

Regulatory Guidance: Transportation of Agricultural Commodities including Livestock

With the Electronic Logging Device rule now in effect for six months, the Federal Motor Carrier Safety Administration (FMCSA) is continuing to work to provide support and clarity to the industry as well as its law enforcement partners. A review of the inspections completed since the rule went into effect indicates that less than one percent of those vehicles inspected were cited for not having an ELD when required. In addition, Hours of Service violations are less than half of what they were a year ago.

On December 20, 2017, the Federal Motor Carrier Safety Administration (FMCSA) published a Federal Register notice proposing regulatory guidance concerning the transportation of agricultural commodities, which includes livestock and requested public comment on the proposals. FMCSA sought to provide clarity on the use of this exception to both industry and law enforcement, and to provide as much flexibility as possible for the industry, while maintaining safety.

This guidance is applicable to all transporters of agricultural commodities, which is defined in 49 CFR Part 395.2 and includes the transportation of nonprocessed food, feed, fiber, or livestock and insects.

The final guidance clarifies the applicability of the “Agricultural commodity” exception in 49 CFR 395.1(k)(1) to the “Hours of Service of Drivers” regulations.

- This guidance is limited to the application of the 150 air-mile exception for the transportation of “agricultural commodities.”
- This regulatory guidance clarifies that the following operations are not subject to the Hours-of-Service Regulations while operating within 150 air-mile radius of the source of the commodity:
 - » Drivers operating unladen vehicles traveling either to pick up an agricultural commodity, as defined in § 395.2, or returning from a delivery point; and
 - » Drivers engaged in trips beyond 150 air-miles from the source of the agricultural commodity are not subject to the hours of service regulations until they exit the 150 air-mile radius.

The guidance also clarifies many longstanding questions about what can be considered a “source” of an agricultural commodity:

- The guidance clarifies that a source may not only be the farm or ranch where the agricultural commodity originates, but also may include intermediate storage and loading facilities, such as grain elevators or sale barns, provided the product still meets the definition of an agricultural commodity.



- The guidance also clarifies that when agricultural commodities are loaded at multiple sources during a trip only the first loading point can be considered a source.

While this guidance focuses specifically on how the agricultural commodities exception impacts a driver's daily and weekly hours-of-service limits, it also should be considered when determining the applicability of the Electronic Logging Devices (ELD) rule more broadly. While transporters of livestock are not required to have an ELD until September 30, 2018, and transporters of other agricultural commodities are not required to have an ELD until June 18, 2018, this exception and the clarifications provided under this guidance may be used to determine applicability of the ELD requirements after these dates. Thus, motor carriers utilizing the agricultural commodities exception – like other exceptions to the HOS rule – will be able to take advantage of an exception from the ELD requirements if they do not operate outside of the 150-mile radius more than 8 days out of every 30.

The Agency's Agriculture webpage at www.fmcsa.dot.gov/ag provides a variety of resources to help with understanding all agriculture exemptions, the applicability of the rule and regulations to agriculture, and how to use your ELD when operating under an agricultural exception.

This guidance is effective immediately.

