours.
- (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", written in a cursive style.

Clifford A. Thomas, Director