

HOURS OF SERVICE (HOS)

State and federal regulations typically restrict the number of hours an individual may operate a Commercial Motor Vehicle (CMV) in any day or in any 7- or 8-day period. Farmers and those hauling agricultural products or supplies receive special dispensation from many of those rules. That generally makes the need for electronic logging a non-issue in the ag community. If you are required to maintain a log, then this publication is not for you. This piece focuses on the exemptions from the HOS restrictions for the farm community.

GENERAL CONCEPTS

The overall concept of Hours of Service (HOS) regulations is to limit the time a driver may work in any given day or in any given 7- or 8-day period, in order to prevent that individual from being over-tired when operating a commercial motor vehicle (CMV). [49 CFR 395]

To do that, HOS regulations limit the number of hours a driver may be “on duty” and the number of hours an individual may drive a CMV. Those are two separate limits.

It’s important to note that on-duty time includes not only those hours spent driving, but generally all hours spent on the job for an employer – including the self-employed.

So, those hours spent loading and unloading, doing paperwork, servicing the truck, or doing any other task on behalf of the employer count against the limited number of on-duty hours available to the driver.

For farmers and farm employees, those on-duty hours include fieldwork and choring, even though they have nothing to do with driving a truck.

The drive time (generally 10 or 11 hours) can be used anytime during the on-duty time (generally 12 or 14 hours). Once either the drive time or the on-duty time has expired for an individual, that person may no longer drive, but they can continue to work at other tasks unrelated to the vehicle. To reset drive time and on-duty time limits, the individual will generally have to be off-duty for a least 10 consecutive hours. Starting September 29, 2020, the 10 hours has a sleeper berth provision. It allows a driver to meet the 10-hour minimum off-duty requirement by spending at least 7 hours of that period in the berth combined with a minimum off duty period of at least 2 hours spent inside or outside the berth, provided the two-periods total at least 10 hours. To track that time, most drivers of a CMV must maintain what is commonly called a “logbook”. In regulatory speak, it is known as the Driver’s Record of Duty Status (RODS). Up until now, that has generally been paper-based. Today, most over-the-road CMVs must be equipped with an Electronic Logging Device (ELD).

Because farmers typically spend most of their on-duty time in labors other than driving a truck – and because of the spikes in seasonal demands associated with farming – regulators have cut farmers some slack when it comes to HOS. In fact, they have provided quite a lot of slack.

EXEMPTIONS

Farmers can take advantage of exemptions from HOS regulations in several different ways:

1. Short-haul operations [49 CFR 395.1(e)].
2. Agriculture exemption [49 CFR 395.1(k)] and [IL Admin Code, Title 92 Section 395.1000 b)].
3. Covered Farm Vehicle exemption [49 CFR 395.1(s)].
4. ELD exemptions.

SHORT-HAUL EXEMPTION

Designed for local delivery operations and applicable to all drivers, including farmers, this exemption excuses the driver from maintaining a logbook. The drivers start and stop location must be the same to take advantage of this exemption. It does not excuse the driver from the limited number of on-duty or drive time hours. As of September 29, 2020, the maximum on duty time is 14 hours and the driver must operate within 150 air-miles. The 30-minute break is also excused under this exemption. A “timecard” or record of hours must be maintained by the carrier.

This exemption would be for drivers that do not fall under the agricultural exemption that stay within the 150 air-miles.

AGRICULTURAL EXEMPTION

This provides an exemption from both logging and the restrictions for on-duty time. It applies not just to farmers, but to anyone who hauls agricultural products or supplies. There are three major restrictions associated with this exemption:

1. Travel is limited to locations within 150 air-miles of the source.
2. The exemption applies only during planting and harvesting periods (as determined by the State).
3. The exemption for the transportation of farm supplies is limited to movements from wholesale to retail and from a wholesale or retail distribution point to the farm. Agriculture commodities may be hauled from the farm to any point within the 150-mile radius for interstate loads. Intrastate (in Illinois) travel of commodities from farm to market is not limited. Grain hauling operations in Illinois have a 200-mile radius exemption to HOS from their normal work reporting location.

