

# RULES OF THE ROAD

## ARE YOU COMPLIANT?

by Troy Smith, field editor

*“How does this apply to me?” may be the question most often asked by livestock producers pondering the reach and ramifications of Federal Motor Carrier Safety Administration (FMCSA) regulations for implementing use of electronic logging devices (ELDs) by motor carriers. The buzz over ELDs is bringing many cattle producers to an awareness, not just of the ELD mandate, but of the many federal transportation regulations.*

Alphabet soup runs thick and deep through the federal rules, and producers have to sort through the requirements — for USDOT, GVWR, CDL and HOS — that must be deciphered to understand how they affect a livestock operation’s transportation needs. Many producers have been surprised to learn what is required of them. Others are relieved to learn that the ELD mandate does not present an added burden. You have to wade through the acronyms and details to find out for sure.

The issue of ELDs surfaced when the *Commercial Motor Vehicle Safety Enhancement Act* was enacted as part of the 2012 *Moving Ahead for Progress in the 21st Century Act*. It mandated that ELDs be installed, by Dec. 18, 2017, in commercial motor vehicles involved in interstate commerce, when operated by drivers who are required to keep records (log books) of duty status. The FMCSA estimates an average annual cost of about \$500 per truck to maintain an ELD for recording driver identity, driving time, engine hours, vehicle movement and speed, the miles driven and location information. In the interest of improved accuracy and safety, ELDs are meant to replace written logs.

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## **USDOT**

Some producers may have assumed only professional livestock carriers are affected by federal transportation regulations, thinking private agricultural activities are exempt. However, federal regulations may apply to producers who transport livestock or equipment in association with their farming and ranching operations — if they engage in interstate commerce. All business-related transport of animals, equipment or supplies across state lines is considered interstate commerce.

If the vehicle used for this interstate commerce has a combined gross vehicle weight rating (GVWR) of 10,001 pounds (lb.) or more, it is considered a commercial vehicle and required to have a number issued by the U.S. Department of Transportation (USDOT). The USDOT number must be clearly displayed on both sides of the vehicle, along with the business's name.

Considering that a one-ton pickup likely has a GVWR in excess of 10,001 lb., driving it into a neighboring state to purchase fence wire would be considered commerce-related activity requiring a USDOT number for the pickup truck. Apart from federal regulations, some states require their intrastate commercial motor vehicle registrants to obtain a USDOT number.

Farm and ranch vehicles used for interstate transport of livestock for non-commercial purposes may be exempt from USDOT number requirements. This might include hauling 4-H or FFA project animals to shows, or high school or college students hauling arena mounts to rodeos. However, the activities must not be undertaken for profit, and associated costs must not be deducted as business expenses.

Vehicles required to have a USDOT number

to cross state lines are obligated to pay an annual Unified Carrier Registration fee. If the vehicle's combined GVWR is greater than 26,001 lb., the owner must comply with the International Fuel Tax Agreement (IFTA), which distributes fuel-tax revenue among states and Canadian provinces. In addition to being IFTA-registered, vehicles routinely traveling interstate must display appropriate decals, and recordkeeping requirements must be met. If interstate travel is infrequent, a temporary permit may be obtained.


## **CDL**

Keep in mind a 24-foot (ft.), aluminum, gooseneck trailer probably has a GVWR of 16,000 lb. Hitch it to the 1-ton pickup mentioned earlier, and the rig's combined GVWR likely exceeds 26,001 lb. Drivers of commercial vehicles whose actual weight or combined GVWR is 26,001 lb. or more are required to have a commercial driver's license (CDL). A farmer or rancher is exempt from the CDL requirement when transporting agricultural equipment, supplies, livestock or other agricultural products to or from his or her own operation, provided transport occurs within 150 air miles of the operation.

## **logging hos**

Generally, commercial motor vehicle drivers are subject to FMCSA rules limiting the hours spent driving, within a given period of time. The rules say a driver may drive a maximum of 11 hours after 10 consecutive hours off duty. Drivers must maintain a log of their hours of service (HOS) and be able to produce them for inspection, upon request.

There are exemptions to the logging requirement. An agricultural exemption



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applies when driving during “planting and harvesting periods” as determined by each state. Agricultural exemption applies to transportation of agricultural commodities to a destination located within 150 air miles of the source. Also exempted is the transport of farm supplies for agricultural purposes, from a wholesale or retail distribution point to their place of use located within 150 air miles of the distribution point.

