

3. Removing “or manually (see § 102.38–330)” and adding “to <https://GSA.INL.gov/Property>” in its place.

8. Amend § 102–38.130 by adding a second sentence to read as follows:

§ 102–38.130 Must we publicly advertise sales of Federal personal property?

* * * Listing of available items for sale via internet (online) auctions for the general public constitutes “public notice.”

§ 102.38–175 [Amended]

9. Amend § 102.38–175 by—

a. Removing the phrase “through subscription from the U.S. Government Printing Office, or”;

b. Removing the phrase “on the Internet”; and

c. Removing “<http://epls.arnet.gov>” and adding “<https://www.epls.gov>” in its place.

10. Amend § 102.38–285 by revising paragraph (b) to read as follows:

§ 102.38–285 How do we transfer title from the Government to the buyer for personal property sold?

* * * * *

(b) For sales of vehicles, you must issue to the purchaser a Standard Form (SF) 97, the United States Government Certificate to Obtain Title to a Vehicle, as evidence of transfer of title. For information on how to obtain this form, see § 102–2.135 of this chapter.

§ 102.38–295 [Amended]

11. Amend § 102.38–295 by removing from paragraph (a) “(including your share of the Governmentwide costs to support the eFAS Internet portal and Governmentwide reporting requirements)”.

12. Revise § 102–38.325 to read as follows:

§ 102–38.325 What are the requirements pertaining to antitrust laws?

(a) When the sale of personal property has an estimated fair market value of \$3 million or more, or the sale involves a patent, process, technique, or invention, you must post a notice in the sales offering advising potential buyers of the applicable antitrust laws contained in 40 U.S.C. 559, whereby the Attorney General of the Department of Justice must review the proposed sale and determine, prior to the finalization of award, whether the disposal to a private interest would tend to create or maintain a situation inconsistent with antitrust laws.

(b) When the sale closes, you will:

(1) Notify the winning bidder advising them of their high bid and that you are awaiting clearance from the Attorney General before final award.

(2) Notify the Attorney General by providing the winning bid information, listed below, for his or her review and concurrence on sale.

(i) Item name;
(ii) Location of property;
(iii) Method of sale;
(iv) Location of sale, if different than location of property;
(v) Date and time of sale close;
(vi) Appraisal value;
(vii) Reserve amount, if different than appraised value;

(viii) Reference to the Sale Terms and Conditions; and

(ix) Listing of bidders, addresses and telephone numbers, as well as winning bidder’s bid information.

(c) Once you are notified by the Attorney General, you will—

(1) Notify the high bidder via contract award if the Attorney General determines that the sale does not violate any antitrust laws; or

(2) Notify the high bidder and cancel potential award if the Attorney General determines that the sale violates any antitrust laws.

13. Amend § 102–38.330 introductory paragraph by removing “(MTP)” and adding “(MTA)” in its place, and adding paragraph (c) to read as follows:

§ 102–38.330 Are there any reports that we must submit to the General Services Administration?

* * * * *

(c) Beginning with FY 2010 reports, agencies will be required to report this information using the automated tool at <https://gsa.inl.gov/property>.

14. Revise § 102–38.335 to read as follows:

§ 102–38.335 Is there any additional personal property sales information that we must submit to the General Services Administration?

Yes, all SCs, agencies selling property under a Federal Asset Sales program waiver, and agencies selling property under §§ 102–38.365 and 102–38.370 must report quarterly sales performance measures to the GSA Electronic Federal Asset Sales reporting tool at <https://gsa.inl.gov/efas>. In addition, GSA may require additional sales data and information on an ad-hoc basis.

15. Revise § 102–38.360 to read as follows:

§ 102–38.360 What must an executive agency do to implement the Federal Asset Sales program?

