

ELD – Preparing for Full Compliance

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Topics

- Applicability and Exemptions
- AOB RD Phaseout and ELD "Full Compliance"
- Personal Conveyance and ELDs
- Responsibility of the motor carrier
- Managing an installed ELD system
- Dealing with Malfunctions
- ELD rule progress- Where are we now?

Email questions to ELD@dot.gov



ELD Rule Implementation Timeline

- The rule is being implemented in three phases over a four-year period:



Electronic Logging Devices (ELDs)

- ELD providers must certify that they have tested their device and that it meets all technical specifications detailed in the ELD rule. ELDs must be certified and meet all technical specifications in 395 appendix A based on modern technology.
- Some ELDs may operate in the AOBRD mode; however, a driver or motor carrier must qualify for the "grandfathered" AOBRD provision in order to use the device in the ELD mode.
- To view the official list of devices that have been registered with FMCSA and self-certified by providers as compliant with the ELD rule, visit <https://eld.fmcsa.dot.gov/List>



Automatic On-board Recording Devices (AOBRDs)

- All AOBRDs must meet the standards outlined in 49 CFR 395.15 and must be operated with the following features at all times: (1) Integrally synchronized with the operations of the commercial motor vehicle which it is installed. (2) Record engine use (3) Record road speed (4) Record miles driven (5) Record date and time of day
- A “grandfathered” AOBRD is a device that a motor carrier installed and required its drivers to use before the electronic logging device (ELD) rule compliance date of December 18, 2017.
- A motor carrier may continue to use grandfathered AOBRDs no later than December 16, 2019. After that, the motor carrier and its drivers must use ELDs, if they are subject to the ELD rule.
- Carriers and drivers should know the difference in which device they are using and be able to explain to roadside officers and investigators which device they have.



AOBRD Phase Out

- All AOBRDs **MUST** be upgraded to ELDs on or before 12/16/2019 if the driver/motor carrier does not qualify for an ELD exception or an HOS exemption
- Contact your vendor **NOW** to verify if they will be ELD compliant by 12/16/2019 and to request the upgrade to ELD
- Note many AOBRDs can be upgraded to ELDs with an over the air update – this applies to most systems running on Android or IOS phones or tablets
- If a driver/motor carrier that is subject to the ELD rule, uses an AOBRD after 12/16/2019, the driver and motor carrier will be cited for failing to use the appropriate method to record HOS data. In addition, the driver will be placed out-of-service in accordance with CVSA OOS criteria.
- When in doubt- contact your AOBRD provider to verify the device will be ELD compliant by 12/16/2019.



Exemptions

- Drivers who use the short-haul, timecard exceptions, in accordance with 395.1(e)(1) or 395.1(e)(2), are not required to keep records of duty status (RODS) or use ELDs.
- Anyone subject to any previously existing part 395 exemption (ie you already didn't need to do paper logs before this rule) or any new 395 exemptions
 - ie Agricultural Exemption or Utility Service Vehicle



Exemptions

- Additionally, the following drivers are not required to use ELDs; however, they are still bound by the RODS requirements in 49 CFR 395 and must prepare RODS when required, using paper logs, an Automatic On-Board Recording Device (AOBRD), or a logging software program:
- Drivers who are required to keep RODS not more than 8 days within any 30-day period.
- Drivers conducting a drive-away-tow-away operation, (an operation in which an empty or unladen motor vehicle with one or more sets of wheels on the surface of the roadway is being transported) if the vehicle being driven is the commodity being delivered, or if the vehicle being transported is a motorhome or recreational vehicle trailer.
- Drivers of vehicles manufactured before the model year 2000 (or drivers of vehicles with engines manufactured before the model year 2000)



Additional 8 days during 30-day period guidance

- Off duty days DO NOT count towards the 8 days calculation during a 30 day period.
- Days spent entirely operating within Canada DO NOT count towards the 8 days calculation during 30-day period
- ELDs will only be required starting on the 9th day a paper log is required
- The 8 days on paper logs are not required to be entered into the ELD, but must be retained by the driver for roadside inspection
- For drivers working for more than one carrier, the 8 days calculation in a 30 day period are counted separately for each carrier



What is Personal Conveyance?

