

# **Working Positively on Farm Transportation Issues**

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## Notable Personal Attributes of Farmers:

1. Strong sense of and commitment to their values.
  - *Justice and fairness provide strong direction to daily life.*
2. Stubborn, but not completely close-minded.
  - *Will listen to you if you give them a good reason to.*
3. Independent, yet sociable.
4. Better thinkers & managers than given credit.
5. Resentful of egotists who force their will upon them.

# What can states do to best help farmers manage their transportation needs:

1. Make laws simple and pragmatic enough for farmers to understand, apply and abide by.
2. Adapt laws to facilitate farmers' special local transportation needs:
  - *Allow for flexible use and operation of their farm machinery in and around the home farm, rented farms and neighboring farms.*
  - *Minimize needless requirements and paperwork relative to their local transportation of ag supplies and products.*

To best accommodate farmers, states should establish “common sense” standards for farm vehicles and operators that reflect less concentrated use and operation of these vehicles in commercial transportation and the relatively less safety risk they pose in their normal use and local operation.



Requirements imposed by federal transportation officials as condition of receipt of federal transportation funding make it very difficult for states to accommodate local farm transportation through effective but less stringent regulatory standards.

## 49 CFR 350.201(a)

To be eligible for federal Motor Carrier Safety Assistance Program funding, a state must adopt and enforce safety laws and regulations for intrastate-operated vehicles that are “compatible” with Parts 390 through 397 of the Federal Motor Carrier Safety Regulations.

- *Less stringent state standards for intrastate operation of farm trucks and combinations and for farm vehicle drivers are “not compatible” and place state at risk of losing MCSAP funds.*

U.S. Department of Transportation  
Federal Motor Carrier Safety Administration

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Pennsylvania State  
MCSAP Review Report

March 2007

## Potential Annual Loss to PA:

- \$ 6-7 Million in MCSAP Funds
- \$22-24 Million Total

**In the wake of FMCSA audit and risk of loss of federal MCSAP funds , PA statutes and regulations for farm vehicles and drivers were drastically changed in 2010.**

- *Numerous exemptions and special standards PA provided to farm trucks and drivers to accommodate their local transportation needs were eliminated.*
- *Farms treated as “commercial trucking companies” under many of the state’s intrastate MCSR standards.*



**“Covered farm vehicle” provisions enacted by Congress in 2012’s MAP-21 legislation was believed by many to free states attempting to accommodate farm transportation locally from risk of loss of federal transportation funds:**

- *MAP-21 expressly exempted drivers of farm vehicles operated interstate from requirements imposed on “commercial vehicle” drivers in 5 major areas.*
- *MAP-21 also expressly limited federal authority to financially sanction states that provide exemptions or special standards for “covered farm vehicles” and drivers operated intrastate.*



U.S. Department  
of Transportation

Federal Motor Carrier  
Safety Administration

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Dear Mr. Moore:

Thank you for your letter of May 15, 2014, addressed jointly to Administrator Anne S. Ferro and me requesting guidance on the meaning and implications of Section 32934(b) of the Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21) (Pub. L. 112-141, 126 Stat. 495, 830, July 6, 2012). The Administrator asked me to respond.

Your view is "that Section 32934(b) is intended to be read independently of [Section] 32934(e) and that it imposes a much broader scope of limitation of federal authority to withhold federal funding from states that provide to covered farm vehicles (CFVs) and drivers additional 'extensions' from federal commercial transportation standards beyond the exemptions expressly provided in Section 32934(a). . . . There would be no reason for Congress to include a provision such as Section 32934(b) in MAP-21 under such an interpretation, as the governing law before MAP-21 would already allow states to adopt the five driver exemptions provided under [Section] 32934(e) without jeopardy of federal funding sanctions."

I disagree with your interpretation of Section 32934(b) and the status of "the governing law before MAP-21." Paragraph (a) of Section 32934 prohibits the Federal Motor Carrier Safety Administration (FMCSA) from requiring CFVs to comply with safety regulations based on certain statutes. Paragraph (b) prohibits FMCSA from withholding Motor Carrier Safety Assistance Program (MCSAP) funds from States that choose immediately to adopt the Federal CFV exemptions in paragraph (a) and apply them to intrastate operations (except that the exemption is not allowed if CFVs are hauling placardable quantities of hazardous materials). Paragraphs (a) and (b) are initially two sides of the same coin: just as FMCSA cannot require CFVs to comply with certain regulations, so it cannot withhold MCSAP funds from States that allow the same exemptions. Section 32934(b) has no other purpose.

Furthermore, "the governing law before MAP-21" would not allow the States "to adopt the five driver exemptions provided under [Section] 32934(a) without jeopardy of federal funding sanctions." Section 32934(a)(2), (4), and (5) refer to medical certificates, hours of service (HOS), and vehicle inspection, repair and maintenance, respectively. It is true that the MCSAP

However, in a June 19, 2014 reply to inquiry from American Farm Bureau Federation (AFBF), FMCSA concluded that MAP-21's limitation of authority to impose sanctions on states that grant exemptions or special standards only applied to the 5 areas of driver exemption from regulation that Congress specifically provided in statute for operation of "covered farm vehicles" interstate.

Will there be more explicit language in the upcoming federal transportation funding bill to ensure federal authorities can't financially penalize states that try accommodate local operation and use of farm trucks?

- *AFBF and State Farm Bureaus will be trying to get such language included.*
- *Congress has shown interest in doing so.*

## So what can states do positively to help farmers?

1. Show empathy and respect for farmers and the challenges they face, from administration to enforcement.
2. Try to accommodate operation of “smaller” farm trucks and combinations locally in statute and regulation.
  - 49 CFR 350.341: States may provide special standards for intrastate operation of farm vehicles and combinations with GVWR less than 26,001 pounds not carrying hazardous materials in quantities that require hazmat placards.

## So what can states do positively to help farmers (Continued)?

3. Recognize the lawful use of farm trucks originating from neighboring states as meeting your state's legal requirements (eg.: vehicle registration and fuel tax).
4. Support amendments to upcoming federal transportation legislation that will ensure states may accommodate through exemptions and special provisions the local use and operation of farm vehicles, without fear of federal sanction or financial penalty.

Thank you for your attention.

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