United States Senate
WASHINGTON, DC 20510

August 1, 2011

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

RE: FMCSA-2011-0146

Dear Administrator Ferro,

We write today to express our concerns regarding proposals contained in the Federal Motor Carrier Safety Administration (FMCSA) notice of public comment on: "Regulatory Guidance: Applicability of the Federal Motor Carrier Safety Regulations to Operators of Certain Farm Vehicles and Off-Road Agricultural Equipment" [Docket No. FMCSA-2011-0146]. We appreciate the extension of the public comment period from June 30, 2011 to August 1, 2011, which allows additional time for those potentially negatively impacted by the proposed rule changes to voice their opinions.

Farming can certainly be a dangerous occupation and we strongly agree that safe transportation of agricultural equipment on roads and highways is of utmost concern. However, it is our collective opinion that the FMCSA proposed rule changes would provide no quantifiable benefit; but only serve to excessively and unnecessarily overburden U.S. agriculture producers who are already strained by cumbersome federal regulations.

We are addressing our concerns for each of the following issues the FMCSA is focusing on in this proposed rule:

How does one distinguish between intra- and interstate commerce when a commercial motor vehicle (CMV) is operated within the boundaries of a single state?

The 1975 U.S. Department of Transportation Federal Highway Safety Administration guidance for enforcement agencies provides that agricultural products should be considered interstate commerce because farmers intend for their crops to be sold out of state.

When marketing grain or livestock at local facilities or livestock barns, farmers do not necessarily intend for their crops or livestock to be sold out of state. Farmers and ranchers generally market their products at the closest market that offers the best prices. Often this is the local elevator or livestock auction barn, where the farmer or rancher relinquishes ownership and control of their crops and livestock. The incorrect assumption that these crops or animals will eventually be sold or processed in another state does not mean anyone could reasonably assume

that farmers and ranchers are therefore engaged in interstate commerce. For example, most livestock operations purchase large amounts of locally grown feed grain and other agricultural products from local grain handling facilities. We suggest the FMCSA should rescind current guidelines which lead enforcement officials and motor carriers to broadly define movement of agricultural products as interstate commerce.

Should the Agency distinguish between indirect and direct compensation (crop-share vs. cash rent leases) in deciding whether a farm vehicle driver is eligible for the exception to the commercial drivers license in 49 CFR 383.3(d)(1)?

FMCSA is not interpreting crop share agreements correctly. Crop-share is simply another means of paying rent on agricultural land. Rather than paying cash for the rent, the landlord, under a share-lease agreement is entitled to a portion of the crop. Under these lease agreements, the tenant generally delivers the landlord's share of the grain to wherever the landlord wants it. Delivery of the crop-share is considered as part of the tenant's labor and machine work that is required to grow, harvest, and market crops, and does not define the farmer as a "for-hire" commercial carrier.

Should implements of husbandry and other farm equipment be considered CMVs?

The Commercial Motor Vehicle Safety Act of 1986 established minimum national standards for commercial driver's licenses, in an attempt to improve highway and transportation safety. The Act provides states the authority to waive the Commercial Driver's License (CDL) requirements for agriculture producers who operate farm equipment on public roads for short-distance trips. Agriculture is a critically important and economically significant industry for our states and this nation, and this exemption is extremely crucial for those involved in agriculture production.

Implements of husbandry and other farm equipment should not be considered CMVs as they are not operated in interstate commerce and do not carry passengers. Farm machinery, under a blanket rule, should not be classified as CMVs and farm machinery owners and operators should not be required to acquire CDLs. A single federal standard for classifying farm machinery as CMVs is unworkable. If technical differences exist between federal and state laws and regulations, state laws should be the governing authority.

While we agree road safety should be a top priority, we believe new regulations would amount to yet another government overreach and would have negative consequences on the food production industry. If this proposal were to become effective all farmers, ranchers, and producers would be determined commercial drivers, requiring them to acquire additional documentation, maintain health records, logs of their travel, and restrict the age of those permitted to drive farm equipment.

At a time when many individuals and small business are facing economic uncertainty and unemployment remains high, we cannot afford to place additional burdens on our nation's producers of high quality, safe, and nutritious food.

We ask you to respectfully reconsider our recommendations set forth in this letter regarding the proposed rule.

Sincerely,

Susan Collins

Herb Conrad