Personal conveyance is the movement of a commercial motor vehicle (CMV) for personal use while off duty. A driver may record time operating a CMV for personal conveyance as off-duty only when the driver is relieved from work and all responsibility for performing work by the motor carrier.



Proper Use of Personal Conveyance

1. Time spent traveling to a nearby, reasonably, safe location to obtain required rest after loading or unloading.
2. Time spent traveling from a driver's en route lodging (such as a motel or truck stop) to restaurants and entertainment facilities.
3. Commuting between the driver's terminal and his or her residence, between trailer-drop lots and the driver's residence, and between work sites and his or her residence.



Improper Use of Personal Conveyance

1. The movement of a CMV in order to enhance the operational readiness of a motor carrier. For example, bypassing available resting locations in order to get closer to the next loading or unloading point or other scheduled motor carrier destination.
2. After delivering a towed unit, and the towing unit no longer meets the definition of a CMV, the driver returns to the point of origin under the direction of the motor carrier to pick up another towed unit.
3. Time spent transporting a CMV to a facility for vehicle maintenance.



Personal Conveyance & Electronic Logging Devices

- ELD rule allows carriers to enable the Authorized personal use (personal conveyance) feature
 - See 395.28 – Carrier has the option to enable or disable personal conveyance. Driver must record personal conveyance properly:
 - If enabled – all personal conveyance should occur under PC status
 - If disabled – driver would have to make an annotation in the ELD if they were to use personal conveyance
- Company can establish a “no personal conveyance” policy; however, a safety official will still apply and credit a driver for personal conveyance use if it is determined the driver properly used personal conveyance in accordance with FMCSA’s guidelines.
- Driver can never operate while fatigued – see 392.3



Carrier Responsibilities

395.22(b) – User Accounts

- Carrier is required to manage user accounts
 - If a driver provides their own ELD, the driver must not have support personnel access to the device or the ELD back office system. In addition, the carrier must have support personnel access to the account.
- Driver's first and last name and license number required (Failure to have complete record will may result in data transmission failures)
- New drivers must be added and old drivers must be removed
- Each support person must have their own unique user account (cannot share a single ADMIN account)



Unidentified Driving

- 395.32 – Non-Authenticated Driver Logs (Unidentified Driving)
- Carrier is responsible to manage unidentified driving
- Must either:
 - Assign unassigned miles
 - Annotate (explain) the reason for unassigned miles that weren't assigned (ie mechanic drove vehicle, etc)
- Maintain Unidentified driving records for 6 Months
- Must provide to requesting safety official



Best Practices - Unidentified Driving

- Company should consider a company policy on unidentified driving
- Unidentified driving prevention
 - Make sure drivers know when to login
 - Make sure they logout
 - Make sure they properly use personal conveyance
 - Create appropriate accounts, especially for new drivers
 - Drivers can decline assigned driving
- Later accepted driving/time can contribute to hours of service violations



Editing ELD Data

- Carrier can request edits – Edits go to driver for final approval and require driver approval before finalized
 - Annotate
 - Maintain original data
- Automatically recorded driving time cannot be shortened or the ELD username associated with the an ELD record to be edited or reassigned, except under the following circumstances:
 - Assignment of Unidentified Driver records
 - Corrections of errors with team drivers



Electronic Data Transfer

- Telematics Option – Select 1 of 2 methods:
 - Email
 - Webservices
- Local Option – Select 1 of 2 methods:
 - USB
 - Bluetooth



Cannot Transfer Electronically

- Is the device a grandfathered AOB RD?
 - Not required to transfer electronically, can be used until December 2019
- Is the ELD device compliant?
 - Non-compliant devices will be reported by the investigator and agency will work with manufacturer to get device into compliance. Non-compliant devices that don't comply are subject to revocation
- Is the carrier compliant?
 - Is the device listed on the ELD revoked list
 - Is device configured/setup properly with all required user information?
 - Is there another technical issue preventing transfer?



