

# Agricultural Commodity

## The “Agricultural commodity” exception in 49 CFR 395.1(k)(1) to the Hours of Service regulations

The Federal Motor Carrier Safety Administration (FMCSA) has provided regulatory guidance to clarify the applicability of the “Agricultural commodity” exception in 49 CFR 395.1(k)(1) to the Hours of Service regulations. The regulatory guidance clarifies the exception regarding:

- (1) drivers operating unladen vehicles traveling either to pick up an agricultural commodity, as defined in § 395.2, or returning from a delivery point;
- (2) drivers engaged in trips beyond 150 air-miles from the source of the agricultural commodity;
- (3) determining the “source” of agricultural commodities under § 395.1(k)(1); and
- (4) how the exception applies when agricultural commodities are loaded at multiple sources during a trip.

The “Agricultural commodity” regulatory guidance primarily focuses on the application of the 150 air-mile radius exemption for the transportation of agricultural commodities, 49 CFR 395.1(k)(1). It does not address “farm supplies for agricultural purposes” under § 395.1(k)(2) or (3). This regulatory guidance is issued to ensure consistent understanding and application of the exception by motor carriers and State officials enforcing hours of service (HOS) rules identical to or compatible with FMCSA’s requirements.

## Drivers operating unladen vehicles traveling either to pick up an agricultural commodity, as defined in § 395.2, or returning from a delivery point

The 395.1(k)(1) “Agricultural commodity” exception applies to all portions of a round-trip involving agricultural commodities that occur within the 150 air-mile radius of the source, regardless of whether the CMV is loaded or empty, or whether the destination is outside the 150 air-mile radius.

*Question:* 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.

## **Drivers engaged in trips beyond 150 air-miles from the source of the agricultural commodity**

The 395.1(k)(1) “Agricultural commodity” exception is available to a driver transporting agricultural commodities for a distance up to 150 air-miles from the source, regardless of the distance between the source and final destination or place of delivery. However, upon crossing the 150 air-mile point, the driver is subject to the HOS rules for the remainder of the trip to the destination point. The hours accumulated within the 150 air-mile radius are not counted toward the driver’s hours of service. If the driver returns unladen, the driver is subject to the HOS rules until returning within the 150 air-mile radius in which the trip began.

*Question:* 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.

## **Determining the “source” of the agricultural commodities under § 395.1(k)(1)**

Although an agricultural commodity may have several “sources”, the “source” excludes 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 in 49 CFR 395.2.

*Question:* 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.

## **How the 395.1(k)(1) “Agricultural Commodity” exception applies when agricultural commodities are loaded at multiple sources during a trip**

Multiple pick-ups are permissible but the 150 air-mile radius continues to be measured from the first pick-up point regardless of the number of times commodities are loaded or offloaded.

*Question:* 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.

For more information regarding Agricultural Operations, visit [FMCSA’s Agricultural Operations webpage](#). Questions can be submitted to [agricultural@dot.gov](mailto:agricultural@dot.gov).