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Pennsylvania Farm Bureau

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January 14, 2010

Allen Biehler, Secretary
Pennsylvania Department of Transportation
8th Floor, Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120-0041

RECEIVED
2010 JAN 19 AM 9:42
INDEPENDENT REGULATORY
REVIEW COMMISSION

**RE: Proposed Rulemaking on Intrastate Motor Carrier Safety Requirements,
Published at 39 Pa.B. 999 (*Pennsylvania Bulletin* issue of February 21, 2009) -
Draft Preamble to Submission of Final Form Version**

Dear Secretary Biehler:

Pennsylvania Farm Bureau, one of the commenters to the aforementioned proposed rulemaking, would like to express our strong objection to the representation of our comments made by the Department in the draft Preamble that accompanied the Department's notice of final-form regulation. That representation, contained in page 4 of the draft Preamble, states that Pennsylvania Farm Bureau "acknowledged . . . that the impact of the rulemaking on the farming community will not be significant." (Emphasis added)

The apparent basis for the conclusion reached by the Department was a statement made in an attachment to our comments document, which expressed an opinion on the effects of just one of the numerous regulatory areas that are being changed for farmers through this rulemaking.

I have enclosed a copy of our main comments document. Anyone who had carefully and sensibly read this document in its proper context could not have reasonably concluded that Pennsylvania Farm Bureau is suggesting the package of regulatory changes being proposed in this rulemaking would not have a significant impact upon agricultural transportation. Notwithstanding our recognition that the Department's proposed rulemaking is being precipitated by federal mandate, the obvious message that the Department should have been gleaned from our comments is that the rulemaking's proposed regulatory changes will be significant and serious impediment to local agricultural transportation and the welfare of Pennsylvania's farm operations.

We hope that you will set the record straight and submit a revised Preamble to the notice of final-form regulation that corrects the erroneous representation of Farm Bureau's comments discussed above.

Sincerely,

John J. Bell
Governmental Affairs Counsel

Enclosure

cc: Matthew Haeckler, Esquire

Daryl St. Clair

~~James Smith, MHC (w/encl)~~

Hon. John Rafferty (w/encl)

Hon. Barry Stout (w/encl)

Hon. Joseph Markosek (w/encl)

Hon. Richard Geist (w/encl)

S:\jbb\Proposed State Regs\Amts to Intrastate MC Regs-Letter of 14Jan2010 in Response to Draft Preamble to Final Form.doc

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Pennsylvania Farm Bureau

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March 23, 2009

RECEIVED
2009 JAN 19 AM 9:12
INDEPENDENT REGULATORY
REVIEW COMMISSION

Mr. Daryl R. St. Clair
Bureau of Maintenance and Operations
Pennsylvania Department of Transportation
400 North Street, 6th Floor
Commonwealth Keystone Building
Harrisburg, PA 17120

**RE: Proposed Rulemaking on Intrastate Motor Carrier Safety Requirements,
Published at 39 Pa.B. 999 (*Pennsylvania Bulletin* issue of February 21, 2009)**

VIA EMAIL TRANSMISSION (@ dstclair@state.pa.us)

Dear Mr. St. Clair:

Pennsylvania Farm Bureau appreciates the opportunity to comment on the aforementioned proposed rulemaking. Farm Bureau is the largest general farm organization in the Commonwealth with a membership of more than 44,300 farm and rural families.

The intended objective and effect of the proposed rulemaking is clearly to extend the applicable requirements imposed under federal regulations upon "commercial motor vehicles" and drivers to intrastate transportation of vehicles over 17,000 pounds. As you know, the current provisions of Chapter 231 governing intrastate transportation provide a blanket exemption from regulation to vehicles and drivers of vehicles that are exempt from registration as implements of husbandry and as farm vehicles. Chapter 231 also exempts drivers of registered farm vehicles operated intrastate (other than vehicles carrying hazardous materials in quantities that require the vehicle to be placarded) from regulatory requirements of hours of service, medical certification, pre-employment testing and other requirements imposed on drivers of "commercial motor vehicles" under Subchapters B and E.

The proposed rulemaking will essentially eliminate all of the exemptions currently provided to transportation performed as part of farming operations. If a vehicle or combination is greater than 17,000 pounds, the driver and vehicle would be subject to the standards for drivers and vehicles imposed under the federal regulations. And the farmer could be subject to recordkeeping and other requirements imposed under the federal regulations upon "motor carriers" and employers" of drivers. The potential for farmers, employees and agricultural vehicles to become substantially regulated under the proposed changes would exist, regardless of whether the vehicle being operated would be a truck, a truck tractor, motorized agricultural equipment or a farm tractor that is pulling a farm trailer.

