

Guidance for Definition of Agricultural Operations

Guidance for the In-Use Off-Road Diesel Vehicle Regulation Definition of Agricultural Operations



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Summary

Section 2449(b) of the In-Use Off-Road Diesel Vehicle Regulation (off-road regulation) provides that all vehicles used exclusively for agricultural operations, including first processing after harvest, are exempt from all requirements in sections 2449, 2449.1, 2449.2 and 2449.3 of the off-road regulation. This document is designed to provide guidance for determining what activities will be designated as agricultural operations.

Agricultural operations include, but are not limit too, activities such as the raising and harvesting of crops from soil, the raising of fowl or animals, logging, and forestry operations. A majority of the off-road vehicles used in facilities such as wineries, dairies, logging operations, farms, ranches, and wholesale nurseries will be exempt from all requirements of the off-road regulation. To assist fleet owners in determining what types off-road vehicles will be considered exempt under the agricultural operations definition, ARB staff is providing the following guidance.

Off-road vehicles that are determined to be exempt under the off-road regulation because they are used in agricultural operations will be covered and regulated by the soon to be proposed In-Use Mobile Agricultural Equipment Regulation. For more information on this upcoming regulation, please see ARB's website at: <http://www.arb.ca.gov/ag/agtractor/agtractor.htm>

Definitions

The definition of "Agricultural operations" located in section 2449(c)(1) of the off-road regulation is as follows:

"Agricultural operations" means (1) the growing or harvesting of crops from soil (including forest operations), and the raising of plants at wholesale nurseries, but not retail nurseries, or the raising of fowl or animals for the primary purpose of making a profit, providing a livelihood, or conducting agricultural research or instruction by an educational institution, or (2) agricultural crop preparation services such as packinghouses, cotton gins, nut hullers and processors, dehydrators, and feed and grain mills. Agricultural crop preparation services include only the first processing after harvest, not subsequent processing, canning, or other similar activities. For forest operations, agricultural crop preparation services include milling,

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peeling, producing particleboard and medium density fiberboard, and producing woody landscape materials.

“Forest operations” is defined at section 2449(c)(26) and provides:

“Forest operations” means cutting or removal or both of timber, other solid wood products, including Christmas trees, and biomass from forestlands for commercial purposes, together with all the work incidental thereto, including but not limited to, construction and maintenance of roads, fuel breaks, firebreaks, stream crossings, landings, skid trails, beds for falling trees, fire hazard abatement, and site preparation that involves disturbance of soil or burning of vegetation following forest removal activities. Forest operations include the cutting or removal of trees, tops, limbs and or brush which is processed into lumber and other wood products, and or for landscaping materials, or biomass for electrical power generation. Forest operations do not include conversion of forestlands to other land uses such as residential or commercial developments.

Note that only forest operations for commercial purposes are exempt from the off-road regulation. For example, if a private logging company constructs roads or fire breaks, that is a forest operation and therefore is exempt from the regulation. However, if a public agency maintains roads or constructs fire breaks for the purposes of preventing or enabling response to forest fires, that is not a forest operation because it is not for commercial purposes.

Vehicles Used To Support Agricultural Activities

Vehicles used to support agricultural operations at agricultural facilities are exempt from the requirements of the off-road regulation. These support vehicles are used for activities including, but not limited to:

- (1) Preparing soil for the raising of crops,
- (2) Harvesting crops
- (3) Maintaining roads through agricultural fields,
- (4) Irrigation maintenance,
- (5) Loading and/or transporting fertilizer, and
- (6) Loading and/or transporting feed for livestock.

First Processing

As stated in section 2449(c)(1), off-road vehicles used solely in agricultural crop preparation services (first processing after harvest) are exempt from the regulation. If first processing occurs at a single facility*, all off-road vehicles that

* A facility means one or more contiguous properties, in actual physical contact or separated solely by a public roadway or other public right-of-way, under common ownership on which engines operate.

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operate at that facility and engage in activities related to crop preparation will be eligible to receive the agricultural operations designation.

The first processing exemption does not cover subsequent transfer of goods to a second facility for further processing, e.g., canning. Off-road vehicles that operate at the latter processing facilities are not included in the agricultural operations exemption.

