

COMPLIANCE OVERVIEW

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FAQs: Electronic Logging Devices

On Dec. 16, 2015, the Federal Motor Carrier Safety Association (FMCSA) published a [final rule](#) for electronic logging devices (ELDs) for commercial motor vehicles (CMVs). The final rule prohibits certain drivers from operating a CMV without an ELD.

The final rule also includes requirements regarding supporting documentation for hours-of-service (HOS) records and measures to prevent driver harassment that could result from the mandatory use of ELDs.

The FMCSA has released Frequently Asked Questions (FAQs) to provide plain language information regarding the ELD rule. This Compliance Bulletin contains the FAQs provided by the FMCSA.

LINKS AND RESOURCES

- ELD [Final Rule](#)
- FMCSA [FAQs](#) on the ELD Final Rule
- FMCSA [Implementation Timeline](#)
- FMCSA Electronic Logging Devices [web page](#)

HIGHLIGHTS

ELD RULE

The final rule requires certain CMV drivers to install and use ELDs. It also:

- Clarifies the rules on supporting documentation for ELD records; and
- Establishes measures to prevent ELD-related harassment.

IMPLEMENTATION

Implementation of the final rule will take place in three phases:

1. Awareness and transition (Feb. 16, 2016 – Dec. 18, 2017)
2. Phased-in compliance (Dec. 18, 2017 – Dec. 16, 2019)
3. Full compliance

Full compliance will be required after Dec. 16, 2019.

ABOUT ELDS

What is an electronic logging device?

An ELD is technology that automatically records a driver's driving time and other aspects of the HOS records. This allows easier, more accurate HOS recordkeeping. An ELD monitors a vehicle's engine to capture data on whether the engine is running, whether the vehicle is moving, the miles driven, and the duration of engine operation (engine hours). ELD manufacturers must certify that ELDs meet technical standards in the ELD rule.

How is an ELD different than an AOBDRD (automatic on board recording device)?

An ELD must be certified, and registered with FMCSA. Each ELD model will have a unique registration number that can be found on its display or printout. A list of registered devices will be available on the ELD rule on its effective date of Feb. 16, 2016.

Can a driver use a portable ELD?

Yes, a portable ELD must be mounted (secured in a fixed position) while the driver is operating the vehicle. It must also be visible to the driver from a normal driving position.

Can an ELD be comprised of a smartphone or other wireless device?

Yes, as long as it meets the technical specifications and is certified and registered with FMCSA.

Is an ELD required to collect data about vehicle performance?

No, ELDs are not required to collect data on vehicle speed, braking action, steering function or other vehicle performance parameters. ELDs are only required to collect data to determine compliance with HOS regulations.

Do the specifications in the ELD rule include requirements to automatically control the vehicle, such as other safety systems that may automatically reduce acceleration or apply braking?

No, the rule does not include requirements to control the vehicle or any other safety systems.

What is the level of precision for CMV location information recorded by an ELD?

During on-duty driving, location is accurate within an approximate 1-mile radius. During off-duty personal use, reporting is accurate within an approximate 10-mile radius. ELDs record the location city, town or village—or the compass direction and distance to the nearest city, town or village.

What does engine synchronization mean for the purposes of ELD compliance?

In order to be compliant, an ELD must be able to directly monitor the vehicle's engine operation to automatically capture engine power status (on or off), vehicle motion, miles driven and engine hours.

Will GPS-derived data for mileage be allowed as a substitute for data that cannot be readily obtained from a vehicle electronic control module (ECM)?

No, the ELD must be able to monitor engine operation to automatically capture required data. A GPS is not integrally synchronized with a vehicle's engine and cannot be a substitute for required ECM data to comply with the ELD rule.

Why must an ELD collect engine hour data?

Engine hours provide a cross-check to verify the odometer data collected.

Can an ELD have a feature to warn drivers about approaching HOS limits?

Yes, the ELD rule allows, but does not require, warning or notification to drivers when they are nearing their HOS limits.

Who is responsible for certifying and registering ELDs?

Manufacturers are responsible for certifying and registering their ELDs.

Why must ELDs be certified and registered?

An ELD that is not certified and not registered is not compliant with the requirements of the ELD final rule. Carriers and drivers should ensure that any ELD is on the list of registered ELDs prior to procurement.

ABOUT THE ELD RULE

What does the ELD rule address?

The ELD rule:

- Requires ELD use by commercial drivers who are required to prepare HOS records of duty status (RODS).
- Sets ELD performance and design standards, and requires ELDs to be certified and registered with FMCSA.
- Establishes what supporting documents drivers and carriers are required to keep.
- Prohibits harassment of drivers based on ELD data or connected technology (such as a fleet management system). The rule also provides recourse for drivers who believe they have been harassed.

Does the ELD rule require real-time tracking of CMVs with ELDs?

No, real-time tracking of CMVs is not required in the ELD rule. Vehicle location is only recorded at certain intervals with limited accuracy. Yet, a motor carrier may use technology to track its CMVs in real-time for business purposes. A motor carrier is free to use this data as long as it does not engage in harassment or violate the Federal Motor Carrier Safety Regulations (FMCSRs). However, in transmitting data to safety officials, ELDs must limit location information to protect driver privacy.

COMPLIANCE

Who must use an ELD?

The ELD rule applies to motor carriers and drivers who are currently required to keep RODS on paper or with an AOB RD under the HOS regulations.

Drivers who use the timecard exception, and don't keep paper RODS, will not be required to use ELDs. The following drivers may keep paper RODS:

- Drivers who keep RODS no more than eight days during any 30-day period;
- Driveaway-towaway drivers (transporting a vehicle for sale, lease, or repair), provided the vehicle driven is part of the shipment; and

- Drivers of vehicles manufactured before model year 2000.

