

PSATS CDL Program Guidance: Driving Time Limits for Local Government CMV Employees and Emergency Exemption

Municipal Functions Automatically Exempt from CMV Driving Time Limits

PennDOT's intrastate commercial motor vehicle (CMV) safety regulations at 67 Pa. Code Chapter 231.8(15) now specifically exempt State and local government drivers from having to comply with CMV driving time limits when performing the following functions:

1. Roadway Maintenance
2. Snow Plowing Operations
3. Traffic Control Support Operations

While the full scope of the specific actions of these exempt functions is not explicitly defined by either legislation or regulation, they should be construed in a manner generally consistent with the outlines of such actions in PennDOT's Maintenance Manual (Pub 23). The definition of a "CMV" for township road crew purposes is outlined in PennDOT regulations at Title 67 Chapter 231.8(1), and includes any vehicle or combination used on public roads that has a GVWR of 17,001 pounds or more.

Therefore, local governments can perform the above three exempt functions without any daily or weekly limits on the amount of time their employees can drive commercial motor vehicles. However, townships (and all local governments) should still take all appropriate steps to ensure the safety of their employees and residents by, among other things, proactively addressing employee scheduling when performing driving time limit-exempt functions to avoid any reliance on tired drivers.

Further, Chapter 231.8(16) extends the length of time drivers of private carriers that are specifically contracted to perform snow removal operations for State or local governments can operate CMVs from 11 hours to 12 hours provided that: (1) the driver does not drive a CMV after having been on duty for more than 16 hours, and; (2) the driver has not been on duty 70 hours in seven consecutive days or 80 hours in eight consecutive days.

Continued ...

Emergency Authority for Municipal Functions Not Already Exempt from CMV Driving Time Limits

Should a township face an emergency situation which is not already exempt from the normally-imposed driving time limits for commercial motor vehicles as described above, then the township will need to rely on the federal provision at 49 CFR Part 390.23 which provides authorization for the township to exempt its drivers from commercial motor vehicle driving time limits (which is otherwise imposed by 49 CFR 395) during the declared emergency.

This exemption is only effective when an emergency has been declared by a federal, state, or local government official having authority to declare an emergency. A township can declare such an emergency. In accordance with Pa.'s emergency services law (35 Pa. C.S.A. Section 7501(b)), the township board may authorize the chairman of the board, as the township's chief executive officer, to declare when an emergency exists that necessitates exceeding the CMV driving time limits.

Further, this "CMV-only" emergency shall neither exceed the duration of the motor carrier's or the driver's direct assistance in providing emergency relief nor extend longer than five days from the date of the initial declaration of the emergency.

Additionally, it is reasonably within the chairman's power under the Act to designate another officer of the township to fulfill this function in his/her absence or unavailability. Finally, the governing body should also take action at a later date to officially ratify the decision to declare this "CMV-only" emergency.

However, to implement this exemption, an emergency must be declared. We suggest that each township's solicitor review the PSATS CDL Program's sample "CMV-only" emergency declaration resolution (attached) which outlines a process for your township to declare an "emergency" under PEMA regulations and to designate township official(s) authorized to declare a "CMV-only" emergency.

Daily and Weekly CMV Driving Time Limits Still in Effect for Other Functions

All municipalities will have to follow the existing daily and weekly CMV driving time limits for any function that is not otherwise exempt from these time limits as described above.

DAILY: no driver may drive more than 11 hours before needing 10 consecutive hours off duty to drive again. No driver may drive beyond the 14th consecutive hour after coming on duty, following 10 consecutive hours off duty. Off-duty time does not extend the 14-hour period.

WEEKLY: no driver may be on duty for more than 60 hours in any 7 days for those who don't operate CMVs every day of the week, and no more than 70 hours in any 8 days for those who do operate CMVs every day of the week.

End of Guidance.
Sample Resolution Follows ...##

SAMPLE RESOLUTION – TO BE REVIEWED BY TOWNSHIP SOLICITOR
PRIOR TO ADOPTION

BOARD OF SUPERVISORS OF _____ TOWNSHIP,
_____ COUNTY, PENNSYLVANIA

RESOLUTION NO. _____

“A RESOLUTION PROVIDING FOR AN EXEMPTION TO CMV DRIVING
TIME LIMITS DURING CERTAIN EMERGENCIES”

WHEREAS, the Township of _____ (“Township”) is a municipal township of the second class situated in _____ County, Pennsylvania, and;

WHEREAS, the state’s Vehicle Code at Title 67 Pa. Code Chapter 231.8(15) exempts local government drivers performing Roadway Maintenance, Snow Plowing Operations, and Traffic Control Support Operations from the commercial motor vehicle driving time limits normally imposed on such operations, and;

WHEREAS, the state’s Vehicle Code at Title 67 Pa. Code Chapter 231.7(7) imposes commercial motor vehicle driving time limits on all other municipal operations not specifically exempted by Title 67 Pa. Code Chapter 231.8(15), and;

WHEREAS, the state’s Vehicle Code at Title 67 Pa. Code Chapter 231.7(3) incorporates federal regulation 49 CFR Part 390.23 providing a mechanism for local governments to obtain needed relief from commercial motor vehicle driving time limits when engaged in municipal operations not already exempted by Title 67 Pa. Code Chapter 231.8(15), and;

WHEREAS, the Township wishes to establish a procedure to clarify when a situation exists for which the Township must specifically declare an emergency solely for the purpose of legally allowing its commercial motor vehicle drivers to exceed the normally-imposed commercial motor vehicle driving time limits;

NOW, THEREFORE, BE IT RESOLVED that:

- A. An emergency shall exist anytime that the Township, upon decision of the Chairman of the Township Board of Supervisors, or, in his absence, his duly-appointed alternate, determines that a situation currently exists or is imminent, and which is not a situation already exempted by Title 67 Pa. Code Chapter 231.8(15), requiring Township drivers to exceed the normal daily driving time limits for commercial motor vehicles.

B. Declaring an emergency shall be the responsibility of the Chairman of the Township Board of Supervisors or, in his absence, his duly-appointed alternate, who shall: (1) Inform all Township commercial motor vehicle drivers that an emergency has been declared which authorize all qualified township drivers to exceed the normal commercial motor vehicle driving time limits; (2) Evaluate the rest status of the available drivers and take such status into account when dispatching qualified drivers, and (3) Provide written documentation of such declaration and authorization to such drivers, who shall carry said documentation while on driving duty in response to the emergency.

C. The Chairman of the Township Board of Supervisors, or, in his absence, his duly-appointed alternate, shall inform the Board of Supervisors of the declaration of any emergency at the next regular meeting of the Board of Supervisors.

D. As guidance, the individual making driving assignments during an emergency should employ best efforts to limit any individual driver's emergency assignment to fourteen (14) total driving hours before requiring at least eight (8) hours off-duty before re-assignment.

E. Further, the emergency suspension of commercial motor vehicle driving time limits shall neither exceed the duration of the Township's direct action in providing emergency relief, nor extend longer than five days from the date of this declaration of emergency.

APPROVED AND ADOPTED this _____ day of _____, 20____.

_____ TOWNSHIP BOARD OF SUPERVISORS

by _____

Board Chairman

ATTEST:

by _____

Board Vice-Chairman

by _____

Secretary

by _____

Supervisor

by _____

Supervisor

by _____

Supervisor

End of Resolution.
Sample declaration form follows... ##

Form to Document the Needed Declaration of a CMV-only Emergency

In accordance with the municipal authority provided by 49 CFR Part 390.23 and Pennsylvania's emergency services law at 35 Pa. C.S.A. Section 7501(b) and pursuant to the authority delegated by the Board of Supervisors to me or my designee, I declare that an emergency currently exists or will exist in this township (as noted below and not otherwise already exempted from driving time limits by 67 Pa. Code 231.8(15)) requiring the township's commercial motor vehicle drivers to exceed the driving time limits normally imposed on such vehicles in order to address the emergency for the purpose of protecting public health and safety.

The reason for this declaration is _____

_____ .

Accordingly, normal driver hours of service limits will not apply to any township employee operating an authorized commercial motor vehicle while providing appropriate emergency relief.

Further, the suspension of driving time limits under this "CMV-only" emergency shall neither exceed the duration of the driver's direct assistance in providing emergency relief nor extend longer than five days from the date of this declaration of emergency.

The undersigned affirms that he/she is duly authorized by the Board of Supervisors of

_____ Township, _____ County

to declare a "CMV-only" emergency at this date and time

_____, 20__ at _____ a.m./p.m.

(Date)

(Time)

Name

Signature

Note: A signed copy of this form should be posted during the emergency at the township's vehicle operations facility for inspection by any employee or police officer, and be forwarded to the Board as soon as practical after cessation of such emergency.