



# Electronic Logging Devices and Hours of Service Supporting Documents

## Frequently Asked Questions

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## General Information about the ELD Rule

### **1. What are the key requirements of the Electronic Logging Device (ELD) rule? The ELD rule:**

- Requires ELD use by commercial drivers who are required to prepare hours-of-service (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 fleet management system). The rule also provides recourse for drivers who believe they have been harassed.

### **2. What is the mandate in the Moving Ahead for Progress in the 21st Century Act (MAP-21) for the Electronic Logging Device (ELD) rule?**

Section 32301(b) of the Commercial Motor Vehicle Safety Enhancement Act, enacted as part of MAP-21, (Pub. L. 112-141, 126 Stat. 405, 786-788, July 6, 2012) mandates the ELD rule. It calls for the Secretary of Transportation to adopt regulations requiring ELD use in commercial motor vehicles (CMVs) involved in interstate commerce, when operated by drivers who are required to keep records of duty status (RODS).

### **3. Who must comply with the electronic logging device (ELD) rule?**

The ELD applies to most motor carriers and drivers who are currently required to maintain records of duty status (RODS) per Part 395, 49 CFR 395.8(a). The rule applies to commercial buses as well as trucks, and to Canada- and Mexico-domiciled drivers.

The ELD rule allows limited exceptions to the ELD mandate, including:

- Drivers who operate under the short-haul exceptions may continue using timecards; they are not required to keep RODS and will not be required to use ELDs.
- Drivers who use paper RODS for not more than 8 days out of every 30-day period.
- Drivers who conduct drive-away-tow-away operations, in which the vehicle being driven is the commodity being delivered.
- Drivers of vehicles manufactured before 2000.

### **4. What electronic logging device (ELD) user documentation must be onboard a driver's commercial motor vehicle?**

Beginning on December 18, 2017, a driver using an ELD must have an ELD information packet onboard the commercial motor vehicle (CMV) containing the following items:

1. A user's manual for the driver describing how to operate the ELD;
2. An instruction sheet describing the data transfer mechanisms supported by the ELD and step-by-step instructions to produce and transfer the driver's hours-of-service records to an authorized safety official;
3. An instruction sheet for the driver describing ELD malfunction reporting requirements and recordkeeping procedures during ELD malfunctions; and
4. A supply of blank driver's records of duty status (RODS) graph-grids sufficient to record the driver's duty status and other related information for a minimum of 8 days.

Prior to December 18, 2017, FMCSA recommends that drivers have the user's manual, malfunction instruction sheet, and graph-grids.

### **5. Can the ELD information packet be in electronic form?**

Yes. The user's manual, instruction sheet, and malfunction instruction sheet can be in electronic form. This is in accordance with the federal register titled "Regulatory Guidance Concerning Electronic Signatures and Documents" (76 FR 411).

### **6. Can an electronic logging device (ELD) be on a smartphone or other wireless device?**

Yes. An ELD can be on a smartphone or other wireless device if the device meets the ELD rule's technical specifications.

**7. Can a driver use a portable electronic logging device (ELD)?**

Yes. A driver may use a portable ELD. A portable ELD must be mounted in a fixed position during commercial motor vehicle (CMV) operation (CMV) and visible to the driver from a normal seated driving position. This information can be found in the ELD Rule section 395.22(g).

**8. How long must a motor carrier retain electronic logging device (ELD) record of duty status (RODS) data?**

A motor carrier must retain ELD record of duty status (RODS) data and back-up data for six months. The back-up copy of ELD records must be maintained on a device separate from that where original data are stored. Additionally, a motor carrier must retain a driver's ELD records in a manner that protects driver privacy.

**9. What electronically transferred data from electronic logging devices (ELDs) will be retained by Federal Motor Carrier Safety Administration (FMCSA) and other authorized safety officials?**

FMCSA will not retain any ELD data unless there is a violation.

**10. What is the carrier's responsibility in ensuring that they are using a registered device?**

The motor carrier is responsible for checking that their device is registered. This includes checking both the registration and revocation list