

Exemption to allow an alternative to operating under the duty cycles established under the *Commercial Vehicle Drivers Hours of Service Regulations*

Tracking Number – ASF-2022-01E

Pursuant to section 16 of the *Motor Vehicle Transport Act*, after consulting with the affected provinces and being of the opinion that the exemption is in the public interest and is not likely to affect motor carrier safety, extra-provincial truck undertakings and their drivers who are employed or otherwise engaged in the transport of fertilizer products are hereby exempt from having to meet the mandatory off-duty time of section 13(3), daily off-duty time of subsection 14(3), cycle requirements of sections 24 to 29 and a content of record of duty status requirement of paragraph 82(1)(b) of the *Commercial Vehicle Drivers Hours of Service Regulations*¹ (*Regulations*), subject to the conditions set out below.

Purpose

The purpose of this exemption is to allow extra-provincial truck undertakings and their drivers to operate under a more flexible work schedule as an alternative to the accumulation of on-duty hours by drivers under either cycle 1 or cycle 2.

Application

This exemption applies to extra-provincial truck undertakings and their drivers of trucks, tractors, trailers or any combination of them who are employed or otherwise engaged in the transportation of applicable fertilizer products within and between the provinces of Alberta, Saskatchewan and Manitoba during the spring planting season and the fall fertilizer season.

This exemption applies only to drivers directly employed by, and vehicles registered to, an eligible extra-provincial truck undertaking. Extra-provincial and intra-provincial truck undertakings engaged under contract to an extra-provincial truck undertaking operating under this exemption are prohibited from operating under the exemption issued to that extra-provincial undertaking.

Definitions

The following definitions apply to this exemption.

“base jurisdiction” means the province where the commercial vehicle is registered or base-plated.

“fertilizer product” means a natural or synthetic material that is spread on or worked into soil to increase its capacity to support plant growth specifically including liquid fertilizers (e.g., Urea Ammonium Nitrate), and anhydrous ammonia (NH₃), and excluding all dry or granular fertilizer products.

¹ SOR/2005-313

“spring planting season” means the period of time that includes April 1 through June 20.

“fall fertilizer season” means the period of time that includes September 20 through December 1.

Conditions

This exemption is subject to the following conditions:

1. Prior to commencement of operations under this exemption, the extra-provincial truck undertaking shall:
 - (a) implement either the fatigue management program developed by Fertilizer Canada, a carrier-based program or the North American Fatigue Management Program that has been submitted for review to the provincial hours of service director of the base jurisdiction, and subsequently is deemed acceptable;
 - (b) provide to its dispatchers, supervisors and drivers, fatigue management and hours of service training prior to the commencement of operation under the exemption and once within every 12 months period thereafter;
 - (c) ensure the training provided to its employees is documented in writing;
 - (d) ensure that training provided to its employees, specifically with respect to fatigue management and hours of service, is deemed acceptable by the provincial hours of service director of the base jurisdiction;
 - (e) implement a driver monitoring program to ensure compliance with this exemption’s conditions and the *Regulations*;
 - (f) notify the provincial hours of service director of the base jurisdiction, and all other jurisdictions in which it will operate, in writing of its intention to operate under this exemption with an anticipated start date;
 - (g) provide to the provincial hours of service director of the base jurisdiction documentation that will contain the following information:
 - i. description of the commercial vehicles (e.g., power unit, trailer);
 - ii. the license plate and unit numbers of all vehicles and the province of issuance;
 - iii. the names of drivers who will operate the commercial vehicles; and
 - iv. the drivers’ driving license numbers and province of issuance.
2. The extra-provincial truck undertaking and driver shall only operate under this exemption during the spring planting season and fall fertilizer season.

