

Truck Drivers Hours of Service and the Agriculture Industry

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Primary Agricultural HOS Exemption: 49 CFR 395.1(k)

The provisions of part **49 CFR 395-Hours of Service** shall not apply during planting and harvesting periods, as determined by each State, to drivers transporting:

- (1) **Agricultural commodities** from the source of the agricultural commodities to a location within a 150 air-miles [172.6 statute miles] radius from the source;

395.2 Definition

Agricultural commodity means any agricultural commodity, nonprocessed food, feed, fiber, or livestock (including livestock as defined in sec. 602 of the Emergency Livestock Feed Assistance Act of 1988 [7 U.S.C. 1471] and insects).



Ag Exception Guidance Overview

- 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 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.

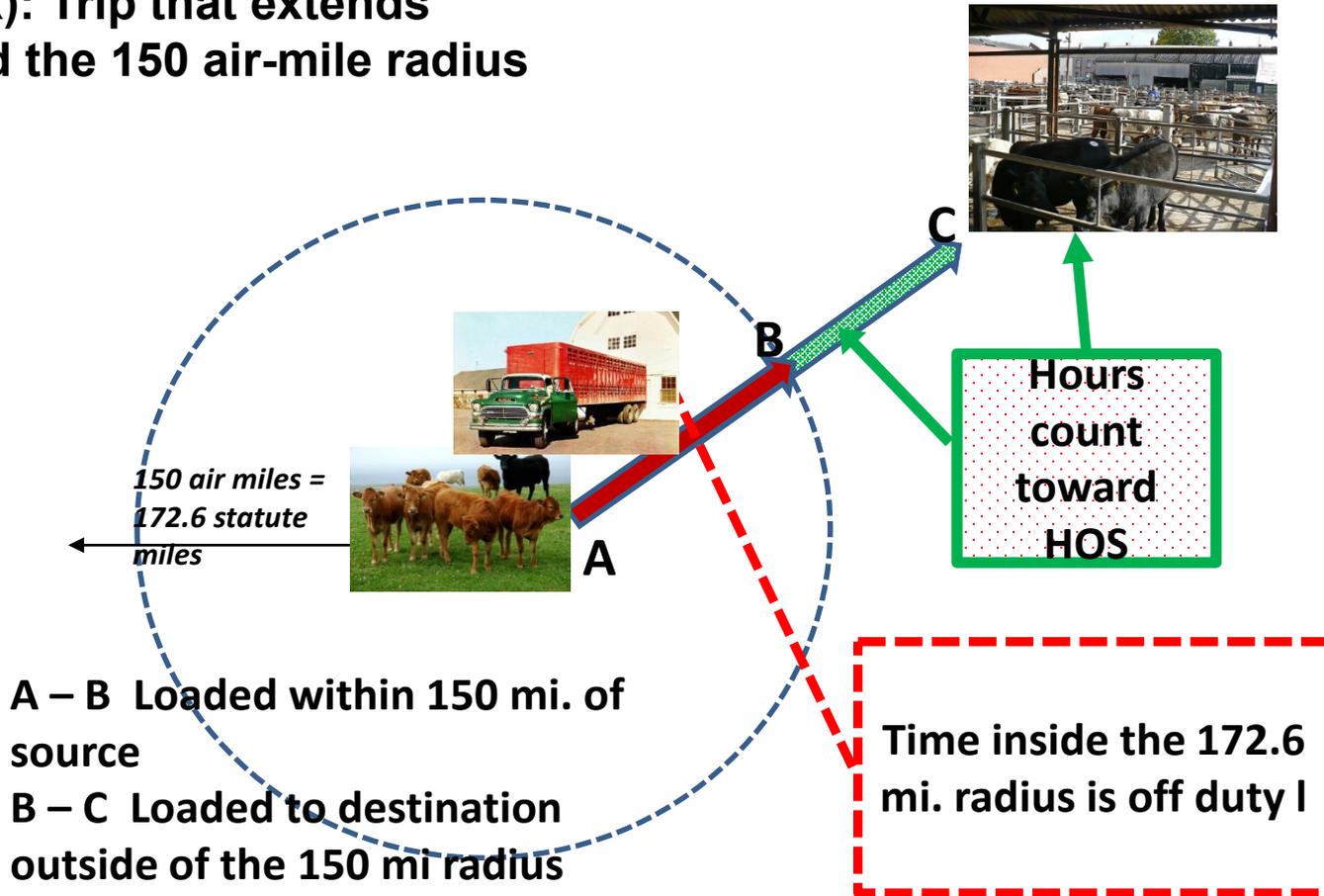


Ag Exception Guidance Overview: “Sources”

- 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.
- When agricultural commodities are loaded at multiple sources during a trip only the first loading point can be considered a source.



