

# Answers to Your Questions

ILLINOIS DEPARTMENT OF TRANSPORTATION • DIVISION OF TRAFFIC SAFETY • COMMERCIAL VEHICLE SAFETY SECTION

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## Farmers and the Motor Carrier Safety Regulations (Updated May 2008)

Planting or harvesting season is just around the corner and farmers may be subject to some of both the Federal Motor Carrier Safety Regulations (FMCSR) and the Illinois Motor Carrier Safety Regulations (IMCSR). The following article answers questions regarding how the FMCSR and the IMCSR apply to farmers and those who work for them. Please note that some exemptions apply to interstate as well as intrastate farmers, while other exemptions apply only to intrastate farmers.

Please note that individuals must comply with all applicable farm vehicle or commercial motor vehicle driver's license requirements, as indicated by the Illinois Secretary of State's Office.

### 1. Who is a farmer?

- A. Both the FMCSR<sup>1</sup> and the IMCSR<sup>2</sup> define "farmer" as any person who operates a farm or is directly involved in the cultivation of land, crops, or livestock that are owned by that person; or are under the direct control of that person.

### 2. When does a farmer perform an intrastate movement? When does a farmer perform an interstate movement?

- A. A farmer performs an intrastate movement if the product he or she is transporting never leaves the state of Illinois until it is processed as a final product. The US Department of Transportation has determined, based on a court ruling, that a farmer performs an interstate movement if the product he or she is transporting will continue in interstate commerce. For example, *"a farmer's movement of grain from farm to elevator, where it is known (or assumed to be known) that the grain will continue in interstate commerce, constitutes the first leg of an interstate movement. How or when the farmer is paid for his product, or whether he or she has any connection with the shipment after he or she drops it off at an elevator, is irrelevant in the court's eyes for purposes of defining movement of commodities in interstate commerce."*

### 3. Who is a farm vehicle driver?

- A. The IMCSR<sup>3</sup> and the FMCSR<sup>4</sup> both define "farm vehicle driver" as a person who drives only a commercial motor vehicle that is controlled and operated by a farmer as a private motor carrier of property; and is being used to transport either agricultural products, or farm machinery, farm supplies, or both, to or from a farm; and is not being used in the operation of a for-hire motor carrier; and is not carrying hazardous materials of a type or quantity that requires the commercial motor vehicle to be placarded in accordance with the hazardous materials transportation regulations<sup>5</sup>; and is being used within 150 air-miles of the farmer's farm.

**4. What exemptions are farmers entitled to?**

- A. Farm vehicle drivers who operate commercial motor vehicles are exempt from most of the driver qualification requirements of the IMCSR and FMCSR<sup>6</sup> (drivers of articulated commercial motor vehicles **are required** to possess a current medical certificate (i.e., medical card)). Hours of service requirements<sup>7</sup> do not apply to agricultural operations that are engaged in **intrastate** commerce at any time of the year within a 100 air mile radius from the source of the agricultural commodity or the distribution point for the farm supplies for agricultural purposes. (See question #8 for exemptions for agricultural operations engaged in interstate commerce.)

**5. What is an agricultural operation?**

- A. Agricultural operation means the operation of a motor vehicle or combination of vehicles transporting agricultural commodities or farm supplies for agricultural purposes. Agricultural commodities mean any agricultural commodity, non-processed food, feed, fiber, or livestock, including insects. Farm supplies for agricultural purposes means products directly related to the growing or harvesting of agricultural commodities and livestock feed at any time of the year. Livestock means cattle, sheep, goats, swine, poultry (including egg-producing poultry), fish used for food, and other animals designated by the Secretary of the United States Department of Transportation (at his or her sole discretion) that are part of a foundation herd (including producing dairy cattle) or offspring.

**6. What is the time span of the planting and harvesting season in Illinois?**

- A. The planting and harvesting season in Illinois is any time of the year (i.e., January 1 through December 31).

