

is inbound to the association or federation), and that the additional income obtained from such transportation is necessary to make the primary transportation operation financially practicable. Transportation for nonmembers as described above performed by a cooperative or federation through the use of trucks or tractors trip-leased for one-way movements with the cooperative association or federation acting as lessee, is not incidental and necessary;

(b) The base tonnage to which the 25-percent limitation is applied is all tonnage of all kinds transported by the cooperative association or federation of cooperative associations in interstate or foreign commerce, whether for itself, its members or nonmembers, for or on behalf of the United States or any agency or instrumentality thereof, and that performed within the exemption provided by 49 U.S.C. 13506(a)(5).

[43 FR 2397, Jan. 17, 1978, as amended at 43 FR 21894, May 22, 1978; 45 FR 45524, July 3, 1980; 62 FR 49940, Sept. 24, 1997]

**§ 372.111 Nonmember transportation limitation and record keeping.**

(a) *Overall limitation of nonmember transportation.* No cooperative association or federation of cooperative associations may engage in nonmember interstate transportation for compensation in any fiscal year which, measured in terms of tonnage, exceeds its total interstate member transportation in such fiscal year.

(b) *Records of interstate transportation when nonmember transportation is performed.* Any cooperative association or federation of cooperative associations performing interstate transportation for nonmembers shall prepare and retain for a period of at least two years written records of all interstate transportation performed for members and nonmembers. These records shall contain:

- (1) The date of the shipment,
- (2) The names and addresses of the consignor and consignee,
- (3) The origin and destination of the shipment,
- (4) A description of the articles in the shipment,
- (5) The weight or volume of the shipment,

(6) A description of the equipment used either by unit number or license number and, in the event this equipment is nonowned, the name and address of its owners and drivers,

(7) The total charges collected,

(8) A copy of all leases executed by the cooperative association or federation of cooperative associations to obtain equipment to perform transportation under 49 U.S.C. 13506(a)(5),

(9) Whether the transportation performed is:

(i) Member transportation,

(ii) Nonmember transportation for nonmembers who are farmers, cooperative associations, or federations thereof,

(iii) Other nonmember transportation, and if of class (iii), how the transportation was incidental and necessary as defined in § 372.109(a).

[43 FR 2397, Jan. 17, 1978, as amended at 45 FR 45524, July 3, 1980; 62 FR 38036, July 16, 1997; 62 FR 49940, Sept. 24, 1997]

**§ 372.113 [Reserved]**

**§ 372.115 Commodities that are not exempt under 49 U.S.C. 13506(a)(6).**

49 U.S.C. 13506(a)(6) provides an exemption from regulation for motor vehicles used in carrying ordinary livestock, fish, and unmanufactured agricultural commodities. Certain specific commodities have been statutorily determined to be non-exempt. Administrative Ruling No. 133, which is reproduced below, is a list of those commodities that are non-exempt by statute.

ADMINISTRATIVE RULING NO. 133

LIST OF COMMODITIES THAT ARE NOT EXEMPT BY STATUTE UNDER 49 U.S.C. 13506(A)(6)

*Animal fats*  
*Butter*  
*Canned fruits and vegetables*  
*Carnauba wax as imported in slabs or chunks*  
*Cattle, slaughtered*  
*Charcoal*  
*Cheese*  
*Coal*  
*Cocoa beans*  
*Coffee, beans, roasted, or instant*  
*Copra meal*  
*Cotton yarn*  
*Cottonseed cake or meal*  
*Diatomaceous earth*  
*Dinners, frozen*  
*Feeds:*