



Commercial Vehicle Safety Alliance

Improving commercial motor vehicle safety and enforcement

July 11, 2024

Vinn White
Acting Administrator
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, SE
6th Floor, West Building
Washington, DC 20590-9898

RE: Agricultural Operations Exemption for Hours of Service

Dear Acting Administrator White,

The Commercial Vehicle Safety Alliance (CVSA) requests that the Federal Motor Carrier Safety Administration (FMCSA) provide clarification regarding the enforcement of the hours-of-service regulations while drivers are operating under the agricultural operations exemption in Title 49 Code of Federal Regulations (CFR) 395.1(k).

CVSA is a nonprofit organization comprised of local, state, provincial, territorial and federal commercial motor vehicle safety officials and industry representatives. The Alliance aims to prevent commercial motor vehicle crashes, injuries and fatalities and believes that collaboration between government and industry improves road safety and saves lives. Our mission is to improve commercial motor vehicle safety and enforcement by providing guidance, education and advocacy for enforcement and industry across North America.

CVSA is requesting clarification for the regulatory language in Title 49 CFR 395.1(k) that states, “The **provisions of this part shall not apply** during planting and harvesting periods, as determined by each state, **to drivers transporting...**” In May 2017, verbal guidance was provided by an FMCSA employee to CVSA staff and several roadside inspectors, indicating that a driver who is inspected while operating under the agricultural operations exemption in 49 CFR 395.1(k) cannot receive any hours-of-service violations in Part 395, even if those violations occurred on a previous day while the driver was not operating under the exemption. That same guidance also indicated that a driver is not required to provide a record of duty status while operating under the exemption, so it would be imprudent to document hours-of-service violations that are discovered when a driver voluntarily provides a record of duty status to the inspector. This guidance was incorporated into the North American Standard Part A (Driver) Certification Course at that point. However, recently, conflicting verbal guidance was provided by an FMCSA employee at a CVSA conference, indicating that a driver who is currently operating under

the exemption could receive hours-of-service violations if those violations occurred when the driver was not operating under the exemption.

Example: A driver is inspected while utilizing the agricultural operations exemption. The driver is not required to provide a record of duty status while under the exemption, and if the driver does not provide a record of duty status, there is no violation. However, in this case, the driver voluntarily provides a record of duty status to the inspector and a violation of the 11-hour rule is discovered on a previous day when the driver was not operating under the exemption.

To our knowledge, no official, documented guidance on this matter has been issued by the agency and the conflicting verbal guidance has caused confusion. CVSA is requesting guidance based on the above example:

- If a driver is exempt from Part 395 at the time of the inspection, can a Part 395 violation be documented on the inspection report if that violation occurred while the driver was not exempt?
- If a driver is not required to provide a record of duty status because they are operating under the agricultural operations exemption, is it appropriate to document any violations of Part 395 if they voluntarily provide the record during a roadside inspection?

CVSA works to closely monitor, evaluate and identify potentially unsafe transportation processes and procedures as well as to help facilitate and implement best practices for enhancing safety on our roadways. Commercial motor vehicle safety continues to be a challenge and we need the involvement of all affected parties to help us better understand these issues and put into place practical solutions. We appreciate the agency's commitment to safety and stakeholder involvement.

If you have questions or comments, please do not hesitate to contact me at 202-998-1008 or collin.mooney@cvsa.org.

Respectfully,



Collin B. Mooney, MPA, CAE
Executive Director
Commercial Vehicle Safety Alliance