(a) Unless a waiver has been granted, an executive agency must sell its personal property assets through an agency designated by GSA as an SC. To select a sales solution, an executive agency must review the effectiveness of

all sales solutions, and compare them to the effectiveness (e.g., cost, level of service, and value added services) of the SCs. Agencies should give full consideration to sales solutions utilizing private sector entities, including small businesses, that are more effective than the solutions provided by any approved SC. If the agency decides that there are more effective sales solutions than those offered by the SCs, the agency must request a waiver. Waivers will be approved upon presentation of a business case showing that complying with the prescribed requirements is either impracticable or inefficient. Waiver approval will be coordinated with GSA’s Office of Travel, Transportation, and Asset Management. Contact the Personal Property Management Policy Division (MTA) (see address at § 102–38.115(b)) to obtain these procedures and forms.

(b) An approved waiver only relieves the agency of the requirements specified in the waiver request and its approval. Waiver to the Federal Asset Sales program policies will not be permanent. See the definition of a “Sales Center” at § 102–38.35 for an overview of how agency sales solutions become SCs.

(c) An agency which receives a waiver from the Federal Asset Sales process must still comply with Subparts A through G of this part as if it were an SC.

(d) An executive agency must comply with all Federal Asset Sales program processes promulgated by GSA, including those regarding the reporting of pre- and post-sales data.

§ 102–38.370 [Amended]

16. Amend § 102–38.370—

a. In the heading by adding “selected” after “its”; and

b. In the last sentence by removing “in accordance with eFAS ESC-approved format and content.” and adding “using the reporting tool specified in § 102–38.335.” in its place.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 395

[Docket No. FMCSA–2010–0230]

Hours of Service; Limited Exemption for the Distribution of Anhydrous Ammonia in Agricultural Operations

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Proposed exemption; request for public comment.

SUMMARY: FMCSA announces its proposal to grant a 2-year, limited exemption from the Federal hours-of-service 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 exemption would extend the agricultural operations exemption established by section 345 of the National Highway System Designation Act of 1995, as amended, by the sections 4115 and 4130 of the Safe, Accountable, Flexible, Efficient Transportation Equity: A Legacy for Users (SAFETEA-LU) to certain drivers and motor carriers engaged in the distribution of anhydrous ammonia during the planting and harvesting seasons, as defined by the States in which the carriers and drivers operate. The Agency believes that the exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption, based on the terms and conditions imposed. This exemption would preempt inconsistent State and local requirements applicable to interstate commerce.

DATES: Comments must be received on or before August 13, 2010.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA-2010-0230 by any of the following methods

- **Web site:** <http://www.regulations.gov>. Follow the instructions for submitting comments on the Federal electronic docket site.
- **Fax:** 1-202-493-2251.
- **Mail:** Docket Management Facility; U.S. Department of Transportation, Room W-12-140, 1200 New Jersey Avenue, SE., 20590-0001.
- **Hand Delivery:** Ground Floor, Room W12-140, DOT Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal Holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the "Public Participation" heading below. Note that all comments received will be posted without change to <http://www.regulations.gov>, including

any personal information provided. Please see the "Privacy Act" heading below.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> at any time or to the ground floor, room W12-140, DOT Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit <http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf>.

Public Participation: The www.regulations.gov Web site is generally available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the "help" section of the <http://www.regulations.gov> Web site and also at the DOT's <http://docketsinfo.dot.gov> Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

DATES: Comments must be received on or before August 13, 2010.

FOR FURTHER INFORMATION CONTACT:

Thomas L. Yager, Chief, Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590.

E-mail: MCPSD@dot.gov. Phone (202) 366-4325.

SUPPLEMENTARY INFORMATION:

Legal Basis

Section 4007(a) of the Transportation Equity Act for the 21st Century (Pub. L. 105-178, 112 Stat. 107, 401, June 9, 1998) provided the Secretary of Transportation (the Secretary) the authority to grant exemptions from any of the Federal Motor Carrier Safety Regulations (FMCSRs) issued under chapter 313 of title 49 of the United States Code or 49 U.S.C. 31136, to a person(s) seeking regulatory relief (49 U.S.C. 31136, 31315(b)). Prior to granting an exemption, the Secretary must request public comment and make

a determination that the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the exemption. Exemptions may be granted for a period of up to two years and may be renewed.