395.1(k): Trip that extends beyond the 150 air-mile radius



ANPRM: Hours of Service of Drivers; Definition of Agricultural Commodity (7/29/2019)

- FMCSA is seeking comment to determine if revision or clarification is necessary for the terms “agricultural commodity” and/or “livestock” within the HOS regulations
- Currently, transportation of agricultural commodities, including livestock, are exempt from HOS regulations during state defined “planting and harvesting season”
- Drivers who transport agricultural commodities, including livestock during planting and harvesting season are exempt from HOS rules within 150 air miles from the source



ANPRM: Hours of Service of Drivers; Definition of Agricultural Commodity (7/29/2019)

- FMCSA published Advance Notice of Proposed Rulemaking (ANPRM) on “Definition of Agricultural Commodity” in the July 29, 2019 *Federal Register* [Docket No. FMCSA-2018-0348];
- We are seeking public comment to assist in determining if Agency should revise or otherwise clarify definitions of “agricultural commodity” or “livestock” in the hours-of-service (HOS) regulations;
- Posed 11 questions relating to definitions of “agricultural commodity” & “livestock” that we request industry comment on;
- Comment period closes on September 27, 2019.



ANPRM: Hours of Service of Drivers; Definition of Agricultural Commodity (7/29/2019)

- FMCSA requests commenters to provide specific examples and, to the extent practicable, quantitative or qualitative data to support their answers;
- FMCSA is specifically interested in knowing what else should be added to the definition of “agricultural commodity”;
- Next step is a Notice of Proposed Rulemaking (NPRM) where proposed potential changes to the Federal regulations are possible. Will also be open for notice and comment.



Hours of Service Notice of Proposed Rulemaking (NPRM)

In response to industry input to an Advanced Notice of Proposed Rulemaking, FMCSA published on August 22, 2019 an NPRM covering 5 areas:

- 1. Short Haul Exception:** FMCSA is proposing to change the short-haul exception time period from 12 to 14 hours and extending the distance the driver may operate from 100 air miles to 150 air miles.
- 2. Adverse Driving Conditions Exception:** FMCSA is proposing to change the adverse driving conditions exception by extending it by 2 hours.
- 3. 30-Minute Break Rule:** FMCSA is proposing to change the 30-minute break rule by allowing the requirement to be satisfied by an on-duty break (in addition to an off-duty break).
- 4. Split Sleeper-Berth Exception:** FMCSA is proposing to change the sleeper-berth exception to allow drivers to utilize a 7/3 or 8/2 split that does not count against the 14-hour window.
- 5. 3 Hour Break:** The Agency proposes to allow one off-duty break of 30 minutes to 3 hours, that would pause a driver's 14-hour driving window, provided the driver takes 10 consecutive hours off-duty at the end of the work shift.



Hours of Service Focus Questions

We continue to seek input and data from industry and the public on a number of questions included throughout the NPRM. While we are interested in hearing back on all those questions in the NPRM, here are a few we'd like to focus on:

- FMCSA is interested in comments and any supporting data on the possibility of a 6 and 4 hour split break.
- What operations would benefit from multiple off duty periods totaling 3 hours?
- How often do work shifts require an individual to drive more than 8 hours without at least a 30-minute change in duty status?
- Understanding adverse conditions cannot be predicted, will drivers utilize this provision more often after the proposed changes?



Hours of Service Comments

- **Docket Number**: FMCSA-2018-0248
<https://www.regulations.gov/docket?D=FMCSA-2018-0248>
- **Submit a Comment**: If you'd like to comment on any of the topics discussed please go to the docket. There you can view the full NPRM, submit a comment and view other people's comments.
- **Comment Period**: October 7, 2019
- **Additional Information**: <https://www.fmcsa.dot.gov/content/hours-service-nprm>