In Illinois (a major ag state) the planting and harvesting period is liberally defined as January 1 through December 31. In other words, the exemption applies year-round.

Farm supplies are defined to encompass virtually all inputs, including, but not limited to fertilizer, fuel, seed, chemicals, equipment, etc. – anything that is “directly related to the growing or harvesting of agricultural commodities”. The intrastate waiver is broader than its interstate component.

COVERED FARM VEHICLE EXEMPTION (CFV)

This third exemption from HOS regulations applies only to farmers and their employees. Within that group, only those who operate a CFV may take advantage of it. Please see the CFV section for further detail.

ELECTRONIC LOGGING DEVICE (ELD)

The ELD requirement, logically, applies only where the driver is required to maintain a log of the time spent operating a truck. That requirement falls within state and federal regulations known broadly as Hours-of-Service regulations or HOS. [49 CFR 395]. If a farmer is exempt from HOS or from the requirement to maintain a log, then he/she is also exempt from the requirement to use an ELD. There are three levels of exemption:

In the following situations, the driver is excused from the requirement to use an ELD, but must still maintain a paper log:

1. Operating a vehicle with an engine manufactured prior to model year 2000.
2. Driving within 150 air-mile radius.
3. Driving a truck not more than 8 days during any 30-day period.

In the following situations, the driver is excused from having to maintain a log, but remains subject to time restrictions:

1. Short-Haul operators when driver reports and returns to work reporting location within 14 consecutive hours. Must keep time records (punch a clock) a work location – as mentioned above.
2. Driving a vehicle that does not require a CDL. Recordkeeping requirement, along with time and distance limits apply. [49 CFR 395.1(e)(2)].

In the following situations, the driver is generally exempt from all HOS restrictions and requirements:

1. Seasonal Agricultural Exemption (applies year-round in Illinois within a 150-mile limit as mentioned above.
2. Covered Farm Vehicle (CFV) drivers as mentioned above.

If driver goes outside the 150 air-mile radius, the driver is required to log HOS. If done more than eight times in a 30-day period, ELD is required.

Transporters of livestock and insects are not required to have an ELD. The statutory exemption will remain in place until further notice. Drivers do not need to carry any documentation regarding this exemption.

REQUIREMENT [49 CFR 395]

Generally, drivers of a Commercial Motor Vehicle (CMV) are subject to limitations on the number of hours they may operate a CMV in any given day or week.

HOURS OF SERVICE AND THE CFV [49 CFR 395.1(S)]

Drivers operating a CFV are exempt from the limitations on hours of service, including the maintenance of a logbook. This is in addition to the more general, seasonal exemption for haulers of agricultural products that is also available to farmers.

TRAILERS

When operating a truck and trailer combination, Illinois law generally requires that both the truck and the trailer display a “farm” license plate in order to qualify as a CFV. This does not apply to semi-trailers; those are allowed to use standard “ST” semi-trailer plate. (See the following paragraphs for other trailer variations.)

PICKUPS AND DUALLIES

Illinois’ smallest “farm” plate is the “VF” at 16,000 pounds. That is far larger than typically necessary for a pickup truck or dually. Instead, these smaller trucks may be registered with any license plate for a second division vehicle that is 12,000 pounds or less to be eligible to qualify for the CFV designation. The \$10 designation – plus a “farm” plate on the trailer – will satisfy the “farm” registration requirement for that combination vehicle. When not operating as a CFV, these trucks may be used as any other standard-plated truck, including non-farm business and personal use.

IMPLEMENTS OF HUSBANDRY

When operating a truck pulling an implement of husbandry, only the truck needs to have the “farm” license plate (or in the case of some pickup trucks, the registered CFV designation) in order to satisfy the “farm” registration requirement for the CFV exemption.