

**Final Rule Implementing the
“Moving Ahead for Progress in the 21st Century Act” (MAP-21)
Agricultural Exemptions**

Questions and Answers

Note: This is only a summary of major questions and answers related to the final rule published on <http://www.regulations.gov>. Please consult the Federal Register notice for important additional details.

(1) Why is this final rule being issued?

The “Moving Ahead for Progress in the 21st Century Act” (MAP-21), which was effective October 1, 2012, includes statutory exemptions to the Federal Motor Carrier Safety Regulations (FMCSRs) that apply to agricultural transportation. This final rule revises the FMCSRs to conform to the MAP-21 requirements and requires the States to adopt compatible exemptions within three years.

(2) When are these changes effective?

MAP-21 became effective October 1, 2012. The provisions were “self-executing” in the sense that they automatically changed Federal requirements or prohibitions applicable to interstate commerce as of that date. The FMCSA published a notice in the Federal Register on October 1, 2012, alerting the enforcement community and industry of this fact. This final rule is effective on March 14, 2013.

The MAP-21 provisions do not pre-empt State laws, with the exception of the “covered farm vehicle” driver exemption from the drug and alcohol testing rules. However, under the Motor Carrier Safety Assistance Program (MCSAP), States receiving MCSAP grants (currently all States) are required to adopt compatible rules for interstate and intrastate operation of commercial motor vehicles (CMVs). These changes must be made within 3 years of the effective date of this rule.

The amendment exempting drivers of “covered farm vehicles” from the drug and alcohol testing regulations [49 CFR 382.103(d)(4)] preempts inconsistent State laws or regulations, effective immediately. States may no longer require drug or alcohol tests of CDL holders who operate such vehicles, but may continue to enforce State laws prohibiting operations while impaired by drugs or alcohol. However, CDL holders remain subject to drug and alcohol testing when they drive CMVs that do not qualify as “covered farm vehicles.”

Many States have procedures in place to “automatically” change their State regulations whenever a revision to the FMCSRs occurs. For others, the need for administrative and/or legislative action involves delays. Therefore, it is necessary to contact the primary CMV safety enforcement agency in a particular State to determine when and how these FMCSR changes impact intrastate (within one State) transportation. That agency is usually a division of the State Police, Highway Patrol, Department of Public Safety, or Department of Transportation.

(3) Who may take advantage of the MAP-21 exemptions covered by today's final rule?

Some of these revisions apply to any motor carrier transporting agricultural commodities and farm supplies to and from farms within limited distances. Other provisions also may apply to farmers (and their family, employees, etc.) operating "covered farm vehicles" while transporting agricultural commodities, livestock, machinery or supplies to or from a farm or ranch. There are several important limitations on eligibility and use of this exemption for the operation of a "covered farm vehicle."

(4) How can the MAP-21 exemptions be summarized?

The current hours-of-service (HOS) exception in § 395.1(k) covers any motor carrier transporting agricultural commodities or farm supplies to an eligible destination. The MAP-21 revision expands the current 100 air-mile radius to 150 air-miles (176.2 statute miles), and makes transportation from wholesalers to retailers eligible for the exception.

MAP-21 provides a new and broad exemption from many of the Federal Motor Carrier Safety Regulations for operators of "covered farm vehicles" (CFVs). The new definition of a CFV to be found in § 390.5 includes a variety of conditions and limitations involving the size of the vehicle, hauling distance from the farm or ranch, and cargo being transported. Perhaps most important, CFV operators must be farmers or ranchers, their families, and employees.

(5) What revisions have been made to § 395.1(k), the hours-of-service exception available for agriculture-related transportation?

The current hours-of-service (HOS) exception in § 395.1(k) covers any motor carrier transporting agricultural commodities or farm supplies to an eligible destination. The MAP-21 revision expands the current 100 air-mile radius to 150 air-miles (176.2 statute miles), and makes transportation from wholesalers to retailers eligible for the exception. Eligible transportation includes:

- Farm supplies for agricultural purposes transported from a wholesale or retail distribution point to a farm or other location where the supplies are intended to be used. Exception is limited to a 150 air-mile (176.2 statute miles) radius [formerly 100 air-miles] from the wholesale or retail distribution point.
- Farm supplies for agricultural purposes transported from a wholesale distribution point to a retail distribution point within a 150 air-mile radius of the wholesale distribution point.
- Agricultural commodities transported from the source of the commodities to a location within a 150 air-mile radius of the source.

(6) What changes have been made to the definitions in the FMCSRs?

The only change is the addition of the MAP-21 definition for "covered farm vehicle" under § 390.5. The definitions for "agricultural commodity" and "farm supplies for agricultural purposes" in § 395.2 were not amended by MAP-21.

(7) What is a “covered farm vehicle” (CFV)?

As defined in § 390.5, a “covered farm vehicle” (CFV):

- Travels in the State in which the vehicle is registered or in another State,
- Is operated by an owner or operator of a farm or ranch, or by a family member or employee of the owner or operator,
- Transports agricultural commodities, livestock, machinery or supplies to or from a farm or ranch,
- Has a license plate or some other means specified by the State that identifies it as a farm vehicle,
- Is not used in for-hire motor carrier operations (but for-hire operations do not include use of a vehicle owned and operated by a tenant farmer to transport the landlord’s portion of the crops under a crop-share agreement),
- [From § 390.39] Is not transporting hazardous materials that require placarding, and Either
 - Has a GVW or GVWR (whichever is greater) of 26,001 or less, in which case the CFV exemptions in § 390.39 apply anywhere in the United States, or
 - Has a GVW or GVWR (whichever is greater) of more than 26,001 pounds and travels within the State where it is registered or, if traveling out of the State where it is registered, stays within a 150 air miles of the owner or operator’s farm or ranch.

(8) What sections of the Federal Motor Carrier Safety Regulations (FMCSRs) do not apply to a “covered farm vehicle” (CFV) and its operator?

A “covered farm vehicle” (CFV) and its operator are exempt from the following:

- Part 382 (Controlled Substances and Alcohol Use and Testing)
- Part 383 (Commercial Driver’s License Standards; Requirements and Penalties)
- Part 391 (Subpart E - Physical Qualifications and Examinations)
- Part 395 (Hours of Service of Drivers)
- Part 396 (Inspection, Repair, and Maintenance)

(9) Are there overlapping exemptions available for the operation of some commercial motor vehicles for agricultural purposes?

Although prior statutory exemptions involving agriculture are unchanged, some of these exemptions overlap with the new MAP-21 provisions. In these cases, regulated entities will be able to choose the exemption, or set of exemptions, under which to operate. They must, however, comply fully with the terms of each exemption they claim. The potentially overlapping provisions are in Parts 383, 391, and 395.

(10) How does this rule affect provisions related to commercial driver's licenses (CDLs)?

Under new § 383.3(h), the CDL regulations in Part 383 do not apply to the operator of a covered farm vehicle (CFV) as defined in § 390.5. Note that a CFV cannot be transporting hazardous materials in quantities that require placarding. Operators of such vehicles would be subject to the Part 383 CDL regulations.

(11) Who should I contact if I have further questions?

For questions regarding intrastate regulations, contact the primary CMV safety enforcement Agency in the relevant State. This is usually a division of the State Police, Highway Patrol, Department of Public Safety, or Department of Transportation.

For interstate questions, contact FMCSA's nearest Division Office (one or more are located in each State). Contact information for these offices is available at www.fmcsa.dot.gov/about/contact/offices/displayfieldroster.aspx .