### **CFV**

The transportation activity of cattle operations may be exempt from some commercial driving requirements if they operate vehicles recognized by the FMCSA as covered farm vehicles (CFV). A CFV can be a straight truck or articulated vehicle (truck and trailer) for which the state has issued a license plate or other designation identifying it as a farm vehicle. A CFV must be operated by the farm or ranch owner (or family member), operator (or family member), or employee. It must not be used for hire, but to transport agricultural commodities, livestock, machinery or supplies to or from the operation.

CFV qualification is significant due to related rule exemptions affecting cattle folk hauling animals. If the combined GVWR of the rig is 26,001 lb. or less, the driver should not need a CDL and need not keep a log. The ELD mandate does not apply.

When the combined GVWR is greater than 26,001, a driver can operate the CFV within 150 air miles (172.6 road miles) of the farm or ranch operation, without a CDL, and the ELD mandate does not apply. However, when driving beyond that 150 air-mile radius, all commercial motor carrier rules will apply.

### **take-home message**

The purpose of this article has been to

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## **livestock haulers**

*Livestock industry groups successfully sought a waiver for carriers of livestock and agricultural products, until March 18, 2018, wanting time to lobby Washington for changes to rules as they apply to haulers of livestock. Industry representatives claim the rules contain too many ambiguities, leaving them open to interpretation, but they're particularly concerned about rules pertaining to maximum driving time and minimum rest times.*

*“We really don't have a problem with the device, but it holds drivers' feet to the fire on hours of service,” says Jessie Herrmann, director of legal and regulatory affairs for the Nebraska Cattlemen (Association). “The rules contain restrictions on driving time that aren't realistic for transporting livestock.”*

*National Cattlemen's Beef Association Executive Director of Government Affairs Allison Cooke agrees, noting how livestock haulers cannot just stop if maximum allowed driving time is reached before reaching a load's destination. Unloading cattle, while a driver rests for the minimum hours required, is logistically problematic and also raises animal welfare issues.*

*“This is a case where a one-size-fits-all solution doesn't work. We're not hauling boxes of goods; we're hauling live animals,” states Cooke. “We want flexibility under hours of service.”*



discuss compliance with transportation rules related to interstate commerce. According to the FMCSA, a trip is not considered to be interstate commerce when it involves the occasional transport of livestock or other personal property for recreational purposes. This can include travel to cattle shows as long as the trip is not made for the purposes of financial profit and travel costs are not deducted as business expense.

According to Tucker Stewart, associate counsel for the Kansas Livestock Association, for transportation activities that do involve interstate commerce, key considerations for producers are as follows:

If a vehicle used in interstate commerce has a GVWR of 10,001 lb. or more, it must have a USDOT number and operators are required to pay associated fees.

If the vehicle GVWR is 26,001 lb. or less, the driver can go anywhere in the United States without a CDL.

If the vehicle GVWR is greater than 26,001 lb., it can be driven within a 150 air-mile radius of home without a CDL. Go beyond the 150 air miles, and a CDL is required and all federal regulations apply, including the keeping of a log.

The ELD mandate went into effect last December, but a waiver won by livestock industry groups delayed implementation for

haulers of agricultural commodities until March 18. The mandate may then apply to all carriers or it may be further delayed until the rules are tweaked. At some time, however, ELDs will replace paper logs for carriers of agricultural commodities, too. Of course, there are exceptions.

“ELDs won’t be required unless a carrier makes hauls more than eight times in a 30-day period. Only a paper log is necessary, but if you do it nine times, you’re going to get a ticket for not having an ELD. Also, if your truck was made before year 2000, you only need a paper log,” says Stewart.

“Most people transporting cattle with a pickup and trailer will be exempt from the ELD mandate, but most of them are not exempt from other transportation rules.” Stewart adds.

### **recommended resources**

Much of the information presented here comes from the Federal Motor Carrier Safety Administration. See for yourself at [fmcsa.dot.gov/](http://fmcsa.dot.gov/).

Additionally, New Mexico State University Extension Specialists Craig Gifford and Marcy Ward have authored an informative paper that focuses on impacts to 4-H, FFA, high school rodeo and other not-for-hire transportation. Find it online at [aces.nmsu.edu/pubs/\\_circulars/CR689](http://aces.nmsu.edu/pubs/_circulars/CR689). For information on the latest regulation waiver, see page 116. **AJ**



*If the vehicle GVWR is greater than 26,001 lb., it can be driven within a 150 air-mile radius of home without a CDL. Go beyond the 150 air miles, and a CDL is required and all federal regulations apply, including the keeping of a log.*