

Moving Ahead for Progress in the 21st Century (MAP-21) Agricultural Exemptions

Updated Questions and Answers

GENERAL

Question 1: **A carrier transports livestock across State lines but within 150 miles from its starting location. Can either State enforce the old Hours of Service (HOS) rule?**

Answer 1: Technically, yes. Sec. 32101(d) of MAP-21 does not preempt State laws. Although States have 3 years to adopt this change, FMCSA strongly encourages them to take immediate steps to adopt the Federal exemptions.

Question 2: **Feed lots often buy cattle from an auction to be fattened before being resold for slaughter. Is a feed lot the source of the agricultural commodity?**

Answer 2: Yes. As the cattle are owned, fed, and readied for market by the feed lot, they are the source of the commodity.

Question 3: **Can a dealer/supplier make non-farm deliveries en route to a farm delivery and still meet the requirements of the exemption?**

Answer 3: No. To qualify for the exemption, the trip must be 100% agriculture-related.

Question 4: **Is the transportation of farming equipment from a farm to a repair shop, either by the farmer or the shop, covered by the 150 air-mile HOS agricultural exemption in Sec. 32101(d) of MAP-21?**

Answer 4: No. The exemption for the transportation of farm supplies is limited to movements from a wholesale or retail distribution point to the farm. There is no exemption when farm supplies are moved from a farm to another point.

Question 5: If a Canadian farmer also has property in the United States, or comes to the United States in furtherance of his/her farm business, do the “covered farm vehicle” exemptions apply while the farmer is operating a vehicle weighing 26,001 pounds or less in the United States? What if this Canadian farmer is operating a vehicle weighing more than 26,001 pounds within 150 air miles of his/her farm?

Answer 5: The covered farm vehicle exemption only applies to vehicles designated as farm vehicles by the State in which they are registered. Therefore, a Canadian farmer may not take advantage of the exemption unless its vehicle was registered in the United States. Canadian companies transporting agricultural commodities or farm supplies may, however, take advantage of the 150 air-mile HOS exemption in Sec. 32101(d) of MAP-21 because there is no requirement in that provision for recognition by a State.

Question 6: Are byproducts of agricultural products, such ethanol derived from corn, exempted?

Answer 6: Corn is exempted, even if it is grown for the purpose of producing ethanol. Ethanol and other manufactured products, including canned food, are not exempted.

Question 7: If a State has legalized marijuana, would that be considered an agricultural commodity?

Answer 7: No. The United States Government (the Department of Justice, the Drug Enforcement Administration, the Department of Transportation) does not recognize the legal use of marijuana. Therefore, FMCSA does not recognize it as an agricultural product.

Covered Farm Vehicles

Question 1: If a covered farm vehicle (CFV) is inspected and an out-of-service (OOS) violation is discovered, should the vehicle be placed OOS?

Answer 1: If a CFV is inspected and an OOS violation of a regulation that applies to the vehicle or driver is discovered (e.g., § 392.5 – driver using alcohol, or § 393.201(a) – cracked frame), the vehicle or driver can be placed OOS. If the specific section in the OOS criteria is not applicable to CFVs (e.g., any violations of Parts 395 or 396), the vehicle or driver may not be placed OOS under FMCSA’s regulations. However, a State officer could possibly place the vehicle OOS under the State’s unsafe vehicle code, but it must not be written on a driver/vehicle inspection report and uploaded to FMCSA.

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Question 2: **If a State conducts an inspection of a CFV, how should that inspection be documented?**

Answer 2: Inspections of CFVs should be conducted as Level IV (Special Studies) inspections with the notation of “CFV” in the special studies field. This will allow FMCSA to collect data on the performance of CFVs. It will also preclude these inspections from being used in the Agency’s Safety Measurement System (SMS). FMCSA will not use the results of CFV inspections in SMS because:

- FMCSA may not use violations of regulations exempted by MAP-21 in the SMS system, and
- Given the widespread nature of the CFV exemptions, any inspection of compliance with the remaining applicable regulations would not constitute a full inspection. Therefore, it is not compatible with inspections of other carriers.

