

Frequently Asked Questions In-Use Off-Road Diesel Vehicle Regulation

Definition of Agricultural Operations FAQ Revised October 2015

Q – What activities are considered “agricultural operations” under the Off-Road Regulation?

A – Agricultural operations include, but are not limited to, 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 are considered “agricultural operations”. 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, peeling, producing particleboard and medium density fiberboard, and producing woody landscape materials.

Q – Are vehicles used for agricultural operations exempt from the Off-Road Regulation?

A – Yes. Section 2449(b) of the 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, and 2449.2 of the Off-Road Regulation. This means that vehicles used solely for agricultural operations do not need to report, label, or control the emissions from those vehicles under the Off-Road Regulation.

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Q – What activities are considered “forest operations” under the Off-Road Regulation?

A – Forest operations include, but are not limited to, forest fire prevention activities, the cutting or removal of timber and other solid wood products for commercial purposes, and the cutting or removal of trees for further processing into lumber and other wood products. Forest operations do not include the conversion of forestlands to other land uses such as residential or commercial use. The definition of “forest operations” located in section 2449(c)(25) of the Off-Road Regulation is as follows:

“Forest operations” means (A) forest fire prevention activities performed by public agencies, including, but not limited to construction and maintenance of roads, fuel breaks, firebreaks, and fire hazard abatement or (B) 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.

Q – Are vehicles used for forest operations exempt from the Off-Road Regulation?

A – Yes. Since forest operations are included in the definition of agricultural operations (as shown above), if a vehicle is used exclusively for forest operations, it is exempt from the Off-Road Regulation under the agricultural operations exemption in section 2449(b). This means that vehicles used solely for forestry operations do not need to report, label, or control the emissions from those vehicles under the Off-Road Regulation.

Q – What if my vehicles are only used some of the time for agricultural operations?

A – As stated in section 2449(e)(11) of the Off-Road Regulation, if a vehicle is used over half the time (a majority), but not exclusively, in agricultural operations it is exempt from the performance requirements of sections 2449(d), 2449.1, and

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2449.2, 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 example, to determine low-use status), the hours used in agricultural operations may be excluded from the total number of hours reported to ARB.

Q – I am a rental company that rents/leases out off-road vehicles. If those vehicles are used for agricultural purposes, can they be exempt from the Off-Road Regulation?

A – Yes, however, a vehicle that is rented or leased for use by others is exempt only if it is exclusively used for agricultural operations.

Q – Are vehicles used to support agricultural operations also exempt from the Off-Road Regulation?

A – Vehicles used to support agricultural operations at agricultural facilities are exempt from 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) Spraying of chemicals,
- (3) Harvesting crops
- (4) Maintaining roads through agricultural fields,
- (5) Irrigation maintenance,
- (6) Loading and/or transporting fertilizer, and
- (7) Loading and/or transporting feed for livestock.

Q – Are vehicles used at agricultural first processing facilities exempt from the Off-Road Regulation?

A – As stated in section 2449(c)(1) of the Off-Road Regulation, 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 operate at that facility and engage in activities related to crop preparation will be eligible to receive the agricultural operations designation.

* 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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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.

Q – What are some examples of agricultural facilities that may, or may not, be considered first processing facilities?

A – *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.

Composting or fertilizer manufacturing facilities: Similarly to biomass facilities, a composting or fertilizer manufacturing facility is not considered a forestry operation or an agricultural first processing facility unless one of the following is true:

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

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Unprocessed agricultural materials do not include waste from agricultural first processing facilities, animal waste, or urban waste. Urban waste includes, but is not limited to:

- (1) Food scraps (from restaurants, grocery stores, etc.),
- (2) Tree trimmings, leaves, or grass clipping from city parks, schools, residential areas, or other similar environments, and
- (3) Other waste products from urban areas.

Salt Harvesting: Salt harvesting, or the harvesting of other minerals, is not considered an agricultural operation. Vehicles used in mining operations are subject to the Off-Road Regulation.

Q – I have a vehicle (such as a forklift) that is used for agricultural operations, but it sometimes leaves the harvesting/first processing site to aid in the delivery of agricultural products. Is this vehicle still considered an agricultural operations vehicle?

A – Yes, but it is not a vehicle used exclusively for agricultural operations if it leaves the harvest site/first processing facility. This vehicle would instead be a vehicle that is used over half the time (a majority), but not exclusively, in agricultural operations, and therefore must still comply with the reporting and labeling requirements in sections 2449(f) and 2449(g) of the Off-Road Regulation.

For example, if a forklift is used at the point of harvest, but then leaves the harvest site to aid in the delivery of the product to distribution centers, first processing facilities, etc., the forklift must still comply with the reporting and labeling requirements of the Off-Road Regulation. Thus, forklifts that load agricultural products to flatbed trucks and then are carried by those trucks to aid in the delivery of the products must comply with the Off-Road Regulation's reporting requirements and be labeled with an EIN.

Q – I have a yard truck with an off-road engine that is used exclusively for agricultural operations. Is it subject to any regulations?

A – Yes. Although the off-road yard truck is exempt from the Off-Road Regulation (under the agricultural operations exemption), it would be regulated by one of two other regulations: the Regulation for Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards (Cargo Handling Equipment Regulation), or the In-Use Heavy-Duty Diesel-Fueled Vehicles Regulation (Truck and Bus Regulation).

If a yard truck is used at a port or intermodal rail yard, it is regulated under the Cargo Handling Equipment Regulation, regardless of whether it has an on-road or off-road engine, and regardless of whether it is used for agricultural

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operations. More information about the Cargo Handling Equipment Regulation is available at <http://www.arb.ca.gov/ports/cargo/cargo.htm>.

All other yard trucks not subject to the Cargo Handling Equipment or Off-Road Regulations would be regulated by the Truck and Bus Regulation. This includes yard trucks used a majority of the time for agricultural operations or for the first processing of agricultural products, even if the yard truck contains an off-road engine. More information about the Truck and Bus Regulation is available at <http://www.arb.ca.gov/msprog/onrdiesel/onrdiesel.htm>.

For more information on yard trucks, please see the Yard Truck FAQ available at <http://www.arb.ca.gov/msprog/ordiesel/faq/faqyardtrucks.pdf>.

Q – Will there be a regulation in the future that will cover my mobile off-road diesel vehicles used exclusively for agricultural operations?

A – Yes. 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>.

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