The federal motor carrier safety regulations do provide for some limited “exemptions” from driver and from employer requirements. Most often, these “exemptions” are specific in nature to particular situations or types of vehicle operation. The “exemptions” themselves place obligations and requirements upon the driver or the employer for whom the “exemption” applies. And the criteria prescribed in the federal regulations for determining whether or not exemptions apply are not consistent with each other. The driver of a “commercial motor vehicle” used for farming purposes and his or her employer could be exempt from some requirements and not exempt from others during a single trip in which the vehicle is operated.

The Appendix to our comments contains the text of an article we prepared, which was published in the October issues of *Lancaster Farming* – a newspaper of statewide circulation that focuses on farming and rural issues in Pennsylvania. We would offer this article as part of our comments to the proposed rulemaking.

The *Lancaster Farming* article attempts to provide readers with information on what the proposed changes in Pennsylvania’s intrastate motor carrier safety regulations to establish the same standards as the federal regulations will mean for agricultural vehicles, drivers of agricultural vehicles, and farmers who own the vehicles and employ vehicle drivers in a number of areas, including:

- Commercial driver’s license requirements;
- Drug and alcohol testing requirements;
- Requirements for medical certification;
- Employer requirements for road testing and reviewing driver histories;
- Limitations in employee hours of driving and on-duty time and requirements for driver’s time logs;
- Requirements for inspection and maintenance of vehicles; and
- Minimum safety standards for vehicles.

This article illustrates the confusing patchwork of requirements, exemptions and conditions and requirements for eligibility of exemptions prescribed in the federal regulations that would result from the proposed changes in Pennsylvania’s intrastate regulations. We strongly believe the adoption of the proposed rulemaking will only enhance confusion among farmers and enforcement personnel on what does and does not apply to agricultural transportation around the farm, without any meaningful enhancement of safety in the operation of farm vehicles and equipment.

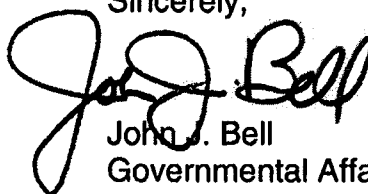
Working through the nuances of regulatory requirements and exemptions may be feasible for businesses like commercial trucking companies whose occupations and livelihoods are focused each day on moving cargo from one area to another. But it is hardly feasible to those like farmers whose businesses entail more than just transportation and whose transportation activities are sporadic.

We would particularly note and express concerns about distinctions that would apply under the proposed rulemaking between drivers of single-unit vehicles and drivers of combination (what the federal regulations refer to as "articulated") vehicles. Essentially, the federal regulations establish a 150-mile exemption zone for "farm vehicle" drivers. But the exemption only meaningfully applies to drivers of single-unit vehicles. The applicable exemptions provided under the federal regulations to drivers of "articulated" farm vehicles are far more limited, and practically speaking, are substantially meaningless. Unlike the driver of a single-unit farm vehicle, there is no zone of exemption from the farm that is provided under the federal regulations to the driver of an "articulated" farm vehicle. Whether the towing vehicle is a truck or a farm implement, if the combination meets the threshold combination weight of a "commercial motor vehicle," that driver will become subject to all of the applicable requirements for drivers of "commercial motor vehicle" at the first point from the farm that the combination is operated on the highway.

While we are aware of the circumstances that are prompting the Department to make changes to the intrastate regulations, we foresee serious problems in the understanding and determination of what regulatory standards apply and do not apply in the context of transportation around the farm, and believe there will be serious inconsistencies among law enforcement officials in application and enforcement of these standards in agricultural communities.

Notwithstanding the potential consequences to the Commonwealth, Pennsylvania Farm Bureau would recommend that the proposed rulemaking to amend the intrastate motor carrier safety regulations be withdrawn. In the alternative, we would recommend that the exemptions currently provided to implements of husbandry, farm vehicles, and drivers of implements and farm vehicles be retained in the final rulemaking.

Sincerely,

A handwritten signature in black ink that reads "John J. Bell". The signature is written in a cursive, flowing style with a large initial "J".

John J. Bell
Governmental Affairs Counsel

Appendix

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