The FMCSA Administrator has been delegated authority under 49 CFR 1.73(e)(1) and (g) to carry out the functions vested in the Secretary by 49 U.S.C. chapter 313 and subchapters I and III of chapter 311, relating, respectively, to the commercial driver's license program and to commercial motor vehicle (CMV) programs and safety regulation.

Background

On March 22, 2010, FMCSA published a notice in the **Federal Register** announcing a limited 90-day waiver 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 (54 FR 13441). The waiver extended the agricultural operations exemption established by section 345(a) of the National Highway System Designation Act of 1995 (NHS Act) (Pub. L. 104-59, November 28, 1995, 109 Stat. 568, 613, 49 U.S.C. 31136 note, as amended by section 4130, redesignated by section 4115(a)(2) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (Pub. L. 109-59, August 10, 2005, 119 Stat. 1144, 1726) and implemented by 49 CFR 395.1(k) to certain drivers and motor carriers engaged in the distribution of anhydrous ammonia during the 2010 spring planting season.

The FMCSA's notice indicated that the Agency had been contacted by members of Congress concerning the Agency's interpretation of the agricultural exemption provided in section 345(a) of the NHS. Constituents engaged in the transportation of farm supplies—particularly anhydrous ammonia—contacted the members to express concerns that the Agency's interpretation of the agricultural exemption results in the exclusion of certain distribution activities from the regulatory relief intended by Congress.

As amended by section 4130(a) of SAFETEA-LU, the agricultural provision reads as follows:

Transportation of agricultural commodities and farm supplies.—Regulations prescribed by the Secretary under sections 31136 and

31502 regarding maximum driving and on-duty time for drivers used by motor carriers shall not apply during planting and harvest periods, as determined by each State, to drivers transporting agricultural commodities or farm supplies for agricultural purposes in a State if such transportation is limited to an area within a 100 air mile radius from the source of the commodities or the distribution point for the farm supplies (119 Stat. 1743).

In its Notice, the Agency indicated that it has long understood that limited farm storage capacity necessitates a “just in time” delivery system from retail distributors of certain farm supplies to farms (or other locations where the farm supply product will be used) during the busy planting and harvesting seasons. Longstanding FMCSA guidance on its HOS regulations has consistently held that the agricultural operations exemption applies to the transportation of farm supplies from the local farm retailer to the ultimate consumer within a 100 air-mile radius. FMCSA’s interpretation, however, has not extended the HOS exemption to deliveries from wholesalers to either local farm retailers or farms. (See Question 33, 49 CFR 395.1 on the Agency’s Web site: <http://www.fmcsa.dot.gov>.) Question 33 reads as follows:

Question 33: How is “point of origin” defined for the purpose of § 395.1(k)?

Guidance: The term “point of origin” is not used in the NHS Designation Act; the statutory term is “source of the [agricultural] commodities.” The exemption created by the Act applies to two types of transportation. The first type is transportation from the source of the agricultural commodity—where the product is grown or raised—to a location within a 100 air-mile radius of the source. The second type is transportation from a retail distribution point of the farm supply to a location (farm or other location where the farm supply product would be used) within a 100 air-mile radius of the retail distribution point.

The legislative history of the agricultural exemption indicates it was intended to only apply to retail store deliveries. Thus, it is clear Congress intended to limit this exemption to retail distributors of farm supplies.

Second-stage movements, such as grain hauled from an elevator (or sugar beets from a cold storage facility) to a processing plant, are more likely to fall outside the exempt radius. Similarly, the exemption does not apply to a wholesaler’s transportation of an agricultural chemical to a local cooperative because this is not a retail delivery to an ultimate consumer, even if it is within the 100 air-mile radius.

The Agency believes that the exclusive emphasis of its regulatory guidance on deliveries from local retailers to the ultimate farm consumer may not reflect today’s economic reality as it pertains to the transportation of

anhydrous ammonia during planting and harvesting seasons. Like farms, local retailers 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.

