



1156 15TH Street, NW · Suite 500 · Washington, DC 20005
T 202.457.0825 · F 202.457.0864 · www.aradc.org

June 26, 2014

Docket Management Facility (M-30)
U.S. Department of Transportation
Federal Motor Carrier Safety Administration
West Building Ground Floor, Room W12-140
1200 New Jersey Avenue, SE
Washington, D.C. 20590-0001

RE: Supplemental Notice of Proposed Rulemaking - Electronic Logging Devices and Hours of Service Supporting Documents; Docket No. FMCSA-2010-0167

On behalf of members of the Agricultural Retailers Association (ARA), I am pleased to submit the following comments in response to the Federal Motor Carrier Safety Administration's (FMCSA) Supplemental Notice of Proposed Rulemaking (SNPRM) on Electronic Logging Devices and Hours of Service Supporting Documents, *79 Federal Register* 17656 (March 28, 2014), Docket No. FMCSA-2010-0167.

Statement of Interest

Agricultural retailers, also commonly referred to as farm supply dealers, are scattered throughout all 50 states, and range in size from local family-held businesses and farmer cooperatives to larger companies with hundreds of retail outlets across the United States. Agricultural retailers play an important role in feeding the world, and provide farmers with essential crop input materials such as seed, fertilizer, crop protection products and equipment. ARA and our members have a strong commitment to vehicle safety and support FMCSA's mission to reduce crashes, injuries and fatalities involving large trucks.

Scope of Electronic Logging Device (ELD) Mandate

Under the FMCSA proposal, Electronic Logging Devices (ELDs) must be installed and used in all commercial motor vehicles (CMVs) for which drivers are required to maintain records of duty status (RODS) under FMCSA regulation 49 CFR Part 395 – Hours of Service of Drivers. This FMCSA rulemaking examines four options:

- Option 1 – ELDs are mandated for all CMV operations subject to 49 CFR Part 395;
- Option 2 – ELDs are mandated for all CMV operations where the driver is required to RODS under 49 CFR Part 395.8;
- Option 3- ELDS are mandated for all CMV operations subject to 49 CFR part 395, and the ELD is required to include or be able to be connected to a printer and print RODS;
- Options 4 - ELDs are mandated for all CMV operations where the driver is required to complete RODS under 49 CFR 395.8, and the ELD is required to include or be able to be connected to a printer or print RODS.

ARA interprets this FMCSA proposed rulemaking to NOT apply to agricultural operations¹ that are exempt from 49 CFR 395. Congress included technical corrections to the agricultural hours of service

¹ 49 CFR 395.1(k)

(AgHOS) exemption as part of MAP-21 (Public Law 112-141) that was signed into law by President Obama on July 6, 2014.

FMCSA issued a final rule² entitled “Transportation of Agricultural Commodities” regarding this statutory exemption in the *Federal Register* on March 14, 2014. In the rule, FMCSA stated this rule “promulgates Congressionally-mandated exemptions from the Federal Motor Carrier Safety Regulations for certain agricultural operations....Under the new provision, drivers transporting agricultural commodities within a 150 air-mile radius of the farm or source of the commodities are exempt from the HOS rules. Also, exempt are retailers delivering farm supplies for agricultural purposes within a 150 air-mile radius of their distribution point to a farm or other place where the supplies will be used, and wholesalers delivering farm supplies within the same radius to a retailer, farm, or place where they will be used.” The AgHOS exemption, which is in effect during planting and harvesting periods as determined by each state, helps ensure that agricultural retailers are able to supply farmers with essential crop input products they need in an efficient manner during critical times of the year.

ARA supports FMCSA allowing a category of drivers to complete paper RODS who only “infrequently or intermittently” are required to record their time under 49 CFR 395.8(a). The purpose of this FMCSA designation is to provide greater flexibility to drivers utilizing the “short-haul” exemptions under 49 CFR 395.1(e)(1) and e(2) who only occasionally need to complete a paper RODS. ARA opposes efforts to require all drivers operating vehicles greater than 26,000 pounds to use ELDs to record their hours of service (HOS). We also oppose requiring ELDs to include printers. This seems impractical and expensive when there are less expensive alternatives.

Conclusion

Thank you for your review and consideration of ARA’s concerns. From our interpretation of 49 CFR Part 395 and this proposal, drivers of CMVs operating under the AgHOS are not covered by this new mandate. As we have previously communicated to FMCSA, we believe an ELD mandate is an unnecessary expense with little to no safety benefits. In fact, several comments submitted to FMCSA by drivers indicate mandating ELDs could cause increased safety issues if they are in a rush to “beat the clock” and shut down in dangerous or unsafe areas along the interstate or other roadways. ARA looks forward to working with FMCSA on this and other important driver safety issues related to the HOS regulations.

Sincerely,



Richard D. Gupton
Senior Vice President, Public Policy & Counsel

² 78 *Federal Register* 16169; Docket No. FMCSA-2012-0378