3. While operating under this exemption, the extra-provincial truck undertaking shall:
- (a) hold a valid safety fitness certificate that has been assigned a Satisfactory Audited Safety Rating or a Satisfactory Unaudited Safety Rating by the base jurisdiction pursuant to the *Motor Vehicle Transport Act*² and the *Motor Carrier Safety Fitness Certificate Regulations*;
 - (b) not have reached the second level of intervention with respect to their safety fitness rating as determined by the provincial national safety code director of the base jurisdiction;
 - (c) have successfully passed, within 6 months of the commencement of operation under this exemption and thereafter at an interval no longer than 2 years, an assessment of compliance with the *Regulations* and the conditions of this exemption that is conducted by the provincial hours of service director, if the carrier is not currently holding a Satisfactory Audited Safety Rating. Based on the compliance review, or for other just cause, the provincial hours of service director may rescind the authorization of a carrier to operate under the terms of this exemption;
 - (d) pay for the assessment of compliance referred to in 3(c) if requested to do so by the provincial hours of service director, and provide to the provincial auditor any documentation and supporting materials required to demonstrate compliance with the *Regulations* and the conditions of this exemption;
 - (e) submit to random checks with respect to compliance with the *Regulations* as well as any additional monitoring deemed necessary by the provincial hours of service director;
 - (f) submit to a National Safety Code Standard Facility Audit with respect to its operations, either by the base jurisdiction or a third-party auditor, if deemed necessary by the provincial hours of service director;
 - (g) not request, require or allow a driver to operate a commercial vehicle under the provisions of this exemption without taking at least 36 consecutive hours of off-duty time within any 14-day period. For clarity, this means a driver cannot accumulate more than 12.5 consecutive on-duty days and the minimum 36 consecutive hours of off-duty time must be taken in any 14-day period;
 - (h) not request, require or allow a driver to operate a commercial vehicle under the provisions of this exemption after accumulating 13 hours of driving time or 14 hours of on-duty time unless the driver takes at least 9 consecutive hours of off-duty time before driving again. For clarity, the

² R.S., c. 29 (3rd Supp.); S.C. 2001, c. 13, s. 1

daily off-duty time remains at least 10 hours however the non-consecutive off-duty time taken by a driver in a day is a minimum of 1 hour. All daily driving and on-duty limits as defined in the *Regulations* remain unchanged;

- (i) not request, require or allow a driver to operate a commercial vehicle under the cycles provided for at sections 24 through 29 of the *Regulations* without first requiring the driver to take 36-consecutive hours of off-duty time;
- (j) ensure that only fertilizer product as defined is transported, and that no dry or granular fertilizer, or any other cargo, be transported;
- (k) ensure that anhydrous ammonia product is picked up only from retail storage facilities that have passed a third-party independent audit as required under the *Ammonia Code of Practice* established by Fertilizer Canada;
- (l) ensure that the driver records and maintain the information related to their record of duty status in a complete and accurate manner using the grid in the form as set out in Schedule 2 of the *Commercial Vehicle Drivers Hours of Service Regulations* or an electronic logging device. The record of duty status must show activity for the current day and the driver must have in their possession the record of duty status from the previous 14-day period;
- (m) require that a copy of this exemption and any letter of acknowledgement of the undertaking's intention to operate under this exemption received from the provincial hours of service director of the base jurisdiction is placed in the commercial vehicles that are operated in accordance with the conditions of this exemption;
- (n) keep at their principal place of business or other location deemed acceptable by the provincial hours of service director, a copy of the documents referred to in 1(g), as well as records of duty status and other supporting documents that demonstrate compliance with the conditions of this exemption and shall at the request of an inspector or provincial hours of service director, immediately make available for inspection such documentation;
- (o) inform the provincial hours of service director of the base jurisdiction and all other jurisdictions in which it will operate at the start of each spring planting season and fall fertilizer season of any changes to the list referred in paragraph 1(g) and keep the director(s) informed of any changes so that the director(s) may accurately and quickly identify the commercial vehicles and the driver;