Because of storage and time constraints on the demand for the transportation of anhydrous ammonia to support agricultural operations, and the likelihood that such constraints will continue for some time, FMCSA is proposing a two-year, limited exemption to provide regulatory relief for the transportation of anhydrous ammonia during the planting and harvesting seasons, as defined by the States in which the anhydrous ammonia transporters operate. This action would provide limited regulatory relief to facilitate planting activities that will ultimately result in the production of agricultural commodities at prices to which consumers have become accustomed, with no foreseeable degradation of safety.

The exemption would extend the agricultural operations exemption from the Federal HOS regulations to motor carriers in the distribution system, provided that: (1) The driver is delivering anhydrous ammonia; (2) none of the transportation movements within the distribution chain exceeds a 100 air-mile radius—whether from the retail or wholesale distribution point; and (3) the driver is employed by a motor carrier that has a “satisfactory” safety rating or is unrated; drivers for motor carriers with “conditional” or “unsatisfactory” safety ratings are prohibited from taking advantage of the exemption. Therefore, the exemption would allow drivers for motor carriers with a satisfactory safety rating or unrated motor carriers to use the HOS exemption when delivering 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 exemption would take effect on the date of publication of a final decision.

Safety Determination

FMCSA is committed to ensuring high standards of motor carrier safety. 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.

FMCSA compared safety performance data for agricultural carriers currently operating under the statutory HOS exemption provided by the NHS Act, as amended, with non-agricultural carriers that are not exempt from HOS regulations to determine whether the exemption would be likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the exemption. The data were collected as part of a study, “Agricultural Commodity and Utility Carriers Hours of Service Exemption Analysis,” May 2010, FMCSA–RRA–10–448 A copy of the report has been placed in the public docket identified at the beginning of this notice.

The study was conducted in two phases. Phase 1 compares the safety performance of agricultural and non-agricultural carriers for the period 2005 through 2008, and also examines two additional industries, livestock and utility carriers, whose operations were not exempt from HOS regulations prior to the passage of SAFETEA–LU.¹ The Phase 1 analysis used carrier registration, inspection and crash data from FMCSA’s Motor Carrier Management Information System (MCMIS). The study used cargo classification information on the FMCSA Motor Carrier Identification Report (Form MCS–150) in MCMIS to identify the carrier’s industry group (agricultural, livestock, or utility carrier), and used MCS–150 information to identify carriers operating within and beyond a 100-air-mile radius. The operating radius information was used to create two agricultural carrier subgroups: (1) Agricultural carriers with 100 percent of drivers operating within a 100-air-mile radius; and (2) agricultural carriers with 100 percent of drivers operating beyond a 100-air-mile radius. The analysis used the first subgroup as representative of agricultural carriers exempt from the HOS requirements, and the second subgroup as representative of agricultural carriers not exempt from the HOS requirements.

For the Phase 2 analysis, inspection data of agricultural commodity and utility carriers (which are also exempt from HOS regulations) was collected during an FMCSA special study of a sample of States. These data included only those inspections occurring during the States’ planting and harvesting seasons and indicated both the commodity being transported and

¹ Section 4130(a).

whether the driver was operating within or beyond the 100-air-mile radius exempt from HOS regulations. The Phase 2 analysis assessed the safety performance of the HOS exempt agricultural commodity and utility service carriers identified in the survey in comparison with non-HOS-exempt carriers based on their out of service (OOS) violation rates and crash rates.

The Agency did not place as much of an emphasis on the OOS rates because there were no HOS violation data to consider, given that the agricultural carriers for which data were available were operating under a statutory exemption from the HOS rule. Differences between the OOS rates for other issues such as driver qualifications and vehicle defects and deficiencies, while important in considering overall safety management controls of the carriers, were not necessarily related to the potential safety impact of the exemption.

The Phase 1 analysis indicates that nationally, agricultural carriers operating within a 100-air-mile radius had lower crash rates per 100 power units than those operating beyond this radius, except for in 2008, when there was no difference in the crash rates.

