

January 19, 2018

Cathy Gautreaux
Deputy Administrator
Federal Motor Carrier Administration
1200 New Jersey Avenue SE
Washington, DC 20590

RE: Hours of Service of Drivers of Commercial Motor Vehicles: Transportation of
Agricultural Commodities, Docket No. FMCSA–2017–0360

Dear Deputy Administrator Gautreaux,

The National Potato Council and the undersigned state organizations representing the U.S. potato industry are extremely concerned about the confusion and resulting negative economic impact of the ongoing implementation of the “Electronic Logging Devices (ELD) and Hours of Service Supporting Documents Final Rule” (80 FR 78292 - December 15, 2015).

In the interest of minimizing these negative consequences, we request that this comment period be extended for an additional ninety (90) days. We also request that the “Limited 90-day Waiver for the Transportation of Agricultural Commodities” that was published on December 18, 2017 be extended for an additional nine (9) months to December 18, 2018.

It is evident that a supply disruption exists within the agricultural trucking industry and the implementation of this ELD rule appears to be one of the causes. We are aware of skyrocketing trucking rates that occurred just as the December 18th implementation date arrived and persist today. In some instances, the cost to transport a truckload of potatoes to market exceeds the value of the commodity.

As an example of a specific deficiency within the rule, certain ELDs on the market are not capable of supporting the agricultural exemption provisions of the Hours of Service regulations. As you are aware, the 150 air-mile agricultural exemption is intended to recognize that perishable commodities can suffer unusual harm if the transportation network is not responsive during harvest and planting times. However, if the devices cannot be switched on and off consistent with that exemption, then the exemption effectively no longer exists. As a remedial step, we strongly encourage FMCSA to initiate a certification program with ELD manufacturers that would provide truckers with confidence that the devices they purchase can perform the mandated tasks.

As enforcement of the ELD rule and the Hours of Service regulations will largely be delegated to individual state authorities, we believe it is essential that clear information be provided to those regulators and also the regulated community about the operation of these mandates. Given the level of confusion about the status of the ELD rule and the fact that this comment period on certain material definitions is currently open, it is

evident to our industry that the necessary clarity from FMCSA has not been, or cannot be, currently provided.

The aforementioned issues with the ELD rule implementation are examples and not intended to entail a comprehensive list of infirmities with the new regulations. However, they do illustrate the complex nature of making this shift to ELDs. We believe that the solution may entail a comprehensive review of both the Hours of Service regulations as they relate to the complex transportation network supporting the perishable agriculture industry, including the adequacy of the 150 air-mile exemption and its supporting definitions, as well as the ELD mandate.

In light of these complex issues, we respectfully request the extension of this comment period and the existing ELD agricultural waiver in order to detail their full scope and provide information on the trucking supply disruption that is evident in the marketplace. Allowing us adequate time to gather necessary information and provide substantive responses to your agency will both enhance trucking safety and minimize economic harm on the potato industry.

Thank you for your consideration of this request.

Sincerely,

National Potato Council
Colorado Potato Administrative Committee
Empire State Potato Growers
Idaho Potato Commission
Idaho Grower Shippers Association
Maine Potato Board
Minnesota Area II Potato Council
North Carolina Potato Association
Northern Plains Potato Growers Association
Potato Growers of Michigan, Inc.
Oregon Potato Commission
Virginia Potato and Vegetable Growers Association
Washington State Potato Commission
Wisconsin Potato and Vegetable Growers Association

Cc: White House National Economic Council
Secretary of Transportation
Secretary of Agriculture
Senate Commerce, Science and Transportation Committee
House Transportation and Infrastructure Committee