



September 17, 2013

Docket 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: FMCSA-2013-0317  
Hours of Service of Drivers: National Ready Mixed Concrete Association; Application for Exemption

The National Asphalt Pavement Association (NAPA) strongly supports the National Ready Mixed Concrete Association's (NRMCA) application for an industry-wide exemption for ready mixed concrete truck drivers from the hours of service 30-minute break provision in the Hours of Service final rulemaking (49 C.F.R. 395.3(a)(3)(ii)). Furthermore, due to similarities in hauling pavement material types, NAPA requests that this exemption be expanded to cover drivers hauling asphalt pavement mix.

Highway material industry drivers are not long-haul operators who consistently spend many consecutive hours on the road in a given day. They are short-haul drivers who typically travel less than 50 miles each way to a worksite. Those who transport construction materials may spend substantial time in a queue to pick up or drop off those products which allows for short breaks. Since the quality and performance of asphalt pavement is effected by temperature, an enforced break during the delivery of the asphalt mix would have serious negative impacts without a requisite enhancement of safety for all concerned.

Although some pavement mix truck drivers will be able to take advantage of the short-haul exemption from the 30-minute break outlined in the August 2, 2013 U.S. Court of Appeals ruling and later clarified by FMCSA, many pavement mix truck drivers often work more than 12 hours, while taking numerous breaks out of the truck, and thus are not able to take advantage of the short-haul exemption that the court established. While this arbitrary 12-hour return limit exists, it does not mean that drivers, such as concrete and asphalt pavement truck drivers, are not still short-haul drivers.

Transportation project owners, the driving public and commercial shippers are expecting more timeliness and efficiency in the delivery of transportation improvement projects, as well as less disruption to traffic. Transportation construction firms will often work very long hours to complete these projects expeditiously. In the absence of any conclusive data to demonstrate that driver fatigue and ancillary health issues are a significant problem in the transportation construction industry, treating short-haul transportation construction industry drivers the same as long-haul commercial truckers will add unnecessary costs (in terms of additional personnel required) and delays to the timely delivery of transportation construction projects around the country.

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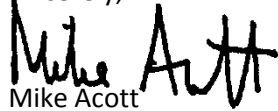
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Moreover, the existing Hours of Service rule includes a 24-hour restart provision for commercial motor vehicle drivers of construction materials and equipment. Since the rule already contemplates a unique place for the transportation construction industry, it would be reasonable for the FMCSA to exempt the highway material industry from the 30-minute break requirement. In addition, there is existing precedent for exempting other classes of industries or providing certain exceptions, including: agricultural drivers during planting or harvesting season; vehicles operated by the federal, state or local government; drivers for movie and television productions; drivers transporting propane heating fuel during the winter; retail deliveries; and utility service vehicles.

For all of these reasons and those listed in the exemption application submitted by NRMCA, drivers of concrete mixes and asphalt pavement mixes should be granted an exemption from the mandatory 30-minute break which clearly is designed for other drivers, companies, and industries vulnerable to fatigue and with far more scheduling flexibility.

Thank you for the opportunity to submit comments on this important issue. For more information or questions please feel free to contact me directly.

Sincerely,

A handwritten signature in black ink that reads "Mike Acott". The signature is written in a cursive, slightly slanted style.

Mike Acott

President