To provide additional validation of the crash analysis, which uses power unit data reported on the Form MCS-150, a separate analysis was performed using data only for carriers domiciled in States participating in the Performance and Registration Information Systems Management (PRISM) program that enforces MCS-150 updating.² PRISM links State motor vehicle registration systems with carrier safety data in order to identify unsafe commercial motor carriers. The PRISM State carriers are required to update their MCS-150 annually. By contrast, non-PRISM State carriers are required by FMCSA to update their MCS-150 biennially. As a result, the PRISM State data are considered more current and reliable than non-PRISM State data where there are no direct consequences for not updating the data. Data from PRISM States that enforce MCS-150 updating show that agricultural carriers operating within a 100-air-mile radius had more varied results, with crash rates higher than carriers operating beyond a 100-air-mile radius in 2008, lower in 2006 and 2007, and nearly the same in 2005.

The Phase 2 analysis indicates that in the four States participating in the survey (Idaho, Kansas, Maryland, Michigan), agricultural carriers that were subject to the HOS requirements had higher crash rates per 100 power units than agricultural carriers exempt from the HOS requirements.

In addition to the study, the Agency considered information from the Pipeline and Hazardous Materials Safety Administration's (PHMSA) Hazardous Materials Incident Reporting Systems and from FMCSA field offices concerning the safety performance of anhydrous ammonia transporters during the limited 90-day waiver mentioned above. With respect to information from PHMSA, the Agency received information about five anhydrous ammonia incidents. Only one of the five involved a crash and that crash involved a driver who had been on duty only two hours after having two consecutive days off duty. Copies of all five incident reports are included in the docket referenced at the beginning of this notice.

With regard to information from FMCSA's field offices, the Agency did not receive any information about accidents, as defined in 49 CFR 390.5, involving motor carriers transporting anhydrous ammonia using drivers operating under the limited 90-day waiver. The Agency acknowledges that there is a gap between the date that a crash occurs and the date the States would typically submit crash reports. However, because FMCSA sought information through its field offices rather than relying solely on routine crash reporting by State enforcement agencies, it is unlikely that there have been any crashes resulting in fatalities or injuries, involving a driver operating under the limited 90-day waiver. The Agency requests comments from all interested parties that may have information concerning any crashes involving drivers operating under the limited 90-day waiver.

In the absence of any data or information to the contrary, the Agency believes the real-world experience of anhydrous ammonia transporters during the 90-day limited waiver suggests that the level of safety under an exemption would be equivalent to, or greater than, the level that would be achieved absent such exemption.

FMCSA Proposal

In light of the information described above, FMCSA is proposing a two-year limited exemption from the Federal HOS regulations for interstate motor carriers engaged in the distribution of anhydrous ammonia during the planting

and harvesting seasons as defined by the States. A review of the available crash data comparing exempt and non-exempt motor carriers, and a review of crash data from anhydrous ammonia transporters operating during the limited 90-day waiver provide a reasonable basis to believe that a limited exemption would achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption, based on the terms and conditions that would be imposed.

Proposed Terms and Conditions of the Exemption

The FMCSA would provide a two-year, limited exemption from the requirements of 49 CFR part 395 concerning the HOS requirements for drivers of property-carrying vehicles engaged in the distribution of anhydrous ammonia during the relevant planting and harvesting seasons. This limited exemption would extend the agricultural operations exemption from the Federal HOS regulations to drivers used by motor carriers in the distribution system, provided that: (1) The driver is delivering anhydrous ammonia; (2) none of the transportation movements within the distribution chain exceeds a 100 air-mile radius—whether from the retail or wholesale distribution point; and (3) the motor carrier using the driver has a “satisfactory” safety rating or is “unrated;” drivers for motor carriers with “conditional” or “unsatisfactory” safety ratings are prohibited from taking advantage of the exemption.

The exemption would allow drivers for “unrated” motor carriers and those with a satisfactory safety rating to use the HOS exemption when the drivers are delivering 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.

