



October 21, 2019

The Honorable Raymond P. Martinez
Administrator, Federal Motor Carrier Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

**Re: Docket No. FMCSA-2018-0248
Hours of Service of Drivers – Notice of Proposed Rulemaking**

Dear Administrator Martinez:

On behalf of the American Pyrotechnics Association (APA), we respectfully submit the following comments on the above-referenced Notice of Proposed Rulemaking (NPRM).¹

Interest of APA

APA is the principal safety and trade association for the fireworks industry. Founded in 1948, our mission is to encourage safety in the design and use of all types of fireworks, to provide industry information and support to our members, and to promote the responsible regulation of the fireworks industry.²

APA strongly supports the Federal Motor Carrier Safety Administration's (FMCSA) long-awaited proposed reform to the Hours of Service (HOS) regulations. As outlined below, we applaud the agency for its common-sense approach to these necessary reforms which will provide greater flexibility to drivers and improve their overall ability to operate safely.

Comments

1. Short-Haul Operations

APA supports FMCSA extending the driving window from 12 hours to 14 hours and extending the distance from 100 air miles to 150 air miles. By extending the driving window from 12 to 14 hours and extending the distance from 100 air miles to 150 air miles, drivers will be afforded greater flexibility. The vast majority of our member company operations are short-haul. Many drivers in our industry are only a short distance from a job site to their home, which is strategic for most companies as they plan driver routes. Our drivers typically have hazmat on their commercial motor vehicle (CMV) in route to a

¹ 84 Fed. Reg. 44190 (Aug. 22, 2019).

² APA represents regulated and licensed manufacturers, importers, distributors, wholesalers, retailers, suppliers and professional public display fireworks companies. Along with their subsidiaries, APA's over 250 member companies are responsible for 90 percent of the fireworks manufactured, imported, distributed and professionally displayed in the United States.

job site, however, frequently at the end of the day they return with no hazmat on board. Accordingly, the APA also urges the agency to allow drivers using the short haul exception to end their work shift at a location different from their original dispatch.

Additionally, unique to our industry members, the proposed short-haul revisions will provide regulatory relief to APA member companies, especially during the busy Independence Day holiday by allowing many drivers to use the short haul exemption instead of Electronic Logging Devices (ELDs). This is extremely beneficial in that many of the vehicles that the industry relies upon are short-term rental vehicles. By eliminating the need for ELDs, which only get used for a short period of time at a high cost for small family businesses, this regulatory reform will represent a significant cost savings to our members.

2. Adverse Driving Conditions

APA supports FMCSA extending by 2 hours the maximum window during which driving is permitted for adverse driving conditions. Our drivers have experienced an increasing amount of delays for deliveries over the years, mostly due to ongoing highway construction, unplanned detour routes and traffic accidents. By extending the duty period from 14 to 16 hours for drivers that use the adverse driving provision, this will allow property carrying CMVs to complete up to 13 hours of driving, if the driver encounters adverse driving conditions. This would be extremely beneficial for our member companies who transport 1.3G Fireworks, especially for the rare occasion that a delay makes it difficult for the driver to return to a safe parking location in the original time required. Currently there are no public “safe havens” for explosives on the roads so it is essential that the vehicle transporting explosives can get to a planned, safe stopping location.

3. 30 Minute Break

APA believes FMCSA’s proposal to allow the 30-minute break to be satisfied by “on duty, not driving” status is a step in the right direction; however it does not sufficiently address the inherent inflexibility of this mandate. APA would support eliminating the 30-minute rest break altogether and allow drivers to take necessary breaks when desired, in smaller increments, such as 5 or 10 minute breaks when needed.

4. Split-Duty Period

APA strongly supports FMCSA’s proposal to allow one off-duty break of at least 30 minute, but not more than 3 hours, that would pause a driver’s 14-hour driving window, provided the driver takes 10 consecutive hours off-duty at the end of the work shift. We view this as the most advantageous proposal in the NPRM when applied to our industry members. Having the option to suspend the on-duty clock for between 30 minutes and 3 hours would be extremely beneficial to our member companies’ operations. Our members generally are moving tools of trade; they drive from the company facility to deliver products and equipment. Often our drivers are resting while the product and / or equipment is being off loaded, set up and often used. A “pause” of up to 3 hours would allow our members to take care of those other necessary tasks – not driving- then return to home base or drive to the next location.

Additionally, the split duty period would eliminate the need for two (2) trucks or two (2) drivers when a fireworks display set up and return takes longer than the current 14 hour window. Many times the driver will go to the display site, set up the display and then rest for several hours awaiting darkness, or later time, to shoot the fireworks display. This would allow the driver to extend his/ her day to account for the rest time that they take in the middle of their shift. By authorizing this extension, it will eliminate the need for a second driver to come on duty in order to drive the truck a short distance back to home

base or the next location. Typically the drive is two (2) hours or less back to the facility so the driver is only driving a small portion of his/ her "on duty" shift.

Conclusion

The APA strongly supports the regulatory reforms outlined by FMCSA in the HOS NPRM. We appreciate the opportunity to comment and urge FMCSA to expeditiously issue a final rule. These reforms are long overdue and will provide regulatory relief to all regulated drivers without adversely impacting safety.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Julie L. Heckman". The signature is fluid and cursive, with a large initial "J" and a long, sweeping tail.

Julie L. Heckman
Executive Director