

May 10, 2018

Alert

Truckers of Ag Products Allowed Hours of Service Exemption under Executive Order 2018-04

On April 27, 2018 Governor Dugaard responded to a request from SDABA and signed [Executive Order 2018-04](#) that declared that an emergency for planting and fertilizing crops in South Dakota due to unseasonably cold and wet weather and soil conditions.

Under federal regulations, anytime a Governor declares an emergency all Federal Motor Carriers Regulations (49 CFR 390-397) are **automatically waived for transportation supporting the emergency**. Since the emergency declared in Executive Order 2018-04 involves anything that helps get crops in the ground, all transportation is covered by the emergency and the trucks involved are exempt from Part 395, the hours of service regulations. **This includes fertilizer, seed and pesticides.**

Important reminders:

- The South Dakota Highway Patrol will be notifying surrounding states of the South Dakota Emergency Declaration, BUT it is important to maintain a copy of [Executive Order 2018-04](#) in the truck to prove this exemption in other states.
- Driving time records must be kept for six months, recorded as “Driving under emergency declaration”.
- The Declaration of Emergency will end on **May 31, 2018**.

Please contact Kathy Zander at the SDABA office if you have questions or have any issues in other states at 605/224-2445 or kathy@sdaba.org.

Agricultural Exemption Already in Place for 150 Mile-Air Radius

Covered farm vehicles of 26,001 pounds or more operated by a farmer or an employee of the farmer are exempted from the HOS and CDL regulations if the vehicle is operated anywhere in the state of registration or across state lines **within a 150-air mile radius** of the farm or ranch with respect to which the vehicle is being operated.

Drivers who transport agricultural commodities **within a 150-air mile radius** of the farm or ranch with

respect to which the vehicle is being operated are exempted from the HOS regulations. FMCSA has recent published proposed guidance on the use of this exemption.

Recording HOS when Transporting an Agricultural Commodity: When a driver operates a vehicle under an agriculture exemption outside of the designated air-mile radius of the farm or ranch with respect to which the vehicle is being operated and the driver does not qualify for a limited ELD exemption, the driver may use one of the following two options to record their HOS on an ELD:

- **Option 1:** A driver can operate within the 150-air mile radius without logging into the ELD and log into the ELD once they have reached the 150-air mile radius limit. The drive time that takes place within the 150-air mile radius will be identified on the ELD as “unidentified driving” time. The driver will reject the unidentified driving on the ELD and the motor carrier must make an annotation to the ELD data explaining that the “unidentified driving” is driving time that occurred while operating under an agriculture HOS exemption.
- **Option 2:** The driver can log into the ELD upon coming on duty and identify the time operating within the 150-air mile radius by making an annotation on the ELD stating that the vehicle was operating under an agriculture HOS exemption.

More information can be found online at <https://www.fmcsa.dot.gov/hours-service/elds/eld-hours-service-hos-and-agriculture-exemptions>.

FieldWatch – Before You Spray

[FieldWatch](#) became available in South Dakota this spring and operates two voluntary mapping tools that are free for all users: DriftWatch Specialty Crop Site and BeeCheck Apiary Registry.

FieldWatch launched two new mobile apps this month that make it easier for members to access and input data. FieldCheck by FieldWatch is designed to give applicators more functionality from their mobile device and while in the field. BeeCheck is designed specifically for beekeepers and will provide the same functionality as the online platform but will make changing the entered location of beehives easier and faster for the beekeepers. Ease of use is key in the ability of producers and beekeepers to maintain current and accurate data in the FieldWatch system. Both apps are available free of charge on Android and iOS at the app stores.

SDDA Classifies Dicamba Products as Restricted Use Pesticides

As of April 30, 2018, all pesticide products containing only dicamba, and having agricultural use labels, sold in South Dakota are classified as restricted use pesticides (RUPs). This includes over-the-counter herbicides that were previously sold to unlicensed applicators and producers. Since these products have been classified as RUPs by the State of South Dakota, but not by the federal government, they will not display the restricted use pesticide legend on the label. A list of 2018 registered products impacted by this new classification can be found on the South Dakota

Department of Agriculture's (SDDA) website, sdda.sd.gov, by clicking on the "Dicamba Information" link under the "Happening Now" section.

Applicators will be required to be certified private or commercial applicators to purchase and apply these products. In addition to state certification, the SDDA encourages applicators to take a dicamba-specific training. Training is available online on the SDDA's website. All applicators will be required to maintain application records for each application of these products and any other RUPs. The records of application must be kept for three years.

Three dicamba products, Xtendimax with Vapor Grip technology, Fexapan with Vapor Grip technology and Engenia, were classified as RUPs by the Environmental Protection Agency effective October of 2017. Separate regulations surround the sale and use of these products, including a requirement that applicators complete a dicamba-specific training.

Any questions about this change or the regulation of dicamba products can be directed to the SDDA at (605) 773-4432.

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