



July 14, 2017

Daphne Jefferson  
Deputy Administrator  
Federal Motor Carrier Safety Administration  
1200 New Jersey Ave., SW  
MC-CC, 6<sup>th</sup> Floor  
Washington, D.C. 20590-0001

**Re: Exemption from Electronic Logging Device Rules for Pipeline Contractors**

Dear Ms. Jefferson,

The American Pipeline Contractors Association (APCA) represents construction firms, manufacturers and distributors who build and maintain interstate pipeline systems. Every day, APCA members provide the manpower to build the infrastructure needed to deliver critical energy across the country. APCA members are subject to Hours-of-Service (HOS) regulations, including requirements to use Electronic Logging Devices (ELDs) in lieu of written logs to document their Record of Duty Status (RODS), as required by Federal Motor Carrier Safety Administration (FMCSA) regulations. The unique job function of pipeline contractors make compliance with HOS regulations overly burdensome without any demonstrable improvement to the safety of drivers in our industry. Compliance with new FMCSA requirements regarding use of ELDs is particularly concerning. Therefore, APCA respectfully requests that FMCSA exempt pipeline contractors from HOS regulations, and provide exemption from ELD requirements before the compliance date of December 18, 2017.

Pipeline contractors maintain a range of different commercial vehicles, including dump trucks, water-related vehicles, skid trucks, flatbeds that carry heavy excavation equipment, and buses that transport workers to and from a given job site. Unlike long-haul interstate truck drivers, who spend the vast majority of their on-duty time driving on public roads, pipeline contractors spend considerable time working off-road on pipeline rights-of-way, not on public highways or roads.

APCA understands the intention of addressing hazards stemming from fatigue in the interstate trucking industry. However, drivers in the pipeline construction industry are already subject to a range of state and local oversize load permit requirements and other curfews that restrict trucks carrying heavy equipment to and from pipeline jobsites during certain hours. Because virtually every state prohibits oversized load after dark, varying and often conflicting state and local permits often complicate the ability of pipeline construction drivers to get equipment to the respective jobsites. These conflicting requirements often result in downtime for drivers waiting for the hours authorized to carry oversized loads to arrive. The hours spent waiting are considered “on the clock” in terms of federal HOS requirements, regardless of the fact that no driving occurs during these hours.

The role of mechanics also complicates HOS compliance in the pipeline industry. Mechanics often use trucks requiring a commercial driver’s license (CDL), which in turn requires them to document their RODS when called out to a pipeline site in order to repair equipment. The fact that mechanics spend most of their time doing repairs, not driving, is not relevant in terms of HOS compliance. Therefore every “emergency call-out” a mechanic responds to counts against his/her hours subject to federal requirements.

Although there are several exceptions to federal HOS regulations, such as “short haul” exceptions for “100 air-mile radius” drivers, “150 air-mile radius” drivers, and utility service vehicle exceptions, none help mitigate the unique difficulties facing drivers in the pipeline construction industry with regard to HOS requirements.

#### **Immediate Concern with ELD Deadline**

If subject to ELD requirements on the December 18, 2017 compliance date, pipeline contractors will have to track the intermittent days drivers exceed the short-haul exception requirements, purchase ELDs and train affected personnel in their use and monitor compliance. Because of the limited time spent driving on public roads, APCA does not recognize a safety benefit for drivers in the pipeline construction industry.

The final rule on ELDs, issued by FMCSA in December of 2016, addressed a mandate by Congress that interstate truckers install and use ELDs to document their RODS in place of paper logs. However, the rule does not address problems presented to commercial drivers who are only required to comply w/RODS requirements on occasion. FMCSA allowed commercial drivers who exceed the short-haul exception requirements no more than eight days in a rolling 30-day timeframe to continue to record their HOS on paper logs. Current law, however, only requires drivers to keep written RODS records for days where the driver exceeded the short-haul exception irrespective of how many days the exception was exceeded.

Because the law did not mandate FMCSA to require that drivers operating under the short-haul exception use ELDs in place of paper logs if the driver exceeds the exception requirements on any number of days, the agency has statutory authority to grant this exemption. Drivers in our industry hold commercial driver’s licenses and the vast majority of them work within 100 miles of their assembly point, consistent with the short-haul exception. Additionally, pipeline contractors often hire temporary workers, making compliance with ELD requirements even more burdensome.

APCA does not believe that exempting pipeline contractors from HOS requirements would compromise the safety of commercial drivers in any way. Unlike long-haul interstate truckers, drivers in the pipeline construction industry spend the vast majority of the “on-the-clock” time in pipeline rights-of-way, not on public roads and highways, and operate within a short distance of their daily assembly point.

Therefore, APCA encourages the agency to exempt pipeline contractors from HOS requirements, and to act swiftly to exempt drivers from the ELD requirements before the compliance date in December of this year.

Respectfully submitted,

William Schettine  
President