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May 23, 2011

The Honorable Anne Ferro
Administrator
U.S. Department of Transportation
Federal Motor Carrier Safety Administration
1200 New Jersey Ave., SE
Washington, D.C. 20590-0001

RE: Notice of Proposed Rulemaking - Electronic On-Board Recorders and Hours of Service Supporting Documents; Docket No. FMCSA-2010-0167

Dear Administrator Ferro:

On behalf of members of the Agricultural Retailers Association (ARA)¹, I am writing to express concerns with the Federal Motor Carrier Safety Administration's (FMCSA) notice of proposed rulemaking that would require all commercial motor vehicles (CMV) to carry an electronic on-board recorder (EOBR) in order to monitor drivers' compliance with the hours-of-service rule. ARA believes this creates an unnecessary expansion of the current EOBR regulations and would substantially increase the financial burdens on the nation's agricultural retailers and distributors.

ARA understands the need for FMCSA to require EOBRs for motor carriers that have significant and known hours-of-service (HOS) violations. The EOBR1 final rule issued in April 2010 requires a motor carrier found to have a 10 percent violation rate for any HOS regulation listed in Appendix C of 49 CFR Part 385 during a single compliance review to install and use EOBRs on all of its CMVs for a period of 2 years. ARA has concerns with the notice of proposed rulemaking for EOBR2, which would require ALL motor carriers currently maintaining records of duty status (RODS) for HOS recordkeeping to install EOBRs on all CMVs within 3 years of the effective date of the final rule. This proposal could place undue financial burdens on agricultural retailers and distributors that transport essential crop input supplies used on America's farms and ranch operations. In addition to the equipment costs and annual service and maintenance costs, ARA is concerned with the short implementation time frame of 3 years. ARA understands there are federal lawsuits currently underway related to patent violations regarding this type of equipment. There are also reports of equipment shortages. While there may be some unrelated safety benefits to EOBR technologies, it is our belief that it should be voluntary for motor carriers to utilize EOBR on their CMV, not be forced to do so through a federal government mandate.

Thank you for your review and consideration of ARA's concerns. We look forward to working with you and other FMCSA officials on this and other important driver safety issues related to the HOS regulations.

Sincerely,

Richard Gupton
VP, Legislative Policy & Counsel

¹ ARA is a not-for-profit trade association that represents America's agricultural retailers and distributors. ARA members provide goods and services to farmers and ranchers which include: fertilizer, crop protection chemicals, seed, crop scouting, soil testing, custom application of pesticides and fertilizers, and development of comprehensive nutrient management plans. Retail and distribution facilities are scattered throughout all 50 states and range in size from small family-held businesses or farmer cooperatives to large companies with multiple outlets.