

INFORMATION BULLETIN



September 15, 2022

INTERSTATE HOURS-OF-SERVICE FOR AGRICULTURAL OPERATIONS

The purpose of this Information Bulletin (IB) is to provide information related to **interstate** hours-of-service (HOS) for agricultural operations. Part 395 in Title 49 of the Code of Federal Regulations (CFR) contains HOS requirements for drivers and motor carriers operating in **interstate** commerce. These HOS regulations contain exceptions for agricultural commodities being transported in **interstate** commerce.

NOTE: The information contained in this IB is not applicable to the **intrastate** agricultural HOS exemptions contained in Title 13 of the California Code of Regulations, Section 1212(k).

Agricultural commodity is defined by Title 49, CFR, Section 395.2, to mean:

- Any agricultural commodity, non-processed food, feed, fiber, or livestock.
- As used in this definition, the term “any agricultural commodity” means horticultural products at risk of perishing or degrading in quality during transport by commercial motor vehicle, including plants, sod, flowers, shrubs, ornamentals, seedlings, live trees, and Christmas trees.

Livestock is defined by Title 49, CFR, Section 395.2, to mean:

- Cattle, elk, reindeer, bison, horses, deer, sheep, goats, swine, poultry (including egg-producing poultry), llamas, alpacas, live fish, crawfish, and other animals 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, and all other living animals cultivated, grown, or raised for commercial purposes, including aquatic animals.

NOTE: The livestock definition was amended by the Infrastructure Investment and Jobs Act of 2021 to include insects (e.g., honeybees, lady bugs).

General Agricultural Transportation

Title 49, CFR, Section 395.1(k), states that Part 395 does not apply during planting and harvesting periods, as determined by each state, to drivers transporting:

- Agricultural commodities from the source of the agricultural commodities to a location within a 150 air-mile radius from the source; or
- Farm supplies for agricultural purposes from a wholesale or retail distribution point of the farm supplies to a farm or other location where the farm supplies are intended to be used within a 150 air-mile radius from the distribution point; or
- Farm supplies for agricultural purposes from a wholesale distribution point of the farm supplies to a retail distribution point of the farm supplies within a 150 air-mile radius from the wholesale distribution point.

NOTE: The University of California, Division of Agriculture and Natural Resources, has created annual planting and harvesting schedules for crops in California (CA). These schedules indicate that agricultural activities are a continuous process in CA and extend into every month of a given year. For example, broccoli can be planted in Monterey County during all 12 months of the year and can be harvested during 11 of those months.

The agricultural-commodity exception applies to all portions of a round trip involving agricultural commodities that occur within a 150 air-mile radius of the source. This exception applies regardless of whether the commercial motor vehicle (CMV) is loaded or empty, and whether the destination is inside or outside of the 150 air-mile radius. However, once a driver operates a CMV used in agricultural operations beyond a 150 air-mile radius of the source, they are subject to the limits imposed by the HOS regulations and must record those hours driving outside of the 150 air-mile radius. If the driver operates the CMV back into a 150 air-mile radius of the original source of the commodities, the agricultural-commodity exception applies again.

A “source” is a location at which an agricultural commodity is loaded onto an unladen commercial vehicle. Sources include, but are not limited to, farm fields, orchards, ranches, cold storage facilities, and packing houses. Although an agricultural commodity may have several sources, the definition of source does not include the point at which the commodity is processed to such an extent that it is no longer in its original form or does not otherwise meet the definition of an agricultural commodity, as defined in Title 49, CFR, Section 395.2.

Multiple pick-ups are permissible under the agricultural-commodity exception, but a 150 air-mile radius is measured from the first pick-up point, regardless of the number of times commodities are loaded or offloaded.

Examples include, but are not limited to:



- A driver transporting mandarin oranges from an orchard in Penryn, CA, to a distribution center in Reno, Nevada (NV), a distance of less than 150 air-miles from the agricultural commodity's source, would be exempt from the HOS regulations.
- A driver transporting farm supplies for agricultural purposes from Yuma, Arizona (AZ), to a farm field in Brawley, CA, a distance of less than 150 air-miles, would be exempt from the HOS regulations.
- A driver transporting farm supplies for agricultural purposes from a distribution center in Medford, Oregon, to a retail distribution center in Redding, CA, a distance of less than 150 air-miles, would be exempt from the HOS regulations.
- A driver transporting strawberries from Santa Maria, CA, to Phoenix, AZ, travels through Ventura, CA, where additional strawberries are picked up en route, and then the trip is continued to the distribution center in Phoenix, AZ. The driver would be exempt from the HOS regulations until crossing beyond 150 air-miles from the source in Santa Maria, CA. At that point, the driver would be required to adhere to HOS regulations for the duration of the trip.

Livestock Transportation

On November 15, 2021, President Biden signed the Infrastructure Investment and Jobs Act of 2021 into law. The act amended the Motor Carrier Safety Improvement Act of 1999 by adding an exemption for **interstate** drivers that are currently exempt from HOS regulations, pursuant to Title 49, CFR, Section 395.1(k), during the planting and harvesting period, as determined by each state, when transporting livestock:

- Within a 150 air-mile radius from the source; and
- Within a 150 air-mile radius from the final destination of the livestock.

If a driver transports livestock 1,000 air-miles, the driver is exempt from the HOS regulations for a total of 300 air-miles, 150 air-miles at the beginning of the trip and 150 air-miles at the end of the trip. The driver would be subject to the HOS regulations for the 700 air-miles in the middle of the trip. If the straight-line distance between the source and the final destination of the livestock was 300 air-miles, the driver would be exempt from the HOS rules for the entire trip, regardless of whether the road distance was greater than 300 air-miles. If the driver returns to the trip's origin unladen, the HOS regulations would apply until they crossed back into the original 150 air-mile radius.

Additionally, Title 49, CFR, Sections 395.1(u) and (v), exempt **interstate** CMV drivers transporting bees or livestock, respectively, from the 30-minute rest-break requirement contained in Title 49, CFR, Section 395.3(a)(3)(ii).

Examples include, but are not limited to:



- A driver transporting livestock from a ranch in Fort Bidwell, CA, to a distribution center in Manhattan, Kansas, a distance of over 1,200 air-miles from the commodity's source, would be exempt from the HOS regulations for 150 air-miles at the beginning of the trip and 150 air-miles at the end.
- A driver transporting livestock from a ranch in Winnemucca, NV, to a distribution center in Susanville, CA, a round-trip distance of less than 300 air-miles from the commodity's source, would be exempt from the HOS regulations for the entire trip.

NOTE: If the driver returns to Winnemucca, NV, with livestock from Susanville, CA, they will continue to be exempt from the HOS regulations. If the driver returns unladen, the HOS regulations would apply to the return trip until travelling within the 150 air-mile radius of Winnemucca, NV, the original starting point.

Disclaimer

Drivers and motor carriers claiming the agricultural-commodity exception or exemption are required to comply with all other applicable statutes and regulations. Nothing in the aforementioned regulatory exceptions and exemptions should be construed as a blanket exemption from any other portion of the Federal Motor Carrier Safety Regulations, California laws, or other regulations.

Questions regarding this IB should be directed to Commercial Vehicle Section at (916) 843-3400.

OFFICE OF THE COMMISSIONER

OPI: 062

