

## Harvey/Regional Declaration of Emergency under 49 CFR § 390.23 : Limited Applicability to Arkansas Carriers



**Walter Wright, Jr.**  
wwright@mwlaw.com  
(501) 688.8839

09/01/2017

An August 31st Arkansas Oil Marketers Association (“AOMA”) publication conveyed a communication from the Chief of the Arkansas Highway Police (“AHP”) which included an August 25th Regional Declaration of Emergency under 49 CFR § 390.23 (“Declaration”) by the Federal Motor Carrier Safety Administration (“FMCSA”).

AOMA had inquired to the Arkansas Governor’s Office concerning the issuance of an emergency declaration regarding relief from the Federal Motor Carrier Safety Regulations in view of Hurricane Harvey.

The AHP letter to AOMA stated in part:

. . . the Governor can only issue an emergency declaration for relief from the FMCSRs in the event of an emergency in Arkansas. Nonetheless, the attached Regional Declaration from FMCSA would be applicable to Arkansas Motor Carriers providing direct emergency relief to the impacted areas in Texas and Louisiana. I would suggest a copy of the attached be carried by the driver. . .

The previously referenced Declaration provides that FMCSA declares an emergency that warrants issuance of a Regional Emergency Declaration in the states of Texas and Louisiana and an exemption from parts 390 through 399 of the Federal Motor Carrier Safety Regulations, except as otherwise restricted by this Emergency Declaration. It also states that motor carriers and drivers providing direct assistance to the emergency in the states of Texas and Louisiana as a result of Harvey are granted emergency relief from parts 390 through 399 of Title 49 of the Code of Federal Regulations subject to certain exceptions.

In an additional publication issued today AOMA notes that AHP Chief Burks subsequently indicated in a September 1st email to AHP officers that he interprets the second page of the Declaration to include drivers in Arkansas hauling fuel within Arkansas delayed due to supply issues.

[The September 1st AOMA publication quoting this email and the Declaration can be downloaded here.](#)