

## Joint Poultry Industry Safety & Health Council



March 26, 2012

Via U.S. mail

Administrator Anne S. Ferro  
Federal Motor Carrier Safety Administration  
1200 New Jersey Avenue, SE  
Washington, DC 20590

Dear Administrator Ferro:

On February 22, 2012, the American Trucking Associations (ATA) submitted a petition to the Federal Motor Carrier Safety Administration (FMCSA), asking the agency to amend its definition of a tank vehicle laid out in 49 CFR 383.5. The National Turkey Federation, the National Chicken Council, and the U. S. Poultry & Egg Association are non-profit trade associations representing the producers and processors of chickens, turkeys, other poultry, eggs and affiliated industry suppliers. Our association members are committed to operating safe trucking operations. While most of our trucking operations do not involve tank vehicles, the poultry & egg industry may be affected by the definition of a tank vehicle when transporting small portable compressed gas cylinders or utilizing intermediate bulk containers (IBCs) on flatbed trailers or in box van trailers. Therefore, pursuant to 49 CFR 389.31, our associations submit this petition asking that FMCSA adopt the definition suggested by ATA, reprinted below:

Tank vehicle means any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank having an individual rated capacity of more than 1,000 gallons that is either permanently or temporarily attached to the vehicle or the chassis; or tanks having an individual rated capacity of more than 119 gallons and an aggregate rated capacity of 1,000 gallons or more that are permanently attached to the vehicle or the chassis. A commercial motor vehicle transporting portable tanks that are manifested as either empty or as residue on a bill of lading or transporting an empty storage container tank, not designed for transportation and with a rated capacity of 1,000 gallons or more, that is temporarily attached to a flatbed trailer are not considered to be tank vehicles.

ATA's petition outlined the procedural, safety-related, and enforcement-related reasons why the definition FMCSA adopted in its May, 2011 final rule is too expansive, encompassing many vehicles that are not tank vehicles, and why its implementation has created chaos in interstate shipping. In addition to the reasons outlined in ATA's petition, the poultry & egg industry will also experience administrative and economic hardship without any corresponding benefits to highway safety. Requiring many of our drivers to hold a tank endorsement which requires passing a test on the hazards and conditions which result from hauling liquids or gases in equipment they will never be asked to drive.

Our associations urge FMCSA to adopt the definition of a tank vehicle suggested in ATA's February petition. That definition would clarify that any tank with a capacity over 1,000 gallons requires a tank endorsement while only vehicles operating with permanently attached tanks greater than 119 gallons individual rated capacity and with an aggregate capacity of over 1,000 gallons would require one. Permanently attached tanks are those that are a part of the truck and merely serve to move liquid or gas. A permanent tank is one where there is a reasonable expectation that when unloading the cargo will be discharged from the tank rather than the tank itself being offloaded. Shipments of portable tanks with a capacity under 1,000 gallons, regardless of whether their total capacity exceeds 1,000 gallons, should not trigger the need for a tank endorsement. Vehicles transporting portable tanks that are manifested as being empty or containing only residue should similarly not be considered tank vehicles.

The poultry & egg industry takes great care in operating and in contracting with the safest fleets to transport our goods. We believe that safe fleets are the best for moving our goods not just because of the inherent good in rewarding responsible safety actors, but also because we understand that safe fleets are reliable fleets. There is no safety rationale to punish these safe operators by requiring their drivers to obtain an extraneous endorsement on their Commercial Driver's Licenses when moving these shipments, which are patently not tank vehicle shipments. We ask that the agency grant both ATA's petition and this one by adopting the above suggested definition for a tank vehicle. Should you wish to discuss this matter in greater detail, please contact Paul Pressley of the U.S. Poultry & Egg Association at 678-514-1972, Ashley Peterson, PhD of the National Chicken Council at 202-296-2622, or Andrew Bailey of the National Turkey Federation at 202-898-0100.

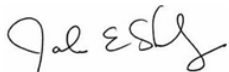
Sincerely,



Joel Brandenberger  
President  
National Turkey Federation



Mike Brown  
President  
National Chicken Council



John Starkey  
President  
U.S. Poultry & Egg Association