Question 3: **Sec. 32934 of MAP-21 appears to exempt drivers from controlled substance testing only. Why did FMCSA’s October 1 Federal Register notice announcing the statutory exemptions also include alcohol testing requirements?**

Answer 3: CFV drivers are exempt from both drug and alcohol testing requirements. While MAP-21 only specified controlled substances testing, not alcohol testing, it also exempted drivers of CFVs from Part 383 (CDL). Part 382 only applies to drivers who require CDLs. Therefore, Part 382 would not apply to CFV drivers.

Question 4: **If a farmer is operating a pickup truck pulling a trailer, both of which have a regular current State license and registration but not the unique CFV license plate or unique identifier, can the State have a self-certifying form that the farmer fills out stating that the power unit and the trailer are “covered farm vehicles?”**

Answer 4: Yes. It is up to the State to designate CFVs. If the State wants to implement a self-certification process and the self-certifications are carried on the vehicle for review by law enforcement, FMCSA would accept this as fulfilling the requirements of MAP-21.

Question 5: **Can a State simply require that the USDOT number that is required to be displayed on the power unit be followed by “CFV” for covered farm vehicle to meet the requirement of MAP-21? Also, if it is displayed on the power unit will it also cover a trailer?**

Answer 5: Yes. A marking on the vehicle would suffice. A display on the power unit would be adequate. There is no need to mark the trailer if the power unit is

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designated as a CFV.

Question 6: **Under Sec. 32934 of MAP-21, it appears that 49 CFR Parts 392 and 393 apply to CFVs. Part 393 requires lights and brakes for vehicles operating in interstate commerce. Is a CFV with a gross vehicle weight rating (GVWR) of over 26,001 operating in interstate commerce required to have lights and brakes?**

Answer 6: Yes, unless the trailer is an implement of husbandry, in which case it would not need lights and brakes. The towing vehicle, however, would need lights and brakes unless it too is an implement of husbandry, like a tractor.

Question 7: **If a State officer is conducting a New Entrant Safety Audit, Compliance Review, or other intervention on an operation that uses CFVs after October 1, 2012, but before the State has followed FMCSA and adopted the MAP-21 exemptions as State law, should the officer cite violations of Parts 382, 383, 391 Subpart E, 395, or 396 if discovered?**

Answer 7: State officials may continue to enforce State laws and regulations, but violations of Parts 382, 383, 391 Subpart E, and 396 must not be uploaded into FMCSA's data systems because CFVs are no longer subject to these Federal regulations.

Farm Supplies for Agricultural Purposes

Question 1: **Are tractors, combines, and other farm equipment considered "farm supplies," as defined in 49 CFR 395.2?**

Answer 1: Yes, they are "directly related to the growing or harvesting of agricultural commodities."

Question 2: **In some cases, propane and petroleum can be considered farm supplies. Can a distributor load at a pipeline and be exempt from the hours of service regulations while operating within 150 air-miles of its starting location?**

Answer 2: No, not unless the distributor can show that the entire load is destined for one or more farm supply stores or one or more actual farms (or other location(s) where the supplies are intended to be used).

Hazardous Materials and Implements of Husbandry

Question 1: What is the definition of an implement of husbandry?

Answer 1: Generally speaking, an implement of husbandry is farm equipment exclusively designed, used, and adapted for agricultural purposes. Examples of implements of husbandry include tractors, combines, grain haulers, hay balers, and other agricultural equipment. However, each State has its own definition. If a farmer or farm employee travels interstate with an implement of husbandry, he or she should check the definition used by the neighboring State. There is no standard definition among States.

Question 2: Since anhydrous ammonia nurse tanks are considered an implement of husbandry and not a commercial motor vehicle (CMV), should these vehicles have a Hazardous Materials Safety Permit (HMSP)?