**7. How far can a person drive and still be entitled to the grain hauling operation exemption for hours of service?**

- A. The IMCSR<sup>8</sup> state that hours of service regulations do not apply to "grain hauling operations engaged in **intrastate** commerce within a radius of 200 air miles of the normal work reporting location."

**8. Is grain hauling the only type of hauling for which the agricultural industry is exempt from hours of service regulations?**

- A. No. In Illinois, hours of service regulations do not apply to agricultural operations that are engaged in either interstate or intrastate commerce at any time of the year within a 100 air mile radius from the source of the agricultural commodity or the distribution point for the farm supplies for agricultural purposes. In addition, the IMCSR<sup>9</sup> indicates hours of service regulations do not apply to "all farm to market agricultural transportation that is engaged in intrastate commerce." The same exemption applies to agricultural operations engaged in interstate commerce in another state depending on that state's definition of planting and harvesting season. (Each state has the authority to define its own planting and harvesting season. See question #6 above for Illinois' definition.)

**9. Are farmers the only individuals that can take advantage of the grain hauling exemption?**

- A. No. All individuals who haul grain, including for-hire motor carriers, can take advantage of the grain hauling exemption. Please note, if you are not a farmer, hours of service is the only exemption available when hauling grain.

**10. What is farm to market agricultural transportation?**

- A. The IMCSR<sup>10</sup> define "farm to market agricultural transportation" as the operation of a motor vehicle controlled and operated by a farmer who is a private motor carrier of property; who is using the vehicle to transport agricultural products to or from a farm operated by the farmer, or to transport farm machinery or farm supplies to or from a farm operated by the farm; and who is not using the commercial vehicle to transport hazardous materials of a type or quantity that requires the vehicle to be placarded in accordance with the Illinois Hazardous Materials Transportation Act.

**11. Are farmers required to have a medical card?**

- A. Both the FMCSR and the IMCSR<sup>11</sup> state that farm vehicle drivers are exempt from driver qualification requirements, including the medical card. However, this exemption **does not apply** to a farm vehicle driver who drives an articulated (combination) motor vehicle that has a gross weight (i.e., vehicle plus its load) of more than 10,000 pounds. These drivers are subject to medical card requirements.

Driver qualification requirements<sup>12</sup> do not apply to the driver of any **intrastate** articulated vehicle that meets the definition of special agricultural movement equipment<sup>13</sup>, farm machinery, or implement of husbandry. However, implements of husbandry and special agricultural movement equipment with a gross weight of more than 36,000 pounds and nurse tanks with a capacity of more than 3,000 gallons are **not** exempt.

**12. What does implement of husbandry mean?**

- A. The IMCSR<sup>14</sup> define "implement of husbandry" as every vehicle designed and adapted exclusively for agricultural, horticultural, or livestock raising operations, including farm wagons, wagon trailers, or like vehicles used in connection therewith, or for lifting or carrying an implement of husbandry except that no farm wagon, wagon trailer or like vehicle having a gross weight of more than 36,000 pounds shall be included.

**13. Is a farm wagon subject to the FMCSR or the IMCSR?**

- A. If the Gross Combination Weight Rating (GCWR) of a farm wagon and a truck or truck-tractor used in interstate commerce is greater than 10,000 pounds, the combination vehicle meets the definition of a commercial motor vehicle and is subject to the FMCSR, including annual inspection requirements. However, a farm wagon with a gross weight of 36,000 pounds or less used in **intrastate** commerce is an implement of husbandry and its driver is exempt from all driver qualification requirements. Intrastate implements of husbandry are also exempt from the semi-annual inspection requirements of the Illinois Vehicle Code (IVC).

