



FMCSA Issues Two Year HOS Exemption for Anhydrous Ammonia

October 1, 2010

The Federal Motor Carrier Safety Administration (FMCSA) yesterday granted a two-year, limited exemption from the federal hours-of-service (HOS) regulations for the transportation of anhydrous ammonia. The exemption specifically clarifies that the agricultural HOS exemption covers transportation from any distribution point to a local farm retailer or to the ultimate consumer, and from a local farm retailer to the ultimate consumer, as long as the transportation takes place within a 100 air-mile radius of the retail or wholesale distribution point.

Anhydrous ammonia is the most common and cost-effective source of nitrogen fertilizer used by farmers for crops such as corn and wheat and it is supplied under through a tight supply chain network during a short seasonal period.

Importantly, FMCSA acknowledged the concerns expressed by the agricultural transporters by stating, “The Agency continues to believe the exemption is appropriate because local retailers and farms have limited storage capacity and therefore must constantly replenish certain supplies during the planting and harvesting seasons. They are part of the “just in time: distribution system that extends from a wholesaler to the ultimate consumer of the supplies.”

Similar to the earlier 90 day period, conditions apply to this exemption including: 1) it only covers deliveries of anhydrous ammonia 2) movements must not exceed a 100 air-mile radius, and; 3) the motor carrier must have a satisfactory safety rating (or unrated if they have not received a compliance review). Additionally, specific reporting requirements are listed in the notice for any accidents which occur while operating under this exemption.

This move follows earlier actions of the agency including a 90 day waiver which was announced on March 22, 2010 for motor carriers engaged in the distribution of anhydrous ammonia during the 2010 spring planting season. The grant of this exemption follows a proposal which was issued by the agency on July 13, 2010 with a 30 day public comment period.

In granting this exemption the Agency stated that it believes that the proposed exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such an exemption. In making this determination the agency cited strong evidence including the study, “Agricultural Commodity and Utility Carriers Hours of Service Exemption Analysis,” May 2010” as well as a flawless record of no accidents while operating under the earlier waiver during the spring season.

During the public comment period the agency received letters of support from 23 Members of Congress as well as 38 agricultural organizations and other individuals. The Commercial Vehicle Safety Alliance (CVSA) which has traditionally opposed the agricultural HOS exemption actually supported this specific exemption. CVSA also requested that the agency impose additional conditions on the exemption beyond what the agency is already imposing and the agency denied that request.

The work of ATA's Agricultural and Food Transporters Conference and ATA members was critical to this Agency decision and special thanks goes to the leadership of Congressman Blaine Luetkemeyer and Congressman Sam Graves, both of Missouri.

The full agency notice can be found here:

<http://www.regulations.gov/search/Regs/contentStreamer?objectId=0900006480b64875&disposition=attachment&contentType=pdf>