However, a carrier can choose to use an ELD, even if it is not required.

Does the ELD rule also apply to buses?

Yes, passenger carriers must also use ELDs when required by the rule.

Are Canada- and Mexico-domiciled drivers required to use ELDs when they are operating in the United States?

Yes, Canada- and Mexico-domiciled drivers are required to use ELDs when they are operating in the United States, unless they qualify for one of the exceptions to the ELD rule. A driver who operates in more than one country can note information in the ELD for periods of operation outside the United States.

What exceptions are allowed by the ELD rule?

Drivers who are not required to keep RODS are not required to use ELDs. In addition, the following drivers are not required to use ELDs, but must maintain paper logs when required:

- Drivers who keep RODS no more than eight days during any 30-day period;
- Driveaway-towaway drivers (transporting an empty vehicle for sale, lease or repair), provided that the vehicle driven is part of the shipment; and
- Drivers of vehicles manufactured before model year 2000.

Is there an exception to the requirement to use ELDs for drivers who infrequently use RODS?

An exception was made to provide relief for those drivers who use RODS infrequently (that is, no more than eight days in any 30-day period). This includes those who only occasionally drive commercial vehicles and short-haul drivers who use timecards rather than RODS.

Can drivers operate CMVs equipped with ELDs if they are not required to use them due to an exception?

Yes. A motor carrier can configure an ELD to show an exception for a driver who is exempt from using an ELD. The carrier can also use the ELD notes (annotation) capability to record the driver's exempt status.

How soon can ELDs be installed and used—and when must they be used in CMVs?

Manufacturers can begin certifying and registering ELDs 60 days after the publication date of the rule (the effective date). Carriers or drivers can use registered ELDs as soon as they are available.

All motor carriers and drivers subject to the ELD rule must use either an ELD or an AOB RD by the compliance date (two years from the publication date of the final ELD rule). Within four years after the publication date, all carriers and drivers subject to the rule must use only ELDs.

DRIVER HARASSMENT

What is the definition of harassment in the ELD rule?

Harassment is action taken by a motor carrier that the carrier knew (or should have known) would result in a driver violating the HOS rules or a situation where the driver is operating while ill or fatigued. The carrier's action must be based on information from an ELD or other technology used in combination with an ELD. FMCSA explicitly prohibits a motor carrier from harassing a driver [49 CFR 390.36].

How does the ELD rule address harassment of drivers using ELDs?

The ELD rule prevents the use of ELDs to harass drivers in several ways:

- It specifically prohibits carriers from harassing drivers.
- It provides a process for drivers to file written complaints [49 CFR 368.12(b)].
- It mandates a mute function to ensure a driver is not interrupted in the sleeper berth.
- It includes anti-tampering provisions:
 - Limited ability to edit ELD records for both drivers and motor carriers.
 - Driver certification to indicate the accuracy of data when a carrier edits an ELD record (with drivers having the option not to certify, if an edit is inaccurate).
 - Preservation of original ELD records, even when edited.

An underlying violation of the HOS rules must be found in order to find a harassment violation. A carrier who harasses a driver is subject to a civil penalty for harassment in addition to the penalty for the HOS violation [49 CFR 392.3 or part 395].

What are the differences between harassment and coercion?

Harassment is very specific; harassment occurs when a driver commits an HOS violation based on carrier actions that were related to ELD use.

Coercion is much broader, and is not limited to HOS violations. Coercion occurs when a motor carrier, shipper, receiver or transportation intermediary threatens to withhold work from, take employment action against or punish a driver for refusing to operate in violation of certain provisions of the FMCSRs, Hazardous Materials Regulations and the Federal Motor Carrier Commercial Regulations. Coercion may be found to have taken place even if a violation has not occurred. FMCSA has published a separate rule on coercion.

ENFORCEMENT

How can states impose supporting document standards that are different than the federal standard in the ELD rule?

States can impose requirements that are stricter than the federal standard, unless the Secretary of Transportation determines that:

- The state law has no safety benefit;
- The state law is incompatible with the federal regulation; or

- The state law would impose an unreasonable burden on interstate commerce.

State laws or regulation that are less strict than the federal regulation cannot be enforced.

What will be the enforcement procedures for registered ELDs installed and used in CMVs prior to the compliance date of the ELD rule?

Use of ELDs is voluntary until the compliance date (two years from the publication of the final ELD rule). During this two-year period, drivers and carriers can use any of the following:

- Registered ELDs listed on the FMCSA website.
- AOBRDs that meet the requirements of 49 CFR 395.15.
- Devices with logging software programs to complete RODS that meet the July 10, 2014, “Regulatory Guidance Concerning RODS Generated by Logging Software Programs” (79 Federal Register 39342).
- Paper logs.

Authorized safety officials must distinguish the methods and devices being used and cite the appropriate regulations and guidance for enforcement purposes.

Will drivers be allowed to continue to use AOBRDs following the compliance date for the ELD rule?

Carriers who installed compliant AOBRDs prior to the ELD compliance date can continue to use them for two years following the compliance date.

How are drivers and carriers expected to comply with the regulations for ELDs and AOBRDs during the two-year period following the compliance date of the ELD rule?

During this time, safety officials will enforce the requirements of the ELD rule for ELDs, and the requirements in 49 CFR 395.15 for AOBRDs. The supporting document requirements for drivers and carriers using either device will take effect on the compliance date for the ELD rule (two years after final rule publication).

How will safety officials receive data electronically from the two different types of ELDs with options for different methods of electronic data transfer (“telematics” and “local”)?

Safety officials will be able to select at least one wireless transfer method (web services or email) and one local transfer method (thumb drive, USB2.0 or Bluetooth) for each type of ELD.

Source: Federal Motor Carrier Safety Administration