However, if an agricultural product undergoes first processing and subsequent processing (such as canning) in the same facility, all off-road vehicles operating at that facility can receive the first processing designation, regardless of whether they were engaged in the first or secondary processing activities.

Examples

Winery operations: If a winery receives unprocessed, whole grapes, to produce wine, the following are examples of off-road vehicles operated within the same facility that would also fall under the first processing agricultural operations exemption:

- (1) Vehicles that transport grapes throughout the facility,
- (2) Vehicles that move boxes of chemicals necessary to the harvesting of grapes,
- (3) Vehicles that transport bottles for the bottling of wine, and
- (4) Vehicles that transport grape waste materials throughout the facility, or load the waste materials onto a vehicle for transport to another facility.

If the winery did not receive whole grapes, and instead received grape juice for the purpose of fermenting the juice into wine, this facility would not be a first processing facility; the grapes would have already undergone first processing.

Sawmill operations: If a sawmill receives unprocessed logs for the purpose of producing lumber or other wood products, the following are examples of off-road vehicles operated within the same facility that would also fall under the first processing agricultural operations exemption:

- (1) Vehicles used to load/unload the unprocessed logs or processed wood products to/from transport vehicles,
- (2) Vehicles used during the sorting and debarking process,
- (3) Vehicles that transport the unprocessed logs or wood materials throughout the facility, and
- (4) Vehicles that transport biomass for electrical power generation, as long as the electrical power generation takes place at the first processing facility.

Biomass facilities: A biomass facility, a facility that burns plants and organic matter such as wood or methane gas to generate electricity, is not considered a

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forestry operation or an agricultural first processing facility unless one of the following is true:

- (1) The biomass facility is located at a first processing facility, such as a sawmill, or
- (2) The biomass facility receives more than half of its waste in the form of unprocessed agricultural materials.

Therefore, if a sawmill produces wood products that are used as biomass for electrical power generation in a biomass facility that is separate from the first processing facility (sawmill), the biomass facility would not be considered a first processing facility. Thus, vehicles and equipment at the biomass facility would not be covered by the exemption.

On the other hand, if a biomass facility is not located at a first processing facility, but more than half of the waste materials processed at the biomass facility are unprocessed agricultural products (such as unprocessed logs or tree trimmings), then the biomass facility is a first processing facility. Thus, vehicles and equipment at the facility would be exempt.

Hay harvest and baling: All off-road vehicles involved in the harvesting and initial baling of hay will fall under the agricultural operations exemption. However, if a facility that did not grow or harvest the hay receives hay bales directly from the farm where it was harvested, that facility can be designated as a first processing facility if the bales of hay are first modified in one or more of the following ways at the facility:

- (1) Compacted into smaller bales for transport;
- (2) Disassembled, sorted, and packaged for transport; or
- (3) Processed into feed, cubes, or other feed products.

Distribution centers or other facilities that receive hay but do not compact the bale nor disassemble the bale for cleaning and sorting, and do not alter bales for feed, are not considered first processing facilities.

Vehicles Not Used Exclusively in Agricultural Operations

As stated in section 2449(e)(11) of the off-road regulation, if a vehicle is used over half the time, but not exclusively, in agricultural operations it is exempt from the performance requirements of sections 2449(d), 2449.1(a), and 2449.2(a), but still must comply with the reporting and labeling requirements of sections 2449(f) and 2449(g).

If a vehicle is used less than half the time for agricultural operations, the vehicle must comply with all requirements of the off-road regulation. However, when calculating the hours of usage for the vehicle (for low-use status, or for the hours provision of the regulation, section 2449(d)(2)), the hours used in

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agricultural operations may be excluded from the total number of hours reported to ARB.

Contacts

For more information on the off-road regulation, please see ARB's website at: <http://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm> or contact Ms. Kim Heroy-Rogalski at kheroyro@arb.ca.gov or (916) 327-2200.

For questions regarding the Proposed In-Use Mobile Agricultural Equipment Regulation, please see ARB's website at: <http://www.arb.ca.gov/ag/agtractor/agtractor.htm> or contact Mr. Tony Brasil at abrasil@arb.ca.gov, or (916) 323-2927.