ELD Malfunctions

- See 395.34 of regulations – very specific guidance on what to do in a malfunction
- Driver must report malfunction to the carrier in writing within 24 hours (can be email/text)
- A driver should only switch to paper logs if he/she experiences a malfunction that hinders the accurate recording of the driver's HOS data (11, 14, 60/70 hours; 30 minute)
- Paper Logs must be generated during the malfunction and prior 7 days must be recreated
- Only 8 days allowed to repair or replace by regulation
- In extenuating circumstances, a carrier can request an extension – email details to eld-extension@dot.gov



ELD Malfunction Extension Requests

- Email to eld-extension@dot.gov and include:
- The legal name, principal place of business address and USDOT number of the motor carrier. The extension request must include the following information:
- The name, address, and telephone number of the motor carrier representative who files the request;
- The make, model, and serial number of each ELD;
- The date and location of each ELD malfunction as reported by the driver to the carrier; and
- A concise statement describing actions taken by the motor carrier to make a good faith effort to repair, replace, or service the ELD units, including why the carrier needs additional time beyond the 8 days provided by 49 CFR part 395.34
- ELD malfunction extension will only be granted if the ELD malfunction hinders the accurate recording of the driver's HOS data (11, 14, 60/70 hours; 30 minute)



Managing an ELD System

- “Unassigned Miles”- audit and accurately assign miles, determine “why” and fix going forward
- Driver tampering: examine diagnostics reports for system disconnects. Some drivers deliberately disconnecting devices to conceal over HOS, revert to paper log
- Off duty period “skips”- solo driver logging off duty in Boise, ID, and returns to duty in Lansing, MI
- Drivers using multiple login IDs “virtual ghost driver”.



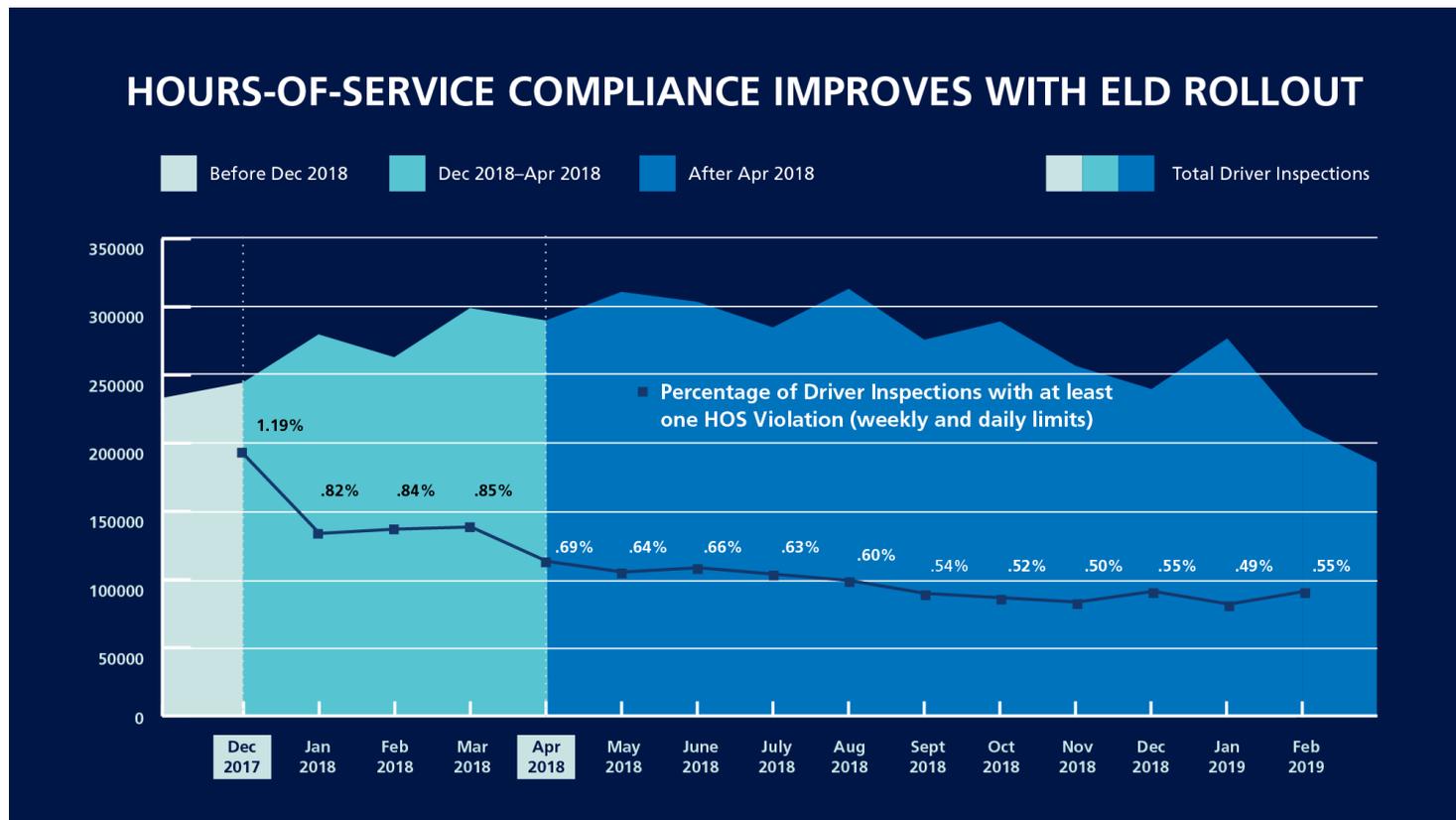
Managing an ELD System- Cont.