Answer 2: The HMSP regulations are not based on whether or not the vehicle is a CMV or CFV. Rather, the requirement is based on packaging. Therefore, if the tank is over 3,500 gallons, the HMSP would be required.

Question 3: Before MAP-21, under § 383.3(d), farmers were exempt whether they were carrying hazardous materials or not. Now with MAP-21, farmers are exempt from Part 383, unless they are carrying hazardous materials requiring placards. Is § 383.3(d) going to be deleted from the Federal Regulations?

Answer 3: No. The new exemptions are in addition to the old exemptions.

Question 4: Sec. 32934 of MAP-21 in effect states that CFVs transporting hazardous materials in quantities requiring placards are excluded from the exemptions. Would Parts 390-397 apply to a pickup truck pulling 2 anhydrous ammonia cargo tank trailers, requiring placards, having a gross combination weight rating (GCWR) of over 10,001, and being operated in interstate commerce? If yes, will the trailers need lights and brakes?

Answer 4: Yes. Parts 390-397 would apply to the driver and the power unit. If the trailers are nurse tanks, however, they are implements of husbandry, rather than CMVs, and would not need lights and brakes.

Question 5: If a pickup truck being operated in interstate commerce has a GVWR of 8,500 pounds, is pulling an implement of husbandry with a GVWR of

6,000 pounds, should the GVWR of the implement of husbandry be considered as part of the overall combination?

Answer 5: Yes, the GVWR of the trailer (or gross weight, if it has no GVWR) is considered in the calculation of the total weight.

Question 6: **A trailer with a placarded 1,500 gallon gasoline tank being pulled by a pickup truck operated by a custom harvester may be considered an implement of husbandry in some States; as such, it would not be subject to any of the safety regulations. In some States, it does not matter if it is a farmer or an agricultural retailer using the vehicle. How would the CFV exemptions in Sec. 32934 of MAP-21 apply in these different situations?**

Answer 6: An implement of husbandry being pulled by a CMV may not be subject to the safety regulations, but the CMV and its driver would be, unless the CMV is also a CFV. An agricultural retailer or a non-farmer transporting a trailer with a 1,500 gallon gasoline tank would not qualify for the MAP-21 exemption because, by definition, a CFV must be operated by a farmer or rancher or their family or employees. A retailer or non-farmer would be subject to the CDL requirement, controlled substances and alcohol testing, and the HOS, medical, and vehicle maintenance requirements (on the power unit, not the implement of husbandry).

Question 7: **If a placarded cargo tank/trailer is considered an implement of husbandry in one State and the combination unit is in a different State helping to harvest wheat, do you use the State definition of implement of husbandry where the vehicle is domiciled or the definition of the State where it is currently operating? If you use the State of domicile's definition, how would the local police department in the second State know when they make the traffic stop that this combination would not need a license plate, vehicle registration, lights, or brakes in its home State?**

Answer 7: Enforcement officers would use the definition of implement of husbandry of the State where the vehicle is being operated. As these definitions vary from State to State, operators are encouraged to learn the requirements of the State in which they are traveling.

Question 8: **Would the driver of the combination in Question 7 need a CDL if he or she was 500 miles from home and not in a contiguous State?**

Answer 8: Yes, because the vehicle in Question 7 is not considered a CFV because it has placarded hazardous materials (HM).

Question 9: **How are the exemptions for CFVs related to FMCSA's interpretation that**

implements of husbandry are not commercial motor vehicles and, therefore, do not require, among other things, lights and brakes?

Answer 9: The implement of husbandry exception and the covered farm vehicle exception are two different things. The implement of husbandry exception applies only to that kind of equipment. The implement of husbandry itself does not need to meet the requirements of Part 393. If an implement of husbandry is being towed by a CMV, the CMV would be subject to the regulations. If a farmer is transporting an implement of husbandry that does not require HM placards, it may be a CFV and also eligible for those exceptions.