Safety Rating

Motor carriers that have received compliance reviews and want their drivers to be exempt from the HOS regulations are required to have a “satisfactory” rating. The compliance review is an on-site examination of a motor carrier's operations, including records on drivers' hours of service, maintenance and inspection, driver qualification, commercial driver's license requirements, financial responsibility, accidents, hazardous materials, and other safety and

² Current PRISM States that enforce the MCS-150 updating requirement are Alabama, Arizona, Arkansas, Connecticut, Georgia, Iowa, Kentucky, Louisiana, Maine, Minnesota, Missouri, Nebraska, New Hampshire, New Mexico, North Carolina, Ohio, South Carolina, South Dakota, Tennessee, Utah, Vermont, Washington, and West Virginia.

transportation records to determine whether a motor carrier meets the safety fitness standard. The assignment of a "satisfactory" rating means the motor carrier has in place adequate safety management controls to comply with the Federal safety regulations, and that the safety management controls are appropriate for the size and type of operation of the motor carrier.

FMCSA would also allow drivers for "unrated" carriers to take advantage of the exemption. Unrated motor carriers are those that have not received a compliance review. FMCSA is allowing drivers for unrated motor carriers to participate because it would be unfair to exclude them simply because these carriers were not selected by the Agency for a compliance review. The absence of a compliance review is in no way an indication that the carrier has done anything wrong or has safety problems.

The Agency would not allow drivers for motor carriers with conditional or unsatisfactory ratings to participate because both of those ratings indicate that the carrier has safety management control problems. There is little reason to believe that carriers rated either unsatisfactory or conditional could be relied upon to comply with the terms and conditions of the exemption.

Accident and Hazardous Materials Reporting Requirement

Within 10 business days following an accident (as defined in 49 CFR 390.5) or any unintentional discharge of anhydrous ammonia that requires the submission of the Department of Transportation Hazardous Materials Incident Report (DOT Form F 5800.1) (see 49 CFR 171.16) involving any of the

CMVs operated by a motor carrier whose drivers are using the exemption, irrespective of whether the CMV involved in the accident or discharge was being operated by a driver using the exemption, the motor carrier must submit the following information:

- (a) Date of the accident;
- (b) City or town in which the accident occurred, or city or town closest to the scene of the accident;
- (c) Driver's name and license number;
- (d) Vehicle number and State license number;
- (e) Number of injuries;
- (f) Number of fatalities;
- (g) Whether hazardous materials, other than fuel spilled from the fuel tanks of the motor vehicles involved in the accident, were released;
- (h) The police-reported cause of the accident;
- (i) Whether the driver was cited for violating any traffic laws, motor carrier safety regulations, or hazardous materials discharge; and
- (j) Whether the driver was operating under the exemption, and if so, an estimate of the total driving time, on-duty time for the day of the accident and each of the seven calendar days prior to the accident.

Duration of the Exemption

The exemption would be effective upon publication in the **Federal Register** and would be valid for up to two years unless revoked earlier by FMCSA. The exemption may be renewed by the Agency; the Agency would provide notice and an opportunity for public comment prior to renewing the exemption. The exemption would preempt inconsistent State or

local requirements applicable to interstate commerce.

Safety Oversight of Carriers Operating Under the Exemption

FMCSA expects that any drivers and their employing motor carrier operating under the terms and conditions of the exemption will maintain their safety record. Should any deterioration occur, however, FMCSA would, consistent with the statutory requirements of TEA-21, take all steps necessary to protect the public interest. Use of the exemption would be voluntary, and FMCSA will immediately revoke the exemption for any interstate driver or motor carrier for failure to comply with the terms and conditions exemption.

Request for Comments

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comment on the proposed exemption from the HOS requirements of 49 CFR part 395 for drivers and their employing motor carriers transporting anhydrous ammonia. The Agency will consider all comments received by close of business on August 13, 2010. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will consider to the extent practicable comments received in the public docket after the closing date of the comment period.

Issued on: July 8, 2010.

Anne S. Ferro,
Administrator.

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