



Commercial Vehicle Safety Alliance

Improving uniformity in commercial motor vehicle safety and enforcement

November 17, 2017

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

Re: Docket Comments: Docket Number FMCSA-2017-0296
Hours of Service of Drivers: Application for Exemption; Western Equipment Dealers Association (WEDA)

The Commercial Vehicle Safety Alliance (CVSA) respectfully submits the following comments regarding the request for comments on the Western Equipment Dealers Association's (WEDA) application for an exemption from the requirement that motor carriers equip their vehicles with electronic logging devices no later than Dec. 18, 2017.

CVSA is a nonprofit association comprised of local, state, provincial, territorial and federal commercial motor vehicle (CMV) safety officials and industry representatives. The Alliance aims to achieve uniformity, compatibility and reciprocity of commercial motor vehicle inspections and enforcement by certified inspectors dedicated to driver and vehicle safety. Our mission is to improve commercial motor vehicle safety and uniformity throughout the United States, Canada and Mexico by providing guidance and education to enforcement, industry and policy makers.

CVSA opposes the exemption request. First and foremost, exemptions from federal safety regulations have the potential to undermine safety, while also complicating the enforcement process. The Federal Motor Carrier Safety Regulations and the Hazardous Materials Regulations exist to ensure that those operating in the transportation industry are equipped to do it safely.

The federal hours-of-service requirements exist to help prevent and manage driver fatigue. While it's true that we cannot regulate sleep, the hours-of-service rules set forth a framework that, if followed, allows for drivers to get the rest necessary to operate their vehicles safely. Unfortunately, hours-of-service violations continue to be some of the most frequently found violations by enforcement officials, who conduct roadside safety inspections. What this tells us is that too many drivers and motor carriers either don't understand the hours-of-service rules or are intentionally violating them – and, as a result, are likely driving fatigued. Deployment of ELDs will help address both of these issues.

For those drivers and motor carriers who don't understand the intricacies of the hours-of-service requirements and for those who make the occasional mistake when using their paper log, ELDs will remove the guess work and the risk of human error. This will result in better compliance and fewer violations. For

those who are using their log books to find ‘wiggle room’ in the current hours-of-service regulations, ELDs will make it easier for inspectors to identify violations and take unsafe, noncompliant drivers off the roadways. The devices will also save time for both inspectors and drivers, leading to more efficiency.

CVSA does not believe that WEDA’s claim that requiring their members to install ELDs will create confusion has merit. The ELD requirement does not change the underlying hours-of-service regulations in any way. All the requirement does is change the way a driver documents those hours. Under the current rules, hours-of-service compliance is documented using paper log books or an automatic onboard recording (AOBRD) device. Under the ELD requirement, those hours will be recorded electronically. It does not decrease, or increase, the number of hours a driver is *legally* permitted to operate. Under the ELD requirement, the same rules apply, the only difference is that drivers will need to document their hours, when necessary, electronically instead using a paper log. Any complications between when the exemption does and does not apply exist regardless of how a driver documents their hours. Because the underlying hours-of-service rules are not affected, CVSA sees no reason why “equipment dealers’ responsiveness to their customers would be severely reduced.” As long as those drivers are currently complying with hours-of-service requirements, there should be no impact to their ability to respond to customers.

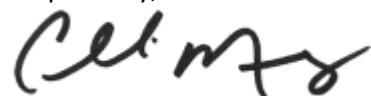
More importantly, 49 C.F.R. § 381.310, which allows for exemptions from federal regulations, clearly states that the applicant must demonstrate how the exemption would “achieve a level a safety that is equivalent to, or greater than, the level of safety that would be obtained by complying with the regulation.” The exemption request from WEDA does not demonstrate how an equivalent level of safety can be maintained, or how it will be monitored should the exemption be granted. Therefore, the exemption should not be granted.

Furthermore, every new exemption is an opportunity for confusion and inconsistency in enforcement, which undermines the very foundation of the federal commercial motor vehicle enforcement program—uniformity. For these reasons, exemptions should be awarded only when there is a proven, *critical* need and, in those instances, the exemption should be as specific as possible. Exemptions should be the exception, not the rule.

Moreover, granting yet another regulatory exception only serves to confound law enforcement and industry’s understanding of the rules. Every exception and change to regulations requires additional training for inspectors, resulting in the potential for a higher level of confusion surrounding the applicability of the regulations. Another exception will only create more confusion, and more confusion will ultimately lead to less enforcement on our highways.

If you have further questions or comments, please do not hesitate to contact me by phone at 301-830-6149 or by email at collinm@cvsa.org.

Respectfully,



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