

## OAJ Trucking Safety Section Article April 2014

### Farming Operations- Exempt or Not Exempt?

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As we enter the spring planting season in Ohio, we can be sure to see many farming vehicles in operation. Although many farmers may argue, and even believe, that their farming operations make their vehicles exempt from transportation regulations, nothing could be further from the truth.

Ohio does allow farming operations that occur during the planting and harvesting season to apply for an *exemption for the drivers* who qualify. The idea behind this exemption is to help promote farming in our agricultural state. Arguably, if a farmer is only operating a large tractor to and from the field during the planting and harvesting period, then the requirement for having a commercial driver's license may be exempted. O.R.C. §4507.03 (But in order for that exemption to be available, the activity must take place within the six month season, be for private purposes and the driver has to have a "clean" driving record as outlined in the code.) If the vehicle being used is required to have a United States Department of Transportation (USDOT) Number, then the exemption is not available to the driver.

#### **So, how does one determine if the farmer is required to have a USDOT Number?**

Under Ohio law, there are two types of tractors that travel the roads. An agricultural tractor is a self-propelled vehicle that is designed for drawing other vehicles or wheeled machinery but not for carrying a load independently, and is used primarily for agricultural purposes. While a commercial tractor is every motor vehicle having motive power designed or used for drawing other vehicles and not for carrying any load independently. In addition, in order for a piece of farm machinery not to qualify as a motor vehicle, it cannot travel more than ten miles nor exceed the speed of twenty-five miles per hour. See O.R.C. §4511.01. For example, a tractor pulling a wagon/trailer loaded with hay could haul that hay from the field back to the farm assuming, of course, that the two locations are within ten miles of each other.

Another state law provision that automatically moves farming vehicles under the purview of the Ohio Department of Transportation (ODOT) is when the tractor trailer is being used for commercial hire. Yet this commercial hire clause is often used by farmers to try to circumnavigate ODOT and USDOT regulations by arguing that no money was exchanged for the transport of the goods. This argument also fails because bartering in exchange for the transport of goods to market is considered to be commercial use and thus transforms a farm vehicle into a commercial vehicle.

Now that we know whether the farming vehicle is actually a commercial vehicle, we need to look at the weight of that vehicle to determine what regulations govern the operation of that vehicle. In Ohio, any commercial vehicle weighing 10,001 pounds or more (Gross Vehicle Weight Rating) must be registered with USDOT and ODOT, regardless of whether that tractor is an agricultural tractor as defined by the farmer. See <http://www.fmcsa.dot.gov/registration-licensing/registration-USDOT.htm> for a list of states that require obtaining a USDOT Number in order to register a commercial vehicle. The GVWR can be found by looking on the doorframe of the vehicle where there is a chrome or aluminum tag with the letters GVWR and a number. This number is the maximum weight the vehicle is designed to weigh. But even if the GVWR is less than 10,001 pounds, if the Gross Combined Vehicle Weight Rating of (GCWR) of the tractor and trailer together is 10,001 pounds or more then the farmer must register with USDOT and ODOT.

And even if the farming operations are for private hauling with no exchange of money or bartering, all vehicles with a GVWR or GCWR of 26,001 pounds or more must be registered with USDOT and ODOT. In addition, if any interstate travel has taken place with a commercial vehicle weighing 10,001 pounds or more, then it must also be registered with the USDOT and ODOT, and have a Motor Carrier (MC) Number.

#### **And why does any of this matter?**

Once a business is required to be registered with USDOT and ODOT, it must also comply with the Federal Motor Carrier Safety Regulations (FMCSR), including the provisions regarding insurance coverage. The FMCSR also dictates requirements such as having a safety director, maintaining post trip daily inspection logs, driver qualification files and driver daily logs, having cell phone policies and post accident drug and alcohol tests, etc. As anyone who has looked at these regulations can tell you, they are a treasure trove of information about the violations for which you need to be looking.

Most farmers will already know the requirements due to publications and discussions with their local farm bureaus and cooperatives. Chances are, if the farming business does not recognize or abide by the laws that place its vehicles under the FMCSR, then that business will likely not be in compliance with any of the minimum DOT requirements that are designed to protect our clients.