



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Administrator

August 17, 2011

DEPARTMENT OF
TRANSPORTATION
1200 New Jersey Avenue, SE
Washington, DC 20590

2011 AUG 19 P 4:42

The Honorable Ron Kind
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Kind:

Thank you for your letter of August 1 concerning the Federal Motor Carrier Safety Administration's (FMCSA) request for public input on the applicability of regulations for operators transporting certain agricultural products and supplies. I want to assure you that the FMCSA is not proposing any new safety requirements or rule changes for the agricultural community. We simply wanted to ask farm organizations, farmers, and the public for feedback on the Agency's long-standing interpretations of existing rules, and to make sure States consistently follow the common sense exemptions that allow farmers, their employees, and their families to accomplish their day-to-day work on the farm without interference.

We are very sensitive to the critical role that agriculture plays in our economy. Earlier this year, farm groups alerted FMCSA that certain States were no longer consistently allowing exemptions to Commercial Drivers License (CDL) requirements for certain farm operations using "crop share" leasing. Follow-up conversations revealed that some States were misinterpreting several other areas of FMCSA guidance, such as the definitions of interstate commerce and "implements of husbandry."

We discovered that there appeared to be wide differences among States in how the Agency's guidance on "for-hire" and related agricultural exceptions were being applied. That's why the Agency asked that States stand down on using FMCSA's preliminary guidance and issued the public notice. The comment period ended August 1, and about 1,700 comments were received from the farming community and members of Congress - the vast majority asking that we preserve the guidance that leaves States to carry out the farm exceptions as they have for many years. The FMCSA is pleased with the input and wants to make it clear, through guidance issued on August 10 and published in the Federal Register on August 15 (76 FR 50433), that no new regulations will be imposed on the farming community. The guidance was based on the input received, and clarifies States' authority and oversight of agricultural exceptions from Federal motor carrier safety rules to the States. A copy of the guidance and media advisory are enclosed for your reference.

Again, thank you for sharing your concerns about FMCSA's recent public notice. I have added your letter and my response to the public docket (number FMCSA-2011-0146). Should you or members of your staff need additional information or assistance, please contact Curtis L. Johnson, Associate Director for Governmental Affairs, at (202) 366-1927 or by e-mail at curtis.johnson@dot.gov.

Sincerely,

Anne S. Ferro

Enclosures

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AND OCEANS

August 1, 2011

Anne S. Ferro
Administrator
Federal Motor Carrier Safety Administration
1200 New Jersey Ave SE
Washington, D.C. 20590

RE: FMCSA-2011-0146

Dear Administrator Ferro,

The Federal Motor Carrier Safety Administration (FMCSA) recently asked for public comment on three issues related to regulations for operators of farm vehicles and off-road agricultural equipment. I am particularly concerned that the proposed rules and interpretations will needlessly and adversely impact farmers throughout Wisconsin.

In its interpretation of "interstate commerce," the FMCSA asserts that even a small amount of grain received by a grain elevator should be treated as interstate commerce if there is a potential for any grain to be shipped out of state from that grain elevator. This overly broad interpretation is in direct contradiction with the longstanding use of "fixed and persistent intent" of the shipper to distinguish between interstate and intrastate commerce. In practice, a farmer delivering a grain would often have no idea what percentage, if any, would actually be sold out-of-state and can reasonably have a fixed and persistent intent to engage in intrastate commerce.

If the proposed guidance were to be implemented, many Wisconsin farmers could be forced to acquire a Commercial Drivers License—a costly, time-consuming process that increases the cost of doing business without any evidence that current rules and regulations are insufficient in addressing public safety. On January 18, 2011, President Obama issued Executive Order 13563, which requires federal agencies to design cost-effective, evidence-based regulations. It appears that these proposed regulations fail to meet that standard.

Thank you for your attention to this issue.

Sincerely,



Ron Kind
Member of Congress

RK:kw

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