

Update the Anhydrous Ammonia Act



Background

Anhydrous Ammonia is an efficient and economical source of nitrogen fertilizer used primarily in eastern Colorado. Anhydrous ammonia is a compressed gas that is applied beneath the surface of the ground and immediately binds with the soil and provides nutrients for a growing season.

Anhydrous ammonia is a strong alkali and will cause severe burns to the eyes, skin and respiratory tract. It can cause death or severe injury to body tissue due to its caustic, corrosive, freezing and dehydrating action. To avoid such injuries, the Colorado State Legislature assigned the responsibility of inspecting the anhydrous ammonia containers and

application equipment to the Department of Agriculture. The Department annually inspects anhydrous ammonia storage facilities and application tanks for compliance with safety requirements.

Due to the volatility of anhydrous ammonia and its increasing popularity among illegal drug manufacturers, many suppliers are discontinuing the sale of this valuable fertilizer product. This has resulted in the sale of anhydrous ammonia tanks and equipment to private individuals, who are continuing to use the equipment for anhydrous ammonia application. Many of these tanks are used by private individuals that are not registered with the Department and therefore are not being inspected for safety.

Proposal Summary

The proposed amendment will require all tanks, regardless of capacity, to be registered with the Department before the tank can be filled or used for the transportation and application of anhydrous ammonia. This will allow the Department to locate the tanks and conduct safety inspections. The proposal would also allow the Commissioner to set registration renewal dates in rule, and the Department would be authorized to take immediate regulatory action on tanks found to have serious safety violations. Updates to the enforcement provisions in the law to comply with the Administrative Procedures Act are also included in this proposal.

All anhydrous ammonia storage facilities and application tanks are currently required to be registered with the Department. The Department conducts annual inspections on the registered tanks. However, the mandatory inspection of containers before they can be sold or filled is limited to those with a capacity of less than 500 gallons, although most of the containers used to apply, transfer and store anhydrous ammonia have a capacity of greater than 500 gallons. Since anhydrous tanks are now being sold to private individuals, the Department is concerned that many unregistered and uninspected tanks are in use.

Additionally, the enforcement provisions currently restrict the Department from taking action at the time of inspection on tanks with safety violations. Currently, if the Department's discovers a safety violation, the owner is notified of the violation, and after a reasonable time, the Department is required to do a return inspection to verify the violation has been corrected. The Department is concerned that the unsafe equipment could continue to be used before the repairs are made.