

Agricultural Hours-of-Service Exemption

The current federal interpretation of the agricultural hours-of-service (HOS) exemption impedes the movement of wholesale farm supply inputs and is a major concern for Cooperative Network members. In effect, this interpretation disrupts the logistics of farm supply input deliveries—resulting in the inability to meet farmer demand at times—and increased prices for agricultural inputs.

On October 7, 2010, wholesale transporters of anhydrous ammonia gained favorable treatment for their deliveries as a result of a two-year HOS waiver issued by the U.S. Department of Transportation. The waiver applies to all movements of anhydrous ammonia used for agricultural purposes; only applies to carriers with a "satisfactory" rating or an unrated carrier; applies only to movements 100 air-miles or less from the point of distribution; and is effective only from March 15 through December 15. The department will continuously monitor industry performance and determine whether it is appropriate to keep the waiver in place.

Cooperative Network has worked hard to seek a long-term solution to this challenge and believes a strategy that balances the safety concerns of drivers working longer hours with the ability to meet producer demand during the planting and harvest seasons can be achieved. Cooperative Network's activities on this issue include:

- Advocating for a 2007 Gubernatorial Emergency Executive Order and meeting with the governor's staff to request an exemption in 2007, 2008, and 2009.
- Introducing legislation that would clarify that state rules adopting 49 CFR 395.1 (k) which applies to the retail and wholesale intrastate movement of farm supplies used exclusively for agricultural purposes during the state's planting and harvest seasons.
- Assisting Minnesota State Rep. Al Juhnke, chairman of the Committee on Agricultural, Rural Economies and Veterans Affairs Finance Division, with the submission of a letter of interpretation request to U.S. Secretary of Transportation Mary Peters.
- Meeting with Congressman Oberstar's Transportation and Infrastructure Committee staff in Washington, D.C. in an effort to clarify the intent of the agricultural operations exemption, regarding wholesale transporters of farm inputs.

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Hours-of-Service background information

Congress excluded deliveries of farm supplies from their point of distribution to farms within 100 miles during a state's defined planting season. The need for this exemption was apparent for several reasons, but most importantly, that a tremendous amount of agricultural field work occurs in a very short period of time and broad application of the hours-of-service for these types of operations was not practical or realistic.

The strict application of the hours-of-service provisions to retail farm supply deliveries is unrealistic for many reasons. First, farmers are not unlimited in the amount of time they spend in the field. Second, weather dictates when field activities occur and farmers must operate within these windows to maximize their yields. Third, the amount of manpower and equipment necessary to meet peak demand without an hours-of-service exemption would drastically increase input costs. Finally, planning driver work schedules is very difficult, since it is weather conditions that determine when deliveries go out.

These same uncertainties exist for retail and wholesale motor carrier operators. Unfortunately, the regulators' interpretation of the hours-of-service regulations do not recognize this, and wholesale transporters of farm supplies are subject to the same hours-of-service requirements as long-haul drivers who have a much greater ability to plan for their businesses' peak demand.

Questions about this issue can be directed to Amy Fredregill, vice president for Minnesota operations, at (651) 228-0214 or amy.fredregill@cooperativenetwork.

Cooperative Network works on hours-of-service

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- Organizing a policy resolution sign-on campaign for local cooperative boards urging members of Congress to clarify the intent of the agricultural operations exemption as it applies to wholesale transporters of farm supplies.

- Researching how regulators in other states are implementing the current agriculture operations exemption. Some states have determined that the intent of the exemption

includes wholesale movements of farm supplies and do not enforce the federal interpretation.

- Discussing potential strategies with the Minnesota Department of Agriculture, Minnesota Department of Transportation, and the Minnesota State Patrol, including expanding the state hours-of-service tolerance limits and the potential for wholesale transporter hours-of-service pilot projects as alternatives to petitioning the gov-

ernor for an emergency declaration.

- Continuing efforts to work with the National Council of Farmer Cooperatives to seek a federal solution that is based on the original intent of the agricultural operations exemption that includes wholesale movements of farm supplies.

- Advocating successfully for a 90-day and then a two-year hours-of-service waiver for anhydrous ammonia movement issued by the U.S. Department of Transportation.

STATE of MINNESOTA



TIM PAWLENTY
GOVERNOR

EMERGENCY EXECUTIVE ORDER 09-11

PROVIDING FOR EMERGENCY RELIEF FROM REGULATIONS TO MOTOR CARRIERS OPERATING IN MINNESOTA

I, TIM PAWLENTY, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and Minnesota Statutes 2009, Section 221.0269, do hereby issue this Emergency Executive Order:

WHEREAS, unseasonable weather conditions this year have resulted in significant harvest delays; and

WHEREAS, it has been reported the percentage of crops harvested in Minnesota is well below the five-year average for the same period of time, including a significant delay in the soybean and corn harvests; and

WHEREAS, this year's unseasonable cool and damp weather has also significantly affected the condition of Minnesota's soybean and corn crops, with in-field moisture ranges substantially higher than average, thereby resulting in the need for a substantial amount of propane for drying crops; and

WHEREAS, Minnesota is also experiencing severe supply disruptions in the supply of propane, with waiting times for each transport load of propane increasing, thereby threatening the ability of farmers to meet their grain-drying needs; and

WHEREAS, without relief, farmers may not be able to obtain needed supplies of propane to complete the harvest and storage process; and



Cooperative Network has worked hard to seek a long-term solution to the hours-of-service challenge and believes a strategy that balances the safety concerns of drivers working longer hours with the ability to meet producer demand during the planting and harvest seasons can be achieved.

**Cooperative
Network**

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