



**U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL MOTOR CARRIERS SAFETY ADMINISTRATION**

October 10, 2018

Document Management Facility
U.S. Department of Transportation
1200 New Jersey Avenue, SE
West Building, Ground Floor
Room W12-140
Washington, D.C. 20590-0001

Re: Docket No. FMCSA-2018-0248

Administrator Martinez,

The Distribution Contractors Association (DCA) represents contractors, manufacturers, and suppliers who provide construction services including installation, replacement and rehabilitation of natural gas distribution and transmission pipelines. DCA appreciates the opportunity to comment on FMCSA's Advanced Notice of Proposed Rulemaking (ANPRM) on possible adjustments to hours-of-service (HOS) regulations.

The ANPRM addresses four areas included in HOS regulations, including short-haul operations, the current exception for adverse driving conditions; the 30-minute rest break requirement; and rules relating to use of sleeper berths. DCA offers the following perspective on the inquiries included in the ANPRM, as well as some additional recommended adjustments to HOS requirements.

Short Haul Operations. FMCSA asks for feedback about whether and how expanding the 12-hour window to 14 hours would impact driver operations. While this adjustment to HOS regulations would not be considered a cure-all for the many challenges associated with ELD requirements, it would reduce the burden of having to install electronic logging devices (ELDs) in many vehicles that would otherwise be eligible for the short-haul exception. Therefore, DCA would support this revision to HOS rules.

Adverse Conditions. FMCSA is asking for public feedback on whether there is adequate flexibility in current law to safely drive under adverse conditions or if the two-hour adverse driving provision should apply to the 14-hour window. Adverse weather varies in different regions, and drivers in our industry have to adjust their driving operations under different weather events, so any relief from overburdensome HOS rules would be welcomed by our industry. Therefore, DCA supports FMCSA's proposal to extend the 2-hour provision for adverse driving conditions to the 14-hour work window.

30-Minute Rest Break Requirement. For the vast majority of drivers in our industry and in most construction sectors, driving is incidental to the main job function of the vast majority of drivers in our industry. Breaks for meals and rest are taken as determined by foremen or project managers who oversee a gas project, and breaks may be taken at different times of a particular work day. None of this compromises the safety of these drivers, and DCA supports the concept of FMCSA eliminating the 30-minute rest break requirement included in HOS regulations.

In addition to supporting the concepts described in the ANPRM, there are other smaller adjustments that would reduce the burdens of HOS regulations. These include:

Under the short-haul exception, allow use of paper RODS not more than 16 days in a 30-day period.

The ELD rule exempts drivers who use paper RODS for not more than 8 days out of every 30-day period, allowing construction drivers to move equipment to and from a project at the beginning and end of a work week. While this would normally consume 8 days in a 30-day period, situations present themselves that require movement of additional equipment at uncertain times during the work week. Increasing the number of days allowed to be recorded on paper RODS would provide flexibility for circumstances where drivers cannot comply with the short-haul exemption. Therefore, we encourage FMCSA to double the number of days allowed for use of paper RODS from 8 to 16 days in a rolling 30-day period.

Remove the “start and stop location” requirement in the short-haul exemption. CMV drivers currently fall under the short-haul exemption if they start and stop on-duty driving at the same location. Many construction drivers do not exceed air-mile limitations in the short-haul exemptions but do not necessarily return to the same location where they began driving in a given day. Requiring CMV drivers to stay within the required radius of the start location and remove the stop location requirement would considerably improve the short-haul exemption for the construction industry.

Clarify the Utility Service Vehicle (USV) Exemption. Drivers in the construction industry commonly operate under the USV exemption provided in FMCSA regulations. The exemption includes drivers of a USV when it is used while “repairing, maintaining, or operating any structures or any other physical facilities necessary for the delivery of public utility services,” including natural gas. The USV exemption also covers utility drivers “engaged in any activity necessarily related to the ultimate delivery of such public utility services.”

DCA encourages FMCSA to clarify that our drivers qualify for the USV exemption during any and all work on gas utility systems, including extending existing and building new gas facilities indeed “necessarily related to the ultimate delivery of such public utility services” and “necessary for the delivery of public utility services.”

Consider a broad exemption for construction drivers from HOS regulations. The goal of reducing hazards from fatigue in the interstate trucking industry is sound. However, unlike long-haul interstate truckers, drivers in the construction industry spend the vast majority of the “on-the-clock” time working in rights-of-way or other construction sites, not driving on public roads and highways, and they usually operate within a short distance of their daily assembly point.

For this reason, DCA and many other construction organizations ask FMCSA to consider including a broad exemption for construction drivers from all HOS regulations. Exempting construction drivers from HOS requirements would compromise the safety in any way. DCA appreciates the opportunity to comment on this ANPRM, and we commend the administration for taking a second look at certain HOS requirements. We encourage FMCSA to reevaluate the overall need for applying HOS regulations to construction drivers, and we are available to answer any questions you may have on these matters.

Sincerely,



Robert Darden
Executive Vice President