

granted but only for the purpose of providing ODOT with sufficient time to adopt compatible safety regulations for the interstate operation of farm vehicles. Advocates, the Georgia Department of Motor Vehicle Safety, and Michael Millard believe the ODOT's exemptions application should be denied.

Commenters in Favor of Granting the Exemptions

Generally, most of the commenters in favor of granting the exemptions believe that Oregon Revised Statutes (ORS) provide sufficient safety requirements for farm vehicles. They believe that the State's requirements concerning vehicle safety equipment and motor carrier operations would ensure safety. Most of the commenters also considered the Federal requirements to be redundant of the State regulations.

The commenters believe that denying the ODOT exemptions application would result in ODOT being required to adopt regulations that are compatible with agency rules applicable to interstate motor carriers, and to increase the State's enforcement activities concerning farm vehicle operations, such as conducting more roadside inspections of these vehicles.

Commenters indicated that accident involvement of farm vehicles is low compared to other types of commercial vehicle operations in the State and that limited enforcement resources should not be focused on farm vehicles. They indicated that most of the farm trucks are small trucks operated short distances at low speeds, and that the safety record for the operation of such vehicles suggests that it is unnecessary to apply the Federal safety rules to them.

Commenters in favor of granting the exemptions also emphasized that a significant portion of Oregon's truck safety program is funded through the Federal Motor Carrier Safety Administration's Motor Carrier Safety Assistance Program (MCSAP). They argued that ODOT's program would be greatly reduced if the State lost MCSAP funding.

Commenters Opposed to Granting the Exemptions

Advocates argued that (1) exemption authority cannot be used to evade compliance with Federal regulations; (2) procedurally, ODOT cannot apply for exemptions on behalf of entities who are not a part of ODOT, (3) there is insufficient information to support granting the exemptions, and (4) granting the exemptions would not make Oregon eligible for MCSAP grants. Advocates consider the exemptions to

be an effort to avoid the consequences of Oregon's failure to comply with the MCSAP requirements, and believe that the statute authorizing the exemptions does not indicate that a State governmental entity may apply for exemptions.

The Indiana State Police (Indiana) believe that granting the exemptions would be inconsistent with MCSAP goals of achieving uniformity and compatibility of State regulations with Federal rules. However, Indiana believes ODOT should be provided a temporary exemption to enable the Oregon legislature to amend the ORS. The Idaho State Police (Idaho) echoed those views. Idaho does not believe the public interest would be served by withholding MCSAP funds from Oregon.

DOT Response to Comments

The DOT does not believe there is sufficient information to support a determination that the exemptions are likely to achieve a level of safety equivalent to, or greater than, the level of safety obtained by complying with the applicable Federal safety rules.

Although ODOT and most of the commenters argued that the State rules provide sufficient safety requirements, there are too few details in the ORS and Oregon Administrative Rules (OARs) to ensure that all parts and accessories on CMVs operated by motor carriers certified by, and registered with, ODOT as farmers are maintained at the same level required of CMVs subject to 49 CFR parts 393 and 396. This is especially true given that OAR section 740-100-0010 adopts by reference the Federal Motor Carrier Safety Regulations, including parts 393 and 396. There is no clear indication what safety rules would remain in force if all of the requirements as presented in 49 CFR parts 393 and 396, and adopted by reference in OAR section 740-100-0010, are deemed unnecessary. Therefore, there is no readily apparent means to compare the safety requirements that ODOT would enforce under the terms and conditions of the exemptions, with the specific rules under 49 CFR parts 393 and 396. These requirements include whether motor carriers certified by and registered with ODOT as farmers, would be required to ensure that their vehicles have retroreflective sheeting and reflex reflectors to reduce the incidence of passenger vehicles crashing into CMVs at nighttime; automatic brake adjusters, and brake adjustment indicators (for air braked vehicles manufactured on or after October 20, 1994); antilock braking systems; rear impact guards and rear

impact protection; safe fuel systems and fuel tanks; and, adequate means of protection against shifting and falling cargo. While it may be possible to establish and enforce safety rules concerning these issues with less specificity than the current Federal regulations, doing so would certainly involve a lower standard of safety by failing to describe in meaningful detail minimum standards that would ensure an appropriate level of motor carrier safety.

Although the ODOT application cited ORS chapter 811, 815, and 816 as providing rules to ensure safety, the references are nothing more than statutory authority for the ODOT to develop detailed regulations. The statutes, in and of themselves, do not establish requirements applicable to motor carriers. A discussion of statutory authority, without describing in detail how that authority was exercised in the regulations promulgated, is not sufficient basis for concluding that the exemptions would not have an adverse impact on safety.

As for commenters who believe that the adoption of compatible regulations would necessitate increased inspections of farm-plated vehicles, there is no requirement for States participating in MCSAP to shift their enforcement focus from motor carriers with well-documented safety problems, to populations of motor carriers with better safety performance records, simply because the rules are applicable to the latter group. The MCSAP is a Federal grant program that provides financial assistance to States to reduce the number and severity of accidents and hazardous materials incidents involving CMVs. The goal of the MCSAP is to reduce CMV-involved accidents, fatalities, and injuries through consistent, uniform, and effective CMV safety programs. Investing grant monies in appropriate safety programs will increase the likelihood that safety defects, driver deficiencies, and unsafe motor carriers practices will be detected and corrected before they become contributing factors to accidents. The MCSAP also establishes, under 49 CFR part 350, the conditions for participation by States and local jurisdictions and promotes the adoption and uniform enforcement of safety rules, regulations, and standards compatible with the FMCSRs and Federal Hazardous Materials Regulations (HMRs) for both interstate and intrastate motor carriers and drivers. While part 350 has the effect of requiring that States be aware of motor carrier safety problems within their jurisdiction and develop appropriate strategies for