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July 25, 2011

Ms. Anne S. Ferro
Administrator, Federal Motor Carrier Safety Administration
Docket Management Facility, M-30
U.S. Department of Transportation (DOT)
1200 New Jersey Ave., SE., West Building, Ground Floor, Room 12-140
Washington, DC 20590-0001

Attention: Federal Docket Management System Number FMCSA-2011-0146

Re: FMCSA Regulatory Guidance; Notice of Request for Public Comment (76 FR 31279; May 31, 2011)

Dear Administrator Ferro:

The National Cotton Council of America (NCC) appreciates the opportunity to submit comments in response to the notice of request for public comments on regulatory guidance for the applicability of Federal Motor Carrier Safety regulations to operators of certain farm vehicles and off-road agricultural equipment.

The NCC is the central organization of the U.S. cotton industry representing growers, ginnery, warehousemen, cottonseed merchandisers and processors, merchants, cooperatives and textile manufacturers whose primary business operations are located in 17 cotton-producing states. U.S. cotton growers produce a crop with an annual farm-gate value in excess of \$5 billion. While a majority of the industry is concentrated in the 17 cotton-producing states, the downstream manufacturers of cotton apparel and home-furnishings are located in virtually every state. The industry and its suppliers, together with the cotton product manufacturers, account for more than 230,000 jobs in the U.S. In addition to the cotton fiber, cottonseed products are used for livestock feed, and cottonseed oil is used for food products ranging from margarine to salad dressing. Taken collectively, the annual economic activity generated by cotton and its products in the U.S. economy is estimated to be in excess of \$100 billion.

The NCC submits its general comments below.

In general, the NCC is supportive of the Federal Motor Carrier Safety Administration's (FMCSA) primary mission to prevent commercial motor vehicle-related fatalities and injuries—and its efforts with other agencies to carry out a number of important activities. However, the NCC is concerned that the interpretations and some of the proposed guidance in this notice could adversely impact the long-standing exemptions, waivers and exceptions that agricultural operations have effectively used for over 25 years. These exemptions, waivers and exceptions

properly take into account agricultural operations' seasonal nature, limited access to and the availability of CDL drivers, the types of vehicles as well their varying functions or loads, the hours of service during peak seasonal activities, the use of family members and costs. Furthermore, agricultural operations and organizations have worked closely with individual states which have been given authority to grant these exemptions.

The NCC's specific comments to the notice follow.

Distinguishing Between Intra- and Interstate Commerce

The NCC believes the Agency's current interpretation of what constitutes interstate commerce does not take into account a wide variety of situations and violates the spirit of the farmer exception in 49 CFR 383.3.

Many farmers don't know but can only assume the ultimate destination of their farm's agricultural products. It would seem impractical and serve no good purpose for the farmer to attempt to segregate the shipments of his farm's agricultural products into those which may be destined for interstate markets and those bound for intrastate markets.

The NCC believes the spirit of the farmer exception is to allow the farmer to transport these products from his farm to the first markets for those products in his home state and to interstate markets where reciprocity is granted. The movement of those products beyond the first market to interstate markets, normally in combined shipments with other farmers' produce, would certainly be subject to FMCSA regulations.

Further, the current farmer exception already includes a number of restrictions, including one limiting the use of a farm vehicle within 150 miles of the farmer's farm.

Applicability of the Commercial Driver's License (CDL) Rules to Farm Vehicle Drivers Operating under a Crop Share Farm Lease Agreement

In determining the applicability of CDL rules for farm vehicle drivers, the NCC believes there should be no distinction made between farmers who have cost share lease agreements and those who don't. Both should be eligible for the farmer exception and a cost share lease agreement should not be considered a contravention of those requirements.

Many farmers have land which they own and land which they lease under a variety of arrangements. Under crop share arrangements, farmers typically transport equipment and supplies from one farm to another and their agricultural products from all farms to market, without regard to which part is the landowner's and which is the farmer's. It would seem impractical and beyond the scope of the exception to require the segregation of what would otherwise be co-mingled loads of agricultural

crops, supplies and equipment.

It also is important to note that for-hire motor carriers are compensated solely for the goods belonging to others, while farmers only transport goods for a purpose incidental to their business of production agriculture.

Furthermore, we don't believe it was the original intent to interpret the rules in such a way that would result in farmers changing longstanding lease arrangements or to engage for-hire transportation for just a portion of their crops, supplies or equipment.

Implements of Husbandry

The NCC is in agreement with FMCSA's proposed guidance of whether implements of husbandry meet the definitions of "commercial motor vehicle" as used in 49 CFR 383.5 and 390.5. This guidance correctly exempts implements of husbandry from the definition of a commercial motor vehicle and acknowledges the rights of states to regulate this equipment under state law.

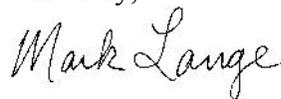
On the other hand, the NCC is concerned about whether FMCSA's proposed guidance for what constitutes an implement of husbandry is broad enough to provide states with the necessary flexibility to account for the different and varying crops, farm sizes, production techniques and harvesting methods. This proposed guidance could restrict and limit the longstanding exemptions, waivers and exclusions.

Strictly from the view of the cotton industry, the list of examples in the guidance is not comprehensive enough and should, at a minimum, include cotton harvesting equipment such as pickers, strippers, and boll buggies.

In summary, the NCC is concerned about the interpretations and some of the proposed guidance in this notice. It is important that the longstanding exemptions, waivers and exclusions for farmers and farm vehicles remain intact. The original scope and intent of these exceptions and ordinary common sense should be considered and applied to the greatest extent possible. Finally, the individual states should continue to be given the authority and necessary flexibility to effectively maintain the existing rules and regulations that agriculture has successfully functioned under for some 25 years.

We appreciate the opportunity to submit these comments.

Sincerely,

A handwritten signature in cursive script that reads "Mark Lange".

Mark Lange
President and CEO