**14. What is a non-Commercial Driver's License (non-CDL)?**

- A. Farm equipment operators are not required to obtain an actual CDL but they are still required to take the appropriate written, skills and road tests to be licensed to drive a vehicle with a GVWR over 26,000 pounds. Farm equipment operators are issued a specific type of driver's license that is either a Class A "non-CDL" (combination vehicle with GCWR of 26,001 or more pounds providing the GVWR of the vehicle being towed is in excess of 10,000 pounds) or a Class B "non-CDL" (single vehicle with a GVWR of 26,001 or more pounds, or any such vehicle towing another vehicle not in excess of 10,000 pounds).

**15. What is the definition of a farm equipment operator?**

- A. The Illinois Secretary of State's office defines a farm equipment operator as a legitimate farm-to-market operation by a farmer, not a commercial grain hauler, when the vehicle is:
- Controlled and operated by a farmer, a member of the farmer's family or an employee;
  - Used to transport farm products, equipment or supplies to or from a farm (including nurseries and aquacultures);
  - Used within 150 air miles of the farm; and
  - Not used in the operation of a common or contract carrier; and
  - Used in nursery or agricultural operations.

**16. Are all farm equipment operators eligible to obtain a non-CDL? Who can drive the vehicle and take advantage of farmer exemptions when transporting farm related items? How far can they drive from the farm?**

- A. The IVC<sup>15</sup> provides that the driver of any applicable motor vehicle that is **not** a truck-tractor semitrailer combination or combinations and who meets the requirements of a farm equipment operator listed in question #15 above is eligible for a non-CDL. This includes any person who is employed by the farmer and is not limited to the farmer and his or her family. Persons employed by a farmer who are not a member of the farmer's family cannot drive a truck-tractor semitrailer if they have a non-CDL.

**17. Are farmers and their family members who operate a truck-tractor semitrailer registered as a farm truck eligible for a non-CDL?**

- A. The IVC<sup>16</sup> states that when any truck-tractor semitrailer combination or combinations registered as a farm truck with a GVWR over 26,000 lbs. is driven by a farmer or a member of the farmer's family, who is 21 years of age or more, the farmer and members of his family are eligible for a non-CDL.

**18 Who is considered the farmer's family?**

- A. The IVC<sup>17</sup> defines the farmer's family as "a natural or in-law spouse, child, parent or sibling."

**19. Are farmers exempt from controlled substance and alcohol testing?**

- A. If a driver is issued a non-CDL, he or she is not subject to controlled substance and alcohol testing. If a driver, including a farmer, is issued a CDL **that is not a non-CDL**, he or she is subject to controlled substance and alcohol testing.

If you have any questions regarding the Illinois Motor Carrier Safety Regulations and how they relate to farmers, please call the Division of Traffic Safety, Commercial Vehicle Safety Section at (217) 785-1181 or (217) 524-4875 (TTY). The IMCSR are available on the Illinois Department of Transportation's website under Transportation Regulations at <http://www.dot.il.gov/safety.html>.

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Footnotes:

- <sup>1</sup> Section 390.5 of FMCSR
- <sup>2</sup> Section 390.1020 of the IMCSR
- <sup>3</sup> Section 390.1020 of the IMCSR
- <sup>4</sup> Section 390.5 of the FMCSR
- <sup>5</sup> Section 177.823 of the Federal Hazardous Materials Regulations
- <sup>6</sup> Part 391 of the IMCSR and FMCSR
- <sup>7</sup> Part 395 of the FMCSR
- <sup>8</sup> Section 395.2000(c)(6) of the IMCSR
- <sup>9</sup> Section 395.2000(c)(5) of the IMCSR
- <sup>10</sup> Section 390.1020 of the IMCSR
- <sup>11</sup> Section 391.2(c) of the FMCSR and Section 391.1000(b) of the IMCSR
- <sup>12</sup> Part 391 of the IMCSR
- <sup>13</sup> Section 390.1020 of the IMCSR
- <sup>14</sup> Section 390.1020 of the IMCSR
- <sup>15</sup> Section 6-507(c) of the IVC
- <sup>16</sup> Section 6-507(c) of the IVC
- <sup>17</sup> Section 6-507(c) of the IVC