- Personal Conveyance- abuse of the PC provision. See ~~new~~ PC guidance.
- Modifications after the fact- dispatchers given edit rights, changing “on-duty not driving” to “off duty”
- “Creeping”- frequent logout/login in slow traffic, apparently to stretch 14/70 hour
- Carefully monitor that drivers are accurately recording “on-duty” status



ELD Enforcement Experience

- FMCSA is tracking the impact ELDs are having on industry compliance with HOS regulations.



Recommendations

- Don't install an ELD and just "set it and forget it"
- Establish, prioritize and properly staff a PROACTIVE monitoring and validation program. Have a disciplinary policy to deal with tampering, unauthorized edits, unsafe driving behaviors, other abuse.
- Engage with vendor for training, use of reporting & management systems, customization, etc.- know that you are working with a quality partner.
- Strictly limit access rights to edit back office ELD data, have a policy in place on when to edit, and when NOT to edit.



Recommendations, Cont.

- Periodically conduct internal audits of logins- clean up old/unused logins for drivers, office staff.
- Tampering with an ELD to conceal HOS violations is an “Acute” violation- will result in adverse impacts to Rating and FMCSA policy requires enforcement action in most instances. Use system diagnostics and disconnect reports to monitor and deal with tampering.
- Reach out to local associations: lessons learned, best practices, keep up to date on the latest developments.



ELD Enforcement Experience

- Average Driver inspections with ELD violations
 - Dec. 2017–Mar. 2019 = 3.52%
- Investigation Findings (*reported by FMCSA investigators as of March 15, 2019*)
 - Carriers with completed ELD/AOBRD = 61.0% (*up from 37.87% in Dec. 2017*)
 - Carriers without a required ELD = 0.00% (*down from 18% in in Dec. 2017*)



Recap

- Unless qualifying for an HOS exemption, AOBDRDs **MUST** be upgraded to ELDS no later than 12/16/2019
- ELD implementation has resulted in fewer violations roadside
- Be sure you properly use any ELD exemption
- Be sure to properly use the new personal conveyance guidance



Recap, continued

- Motor carriers must manage user accounts and unassigned driving
- Malfunctions must be repaired within 8 days or an extension must be granted



ELD Webinars/Resources

New Website: eld.fmcsa.dot.gov

Click “Drivers and Motor Carriers”

- **FAQs:** <https://www.fmcsa.dot.gov/hours-service/elds/faqs>
 - Last update December of 2018 but keep an eye out for new updates

Sign up for ELD Email Updates

Various Printouts and Handouts Available for Download

Personal Conveyance Website-

<https://www.fmcsa.dot.gov/regulations/hours-service/personal-conveyance>

Personal Conveyance Questions? Email: Personalconveyance@dot.gov

ELD Questions? Email: Eld@dot.gov

