Via email

October 5, 2012

Thomas Yager
Chief, Driver and Carrier Operations Division
Federal Motor Carrier Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

RE: Docket No. FMCSA-2012-0183: Hours of Service of Commercial Motor Vehicles;
Regulatory Guidance for Oilfield Exception

Dear Mr. Yager:

Western Energy Alliance submits the following comments on the Federal Motor Carrier
Safety Administration's (FMCSA) notice of regulatory guidance regarding the applicability
of the oilfield exceptions to the Hours of Service (HOS) requirements. We appreciate the
opportunity to comment. Western Energy Alliance represents 400 companies engaged in
all aspects of environmentally responsible exploration and production of oil and natural
gas across the West. The majority of our members are independent producers – small
businesses with an average of twelve employees.

The June 5, 2012 guidance document was posted effective immediately, without prior
public review and comment, nor clear rational for this substantive, far-reaching change.
This guidance replaces guidance that has informed and served the regulated community
and other impacted stakeholders well for 50 years. As such, we are concerned about the
process used by the FMCSA to develop guidance that we believe will confuse rather than
ensure consistent understanding and application of the regulatory exceptions.   We
request that it be rescinded until FMCSA demonstrates that a substantive change is
needed in guidance to clarify the HOS rule.

This revised regulatory guidance from FMCSA for HOS exceptions will be particularly
onerous for small companies by placing additional costs and burdensome requirements on
commercial motor vehicle (CMV) operators in the oil and gas industry. We understand the
HOS requirements are intended for the safety of CMV operators and those near them.
The oil and gas industry supports rules that ensure safety. We do, however, disagree with
the process used to release the guidance, and we are concerned it will create a double
standard for vehicle operators in the oil and gas industry that will only confuse guidance
application.

Drivers of support vehicles, such as sand and water trucks, are considered by industry to be "specially trained operators", and they go through the same "extensive training" as operators of other types of vehicles at drilling and production sites that were specifically listed in the guidance. These operators have the same "long waiting periods at well sites with few or no functions to perform until their service are needed at an unpredictable point in the drilling process." This allows them time for rest and to attend to other necessities. The new regulatory guidance from FMCSA will create a double standard for specially trained drivers that service oilfield operations that currently do not have to count waiting time on site toward their hours of service. If FMCSA proceeds with this interpretation, there will be confusion in determining waiting time eligibility when specially trained operators operate qualifying and non-qualifying equipment within the same 70-hour period.

FMCSA has published new guidance that substantially changes the application of rules that has informed the regulated community well for 50 years. This guidance was implemented "effective immediately", without engagement of affected stakeholders to understand the impacts created with more trucks on the road, to address availability of drivers with the required training, certifications and skills, or to factor into their analysis the costs to comply. This guidance raises serious concern about how this FMCSA conducts rulemaking and develops guidance that impacts the regulated community and the users of their services.   We request that FMCSA rescind the revised guidance and determine whether there is a substantial need for further clarification.

Sincerely,

Kathleen M. Sgamma
VP, Government & Public Affairs

WESTERN ENERGY ALLIANCE