



## FMCSA Proposes to Extend HOS Waiver for Anhydrous Ammonia

July 13, 2010

The Federal Motor Carrier Safety Administration (FMCSA) today announced that the agency is proposing a two-year, limited exemption from the federal hours-of-service (HOS) regulations for the transportation of anhydrous ammonia 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.

This move, if finalized, would extend the 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.

This proposal is open for a 30 day comment period before it can be finalized. This proposal and comment period is not a surprise since the agency staff indicated recently in a meeting between AFTC and other agricultural groups that they would be moving forward shortly in a “transparent” manner. This comment period process allows for such transparency. This proposed two-year period is a significant development and the agency used very positive language in its announcement.

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, based on the terms and conditions imposed.

In making this determination the agency cited strong evidence that is very favorable to the industry. The agency stated again, as it did in the March 22nd announcement, that the earlier interpretation of the exemption which disallowed movements which were not directly to or from a farm “may not reflect today’s economic reality as it pertains to the transportation of anhydrous ammonia during planting and harvesting seasons.”

The agency further stated that:

“The Agency has considered the available data concerning the safety performance of agricultural operations in general, and the safety performance of anhydrous ammonia transporters during the 90-day, limited waiver granted earlier this year.”

It discussed the study, “Agricultural Commodity and Utility Carriers Hours of Service Exemption Analysis,” May 2010.” Details of this study were discussed in a notice to AFTC members on June 10, 2010 which can be found [here](#):

<http://www.truckline.com/Federation/Conferences/AFTC/NewsandUpdates/DOT%20Completes%20Analysis%20of%20Ag%20HOS%20Exemption.pdf>

In addition to the study, the Agency considered data concerning the safety performance of anhydrous ammonia transporters during the limited 90-day waiver mentioned above and concluded that “only one of the five [incidents] involved a crash and that crash involved a driver who had been on duty only two hours after having two consecutive days off duty.”

This proposal has terms and conditions similar to the earlier 90 day waiver.

AFTC will submit comments in regard to this proposal before the deadline of August 13, 2010.

The full proposal can be found here:

[http://www.ofr.gov/OFRUpload/OFRData/2010-17138\\_PL.pdf](http://www.ofr.gov/OFRUpload/OFRData/2010-17138_PL.pdf)