

**Congress of the United States**  
**Washington, DC 20515**

July 10, 2015

The Honorable Bill Shuster  
Chairman  
Committee on Transportation and Infrastructure  
2165 Rayburn House Office Building  
Washington, DC 20515

The Honorable Peter DeFazio  
Ranking Member  
Committee on Transportation and Infrastructure  
2163 Rayburn  
Washington, DC 20515

The Honorable Sam Graves  
Chairman  
Subcommittee on Highways and Transit  
B-376 Rayburn House Office Building  
Washington, DC 20515

The Honorable Eleanor Holmes Norton  
Ranking Member  
Subcommittee on Highways and Transit  
2136 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Shuster, Chairman Graves, Ranking Member DeFazio, and Ranking Member Norton:

On July 1, 2013, the Federal Motor Carrier Safety Administration (FMCSA) began implementing complicated changes to the federal Hours of Service (HOS) regulations (*76 FR 81134*). Specifically, the provision that requires drivers to take a 30-minute break after at most eight consecutive hours has proven to be incredibly burdensome and difficult to implement for the ready mixed concrete industry. This summer, as Congress works towards the next Highway Reauthorization, we ask that this issue be addressed at the next available opportunity.

Concrete is a perishable product needed on a just-in-time basis. Once a delivery is started it must be completed or the concrete may harden in the truck causing thousands of dollars worth of damage. Concrete delivery often takes more than 2 ½ hours to complete, and because every day is different in the construction field, companies need the flexibility to deliver concrete when the customer needs it. Additionally, a ready mixed concrete driver's average delivery is only 14 miles from the plant and drivers are only driving about 4 to 6 hours per day. Mixer drivers typically spend only about 40% of their on-duty time actually driving, the other 60% is spent at the plant waiting to be dispatched, at the jobsite waiting for the contractor to receive the concrete, unloading concrete, and performing other non-strenuous or administrative duties. Concrete mixer trucks already hold some of the lowest crash rankings of commercial motor vehicles and amongst trucks of similar size and configuration.

While FMCSA has tried to address the 30-minute break rule for short-haulers and the ready mixed concrete industry – issuing guidance on August 5, 2013, and on December 19, 2013, and then an industry-wide limited exemption on April 2, 2015. However, uncertainty and confusion still remain (*78 FR 64179*, *78 FR 76757*, and *80 FR 17819* respectively).

Drivers often become ineligible for a “short-haul” exemption when they unknowingly work past the 12-hour reporting time limit contained in the 100 air-mile logging exemption. Prior to the implementation of the 30-minute break, mixer drivers would simply retroactively fill out a driving log

for the day when they crossed the 12-hour threshold. However, with the onset for needing to take a 30-minute break after at most 8 hours, this process has become more complicated and confusing.

When ready mixed concrete industry drivers are not utilizing the limited 30-minute break exemption FMCSA granted the industry on April 2, 2015, the guidance documents halt the need to take the 30-minute break, as long as drivers are not on-duty after 12 hours. However, after that 12-hour point drivers would need to take the break at the “earliest safe opportunity” and “annotate” why the break wasn’t taken in their RODS (Record of Duty Status). But without clarifying what appropriate annotation and “earliest safe opportunity” mean, compliance is based on how a FMCSA auditor will interpret and apply them in different localities. Absent an FMCSA established, uniform application of this guidance; drivers are bound to be treated differently for the same action.

When ready mixed concrete industry drivers are utilizing the limited 30-minute break exemption FMCSA granted, it merely says that drivers in the industry are exempt from the break for a temporary period, and only if they are able to apply a 30-minute “waiting time” as their break if they go over the 12-hour threshold. To achieve true clarity and regulatory relief from the 30-minute break provision, a permanent industry-wide exemption is needed absent of arbitrary on-duty time limitations and unnecessary, and confusing caveats.

We ask that you work to fix this issue and provide clarity for these drivers by including the following language in the next appropriate legislative vehicle: “Drivers of ready mixed concrete mixer trucks are exempt from 49 C.F.R. 395.3(a)(3)(ii) provided the driver is compliant with 49 CFR 395.1(e)(1)(i) and (iii)(A) through (v) of the 100 air-mile logging exemption.”

Thank you for your attention to this matter. If you need additional information please contact Reed Linsk, with Representative Hunter’s office.

Sincerely,



Duncan Hunter  
Member of Congress



Lou Barletta  
Member of Congress



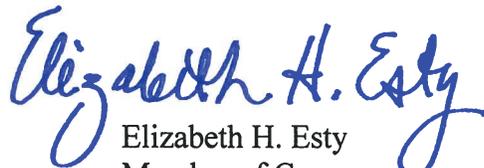
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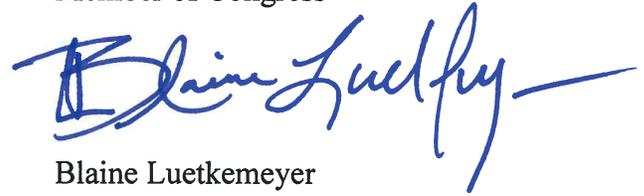
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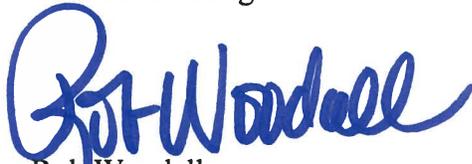
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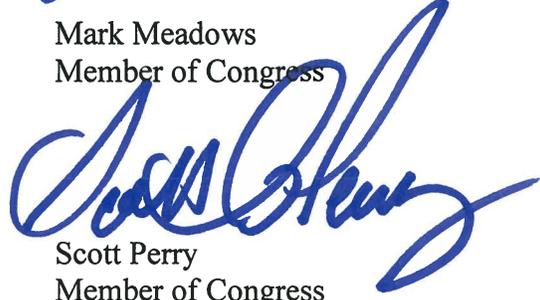
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