

MAP-21 Amendments Affecting the Transportation of Agricultural Commodities and Farm Supplies: FAQs

1. What statutory exemptions from trucking safety regulations are included in MAP-21 for the trucking operations in the agricultural industry?

Section 32101 of MAP-21 provides a statutory exemption from the hours-of-service regulations for certain carriers transporting agricultural commodities and farm supplies, and section 32934 provides a statutory exemption from most of the Federal Motor Carrier Safety Regulations for the operation of covered farm vehicles by farm and ranch operators, their employees and family members, under certain circumstances.

Note the first exemption does not place restrictions on the type of carrier using the exemption while the second exemption is strictly limited to farm and ranch operators. Both statutory provisions are self-executing and take effect on October 1, 2012.

2. Which carriers and drivers may take advantage of those exemptions?

There are two separate MAP-21 statutory exemptions for the agricultural industry. They are section 32101(d), "Transportation of Agricultural Commodities and Farm Supplies," and section 32934, "Exemptions from Requirements for Covered Farm Vehicles."

Section 32101(d):

Section 32101(d), provides relief from the Federal hours-of-service (HOS) rules during the planting and harvesting seasons, as determined by the States in which the carriers are operating. This exemption covers:

- (A) drivers transporting agricultural commodities from the source of the agricultural commodities to a location within a 150 air-mile radius from the source;
- (B) drivers transporting farm supplies for agricultural purposes from a wholesale or retail distribution point of the farm supplies to a farm or other location where the farm supplies are intended to be used within a 150 air-mile radius from the distribution point; or
- (C) drivers transporting farm supplies for agricultural purposes from a wholesale distribution point of the farm supplies to a retail distribution point of the farm supplies within a 150 air-mile radius from the wholesale distribution point.

Section 32934:

Section 32934 provides a statutory exemption from most of the FMCSRs, including those pertaining to commercial driver's licenses (CDL) and driver physical qualifications (medical) requirements, for the operation of "covered farm vehicles" by farm and ranch operators, their employees, and certain other specified individuals under specific circumstances. The operation of "covered farm vehicles" is exempt from:

- 49 CFR Part 383: Commercial Driver's License Standards; Requirements and Penalties
- 49 CFR Part 382: Controlled Substances and Alcohol Use and Testing
- 49 CFR Part 391: Subpart E: Physical Qualifications and Examinations
- 49 CFR Part 395: Hours of Service

□ 49 CFR Part 396: Inspection, Repair and Maintenance

The term “covered farm vehicle” includes any commercial motor vehicle (CMV) (defined in 49 CFR 390.5, but excluding vehicles transporting hazardous materials in a quantity requiring placards), traveling in the State in which the vehicle is registered or another State, and:

(a) Is operated by—

- (i) a farm owner or operator, or an employee or family member of the farm owner or operator; or
- (ii) a ranch owner or operator; or an employee or family member of the ranch owner or operator.

(b) Is being used to transport to or from a farm or ranch—

- (i) agricultural commodities;
- (ii) livestock; or
- (iii) machinery or supplies;

(c) Is equipped with a special license plate or other designation by the State in which the vehicle is registered to allow for identification of the vehicle as a farm vehicle by law enforcement personnel; and

(d) Has a gross vehicle weight rating (GVWR), gross combination weight rating (GCWR) or gross vehicle weight or gross combination weight, whichever is greater, that is—

- (i) 26,001 pounds or less, for vehicles operating in interstate commerce anywhere in the United States; or
- (ii) greater than 26,001 pounds and traveling in interstate commerce within the State in which it is registered, or
- (iii) greater than 26,001 pounds and traveling in interstate commerce within 150 air miles of the farm or ranch with respect to which the vehicle is being operated, regardless of whether it is being operating within the State it is registered.

3. Does FMCSA have to amend the Federal Motor Carrier Safety Regulations (FMCSRs) in order for the exemption to take effect?

No. The exemptions take effect on October 1, 2012 because the statutory provisions are self-executing. This means motor carriers and drivers may use the applicable exemptions at any time beginning on or after October 1, 2012, even though FMCSA has not amended the FMCSRs. The Agency will amend its rules later this year to reflect the statutory language.

4. When does FMCSA plan to change the current regulations to include the MAP-21 language and why are there delays in making those changes?

The Agency will change its regulations later this year to reflect the statutory language. Additional time is needed because any changes to regulatory text require a rulemaking notice to be published in the Federal Register, even in those cases in which the reason for the change is a statutory provision. In this case, because the statutory exemptions are self-executing (i.e., take effect automatically), the rulemaking notice would be a final rule, rather than a proposed rule requesting public comment, followed by a final rule.

5. Are the States required to make changes to their safety regulations in response to the MAP-21 exemptions?

Yes, but not until after October 1, 2012. However, FMCSA requests that States immediately take action to put into place policies and procedures to provide the regulatory relief provided by MAP-21. The Agency

will amend the FMCSRs to reflect the MAP-21 language and the States will then be required as a condition of receiving Motor Carrier Safety Assistance Program (MCSAP) funding, to adopt and enforce compatible safety regulations. After FMCSA changes its regulations, the effective date of that rule would begin the 3-year period during which the States must adopt compatible regulations to remain eligible for MCSAP funding.

6. What is MCSAP?

MCSAP is a Federal grant program that provides financial assistance to States to reduce the number and severity of crashes and hazardous materials incidents involving CMVs. The goal of the MCSAP is to reduce CMV-involved crashes, fatalities, and injuries through consistent, uniform, and effective CMV safety programs. The MCSAP rules (49 CFR Part 350) include conditions for participation by States and local jurisdictions and promote the adoption and uniform enforcement of safety rules, regulations and standards compatible with the FMCSRs and Federal Hazardous Materials Regulations (HMRs) for both interstate and intrastate motor carriers and drivers.

States are required by 49 CFR 350.331 to amend their laws and regulations within 3 years after the effective date of any newly enacted regulation or amendment to the FMCSRs or HMRs. After FMCSA amends the FMCSRs to reflect the exemptions in sections 32101(d) and 32934, the States will have up to 3 years to adopt compatible regulations to remain eligible for MCSAP funding.

7. With regard to hours of service (HOS), what's the difference between the HOS-specific exemption and the HOS relief provided for the operation of "covered farm vehicles?"

The primary difference between the HOS relief provided by section 32101(d) and section 32934 is that the first exemption includes a distance limitation of 150 air-miles for the transportation of the agricultural commodity or farm supplies.

The second exemption limits the relief from the HOS rules to the operation of covered farm vehicles by farm and ranch operators (including their employees and family members) under certain circumstances. The second exemption also includes restrictions for covered farm vehicles with a gross weight or weight rating greater than 26,001 pounds such that they may only use the exemption within the State in which the vehicle is registered, or within 150 air-miles from the ranch or farm with respect to which the vehicle is being operated.

Therefore, the statutory HOS exemptions in MAP-21 may have an overlap with regard to certain farm and ranch operators during planting and harvesting seasons, as defined by the States in which the vehicles are being operated.