- (p) notify the provincial hours of service director in the base jurisdiction without delay of any collision, involving any of the commercial motor vehicles or drivers operating under this exemption, if the laws of the province in which the collision occurred require it to be reported to police. If the collision occurred outside of the base jurisdiction, the provincial hours of service director in that jurisdiction shall be notified as well;
 - (q) collect data to support an assessment of the efficiency, effectiveness and safety performance of the undertaking with respect to their operations under this exemption. This data shall be submitted to Fertilizer Canada by its members or Transport Canada for those not members of Fertilizer Canada by December 31st of each year starting December 31st, 2022, covering that period. The information collected will be based on a questionnaire prepared and distributed by Fertilizer Canada, based on Transport Canada's requirements, related to operations under this exemption including number of drivers and vehicles, number of accidents and incidents, safety or traffic violations, product shipments;
 - (r) monitor and verify compliance with this exemption's conditions and the *Regulations* for all drivers of commercial vehicles operating under this exemption through the driver monitoring program at least once per week, and where non-compliance is observed, document the non-compliance and ensure immediate remedial actions are taken; and
 - (s) comply with all the other applicable requirements of the *Regulations*.
4. Prior to commencement of operations under this exemption, the driver of an extra-provincial truck undertaking operating a commercial vehicle shall:
- (a) take the fatigue management and hours of service training provided by the extra-provincial undertaking and other regulatory and operational safety training applicable to the driver's duties;
5. While operating under this exemption, the driver of an extra-provincial truck undertaking operating a commercial vehicle shall:
- (a) take the fatigue management and hours of service training, or a condensed refresher course, provided by the undertaking under section 1(a);
 - (b) not utilize the provisions for deferral of daily off-duty time under section 16 of the *Regulations*;
 - (c) Using the grid in the form as set out in Schedule 2 of the *Commercial Vehicle Drivers Hours of Service Regulations* or an electronic logging device, fill out a record of duty status each day that accounts for all of the driver's on-duty time and off-duty time for that day and have in their possession the record of duty status from the previous 14-day period;

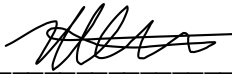
- (d) ensure that there is a mention in the record of duty status that states that the driver is driving under an exemption issued under the Act. Tracking Number – ASF-2022-01E. This indication shall be made prior to accumulating 70 hours of on-duty time during any period of 7 days under cycle 1 or 120 hours of on-duty time during any period of 14 days under cycle 2, and for each day thereafter. All hours accumulated since the last 36-hour consecutive off-duty period shall apply towards the schedule indicated in (e) and (f);
 - (e) take at least 36 consecutive hours of off-duty time within any 14-day period. For clarity, this means a driver cannot accumulate more than 12.5 consecutive on-duty days and the minimum 36 consecutive hours of off-duty time must be taken in any 14-day period;
 - (f) not operate a commercial vehicle under the provisions of this exemption after accumulating 13 hours of driving time or 14 hours of on-duty time unless the driver takes at least 9 consecutive hours of off-duty time before driving again. For clarity, the daily off-duty time remains at least 10 hours however the non-consecutive off-duty time taken by a driver in a day is a minimum of 1 hour. All daily driving and on-duty limits as defined in the *Regulations* remain unchanged;
 - (g) not operate a commercial vehicle under the cycle requirements provided for at sections 24 through 29 of the *Regulations* without first taking 36-consecutive hours of off-duty time;
 - (h) transport only fertilizer product and ensure that no dry or granular fertilizer, or any other cargo, be transported;
 - (i) within the commercial vehicle, carry a copy of this exemption and any letter of acknowledgement of intention to operate under this exemption that has been issued by the provincial hours of service director of the base jurisdiction, and shall make these copies available for inspection by an inspector, immediately upon request; and
 - (j) comply with all the other applicable requirements of the *Regulations*.
6. Drivers and extra-provincial undertakings shall be in compliance with all applicable federal and provincial safety requirements such as, but not limited to, those contained within the Transportation of Dangerous Goods requirements. An extra-provincial undertaking shall continue to follow any voluntary safety measures it normally follows while operating under the *Regulations*, such as emergency response procedures and accident prevention best practices.

Unless the context requires otherwise, words and expressions used in this exemption have the same meaning as in section 1 of the *Commercial Vehicle Drivers Hours of Service Regulations*.

Validity

This exemption comes into effect at 00:00 MST on April 1st, 2022, and remains valid until the earliest of the following:

- a) 23:59 MST on December 1st, 2026;
- b) The date on which the exemption is cancelled in writing by the Minister where he is of the opinion that it is no longer in the public interest, or that it is likely to affect motor carrier safety.



Melanie Vanstone
Acting Director General, Multimodal and Road Safety Programs
(on behalf of the Minister of Transport)

March 16, 2022

Date