



Mahorney, Bill (FMCSA)

FW: Draft Answers for Ms. Matks

To: Andrea Marks

December 16, 2021 at 6:28 AM

Hello Andrea! I hope this helps!

Thanks and have a great holiday!

Bill

From: Andrea Marks <[redacted]>

Subject: Re: Clarifying Questions

Date: December 10, 2021 at 12:16:52 PM MST

To: MCPSD@fmcsa.dot.gov, FMCSADeclaration@dot.gov, Bill Mahorney <[redacted]>

Hi Rich!

Unfortunately, your response does little to answer the questions outlined in my original email. For your convenience I've outlined them once again, below and added a few more for your consideration.

We all agree and acknowledge that the Emergency Declaration FAQ document states the following:

What documentation is needed to verify that the driver is operating under the exemption?

There is no specific documentation required for verification. Retention of ordinary business records, such as the bill of lading, may be useful later for the convenience of the motor carrier and driver, to document use of the exemption during a future inspection or enforcement action.

Can you please clarify the following questions:

- If no "specific" documentation is required for verification, is there actually any documentation required for a driver to have with them during the trip?

Draft response: There is no actual documentation required to be on the commercial motor vehicle (CMV) to verify that a motor carrier or driver is operating under Emergency Declaration 2020-002. Retention of ordinary business records, such as the bill of lading, may be useful later for the convenience of the motor carrier and driver, to document use of the exemption during a future inspection or enforcement action.

- If so, what specific documentation is required and is said documentation required to be marked/stamped with some sort of verification?

Draft response: There is no specific documentation required to be on the CMV to verify that a motor carrier or driver is operating under Emergency Declaration 2020-002. Therefore, nothing is required to be stamped or marked with some sort of verification.

- The FAQ referenced above mentions the bill of lading and how it may be useful to document the use of the exemption in the future. Is the bill of lading required to be stamped or marked in some way to document the use of the emergency declaration in the future?

Draft response: The bill of lading (BOL) is not required on the CMV to verify that a motor carrier or driver is operating under Emergency Declaration 2020-002, and therefore, doesn't need to be stamped or marked with some sort of verification.

- If a bill of lading or other freight document is stamped or marked in some way, who is required to stamp or mark said documents to meet the requirements of the Emergency Declaration?

Draft response: There is no requirement for stamping or marking of documents for proof of operating under Emergency Declaration 2020-002.

- What entity in the transaction has the responsibility of identifying the load as direct assistance?

Draft response: The motor carrier and driver of the CMV. The shipper and receiver may also be contacted regarding the circumstances of the movement.

- What entity in the transaction are officers confirming that the load is direct assistance?

Draft response: The driver, carrier, shipper and receiver may be contacted regarding the circumstances of the movement.

- If no documentation is required to verify the use of the emergency declaration why are officer's confirming verification with shippers and receivers?

Draft response: Documentation is not required at the roadside, but the movement must meet the definition of emergency movement, and should be verified by the officers if there is additional information needed to make the determination.

- Who makes the determination if the commodity meets the definition of "food, paper products, and other groceries"?

Draft response: The extended Emergency Declaration through February 28, 2022 specifies the following: (5) food, paper products and other groceries for emergency restocking of distribution centers or stores. These should be reasonably self-explanatory. The roadside officer will make an initial determination if the movement and products meet the definition, and seek additional information if necessary.