ATTORNEY GENERAL
STATE OF MONTANA

Steve Bullock
Attorney General

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August 1, 2011

Ms. Anne Ferro, Administrator
Federal Motor Carrier Safety Administration
US Department of Transportation
1200 New Jersey Ave. SE
Washington, DC 20590

RE: Federal Motor Carrier Safety Administration Regulations to Operators of Certain Farm Vehicles and Off-Road Agricultural Machinery, **FMCSA-2011-0146**

Dear Administrator Ferro:

As the attorney general of a largely rural state whose economic engine is driven by agriculture, I am pleased to offer my comments on the Applicability of the FMCSA Regulations to Operators of Certain Farm Vehicles and Off-Road Agricultural Machinery.

I certainly appreciate that one of FMCSA's main goals is safety. In addition to my other duties, in Montana the attorney general is responsible for overseeing the Motor Vehicle Division and the Montana Highway Patrol. I take roadway and roadside safety very seriously. In that regard, I believe your organization and my office share a common goal in assuring the safety of travelers on our roads.

I also appreciate the desire to clarify certain areas where inconsistent application may exist. There may be issues arising in expanding urban areas or in operations sitting at or near a state border. However, this is not a case where one size fits all. Montana is a state of 145,000 square miles and a population density of six people per square mile. Broad regulations that would have the effect of undermining our farm vehicle exemption would negatively affect Montana's farms and ranches, the top sector of my state's economy.

Because of that, jurisdiction over motor vehicles controlled and operated by Montana farmers or ranchers is best left to the State of Montana. The historical exemption we have enjoyed has benefitted Montana farmers and ranchers and our economy, and that exemption or something very similar needs to stay intact. With volatile market forces, ever-rising input costs and the unpredictability of extreme weather, Montana's and our nation's farmers and ranchers have enough to worry about without the responsibilities attached to holding a commercial driver's license.

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I acknowledge that many Montana-grown commodities are destined to move across our state's borders before reaching their final markets. However, oftentimes the farmer delivers only to another in-state point of delivery, like a grain elevator. The commodity is then shipped further by rail. While the costs of that shipping service are ultimately passed down to the farmer, the rail carrier is an entity entirely separate from the farmer. While the commodity may ultimately be shipped interstate or even internationally, I am hard-pressed to understand why a farmer would be required to take on the burden of a broad interpretation that assumes he is operating a Commercial Motor Vehicle, even where the actual vehicle he is operating never leaves his home state. In Montana, the current 150-mile perimeter limitation for vehicles operated by farmers and ranchers is workable—an expansive interpretation of what constitutes interstate commerce as applied to the local operation of farm vehicles whose products may or may not enter out-of-state and global markets is not.

I would also disagree with any consideration that would create an extra burden for farmers who lease under a crop share agreement by considering them commercial carriers. This is especially the case given that, in Montana, becoming a leasing farmer and utilizing a crop share agreement may offer one of precious few opportunities for financially strapped younger farmers to develop their own farming business.

Farmers and ranchers and their employees drive tractors, combines and pick-ups with trailers on Montana's public roads every single day. As a practical matter, most distances they drive are relatively short, yet clearly necessary. 'Implements of husbandry' may not have a single, uniform definition amongst the states, but I do not believe that common farm machinery should be classified as a Commercial Motor Vehicle. Nor should owners and operators be required to obtain Commercial Drivers' Licenses and abide by the resulting responsibilities.

As I stated earlier in this letter, I appreciate FMCSA's intent in wanting to clarify regulations and seek comment to allow for as consistent an application of the regulations as possible. However, where conflicts in this area may exist between the federal regulations and state laws, I sincerely hope that state laws will be allowed continued deference.

Thank you for your consideration of these concerns.

Sincerely,

STEVE BULLOCK
Attorney General

SB:sj

c: Governor Brian Schweitzer
Senator Max Baucus
Senator Jon Tester
Representative Dennis Rehberg