

Hours of Service Guidance for Agricultural Haulers



- New guidance from the Federal Motor Carrier Safety Administration (FMCSA) allows agricultural commodity transporters greater flexibility for using the hours-of-service exemption in 49 CFR 395.1(k)(1) when their vehicle is empty or when traveling to multiple loading points. Specifically, drivers transporting agricultural commodities during the state's planting and harvesting season are completely exempt from hours-of-service rules, which includes the requirement to use an electronic logging device (ELD) or an automatic onboard recording device (AOBRD), if they stay within a 150-air-mile radius of the source of the commodities.

The Requirement to ELog

The guidance did not change the requirement for agricultural commodity haulers to be subject to the hours-of-service regulations and the electronic logging requirements when outside of the 150 air-mile radius. An electronic logging device (ELD), or automatic onboard recording device (AOBRD) until December 16, 2019, is required to log when hauling agricultural commodities outside of the 150 air-mile radius if the driver has logged more than 8 times in any rolling 30-day period. However, there are a few exceptions to using electronic logs.

Exemptions include:

- Drivers hauling livestock and insects, regardless of distance (exempt through September 30, 2018)
- Drivers operating a vehicle older than model year 2000 (per the vehicle identification number (VIN) on the registration) and containing the original engine
- Drivers operating a vehicle with an engine model year 1999 and older, regardless of vehicle model year

Key Definitions

While the following terms remain unchanged under the new guidance, they are worth reviewing:

“**Agricultural commodity** means any agricultural commodity, nonprocessed food, feed, fiber, or livestock ... and insects.”

“**Livestock** means cattle, elk, reindeer, bison, horses, deer, sheep, goats, swine, poultry (including egg-producing poultry), fish used for food, and other animals designated by the Secretary of Agriculture that are part of a foundation herd (including dairy producing cattle) or offspring; or are purchased as part of a normal operation and not to obtain additional benefits under the Emergency Livestock Feed Assistance Act of 1988, as amended.”

— 49 CFR 395.2

Note: The revised guidance only applies to the transportation of agricultural commodities in §395.1(k)(1), and does not apply to farm supplies or equipment for agricultural purposes. Therefore, §395.1(k)(2) and (3) are not affected by the new guidance.

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Interpretations for Ag-Commodity Haulers Only

The new guidance allows drivers to use the exemption when traveling empty to or from the source, better defines what is considered "the source", and clarifies that drivers may use the exemption during the first 150 air-miles (172 statute or "road" miles) of a trip that delivers outside of the 150 air-mile radius.

The new guidance reads as follows:

"Question 34: Does the agricultural commodity exception (395.1(k)(1)) apply to drivers while driving unloaded within 150 air miles of the place where an agricultural commodity will be loaded, and to that portion of an unloaded return trip which occurs within a 150 air-mile radius of the place where the agricultural commodity was loaded?"

GUIDANCE: Yes, provided that the trip does not involve transporting any non-agricultural cargo and the sole purpose of the trip is to make a pick-up or delivery of agricultural commodities, as defined in §395.2. In that case, driving and on-duty time are not limited, nor do other requirements of 49 CFR Part 395 apply.

"Question 35: Does the agricultural commodity exception (395.1(k)(1)) apply if the destination for the commodity is beyond the 150 air-mile radius from the source?"

GUIDANCE: Yes, the exception applies to transportation during the initial 150 air-miles from the source of the commodity, regardless of the distance to the final destination. Once a driver operates beyond the 150 air-mile radius of the source, 49 CFR Part 395 applies. The driver is then subject to the limits under the hours-of-service rules and must record those hours. Once the hours-of-service rules begin to apply on a given trip, they continue to apply for the duration of that trip, until the driver crosses back into the area within 150 air-miles of the original source of the commodities.

"Question 36: How is the "source" of the agricultural commodities in §395.1(k)(1) determined?"

GUIDANCE: The "source" of an agricultural commodity, as the term is used in §395.1(k)(1), is the point at which an agricultural commodity is loaded onto an unladen commercial motor vehicle.

The location may be any intermediate storage or handling location away from the original source at the farm or field, provided the commodity retains its original form and is not significantly changed by any processing or packing. If a driver is making multiple trips, the first trip, and the 150 air-mile exception around that source, terminate once all agricultural products are offloaded at a delivery point. A new source for a new trip may then be identified, and the 150 air-mile radius for the exception will be around that source.

For example, a sales barn where cattle are loaded may be treated as a "source," in addition to the location at which they were raised, since cattle remain livestock. As another example, a place where heads of lettuce are stored may become a "source," provided they retain their original form. An elevator where grain is collected and dried may be a new "source," again assuming that the grain is not milled or similarly processed at the elevator."

"Question 37: How is the "source of the agricultural commodities determined if the driver makes multiple pick-ups of the commodity en route to the final destination?"

GUIDANCE: When a driver loads some of an agricultural commodity at a "source" and then loads more of that commodity at additional stops, the first place where the commodity was loaded is the measuring point for the 150 air-mile radius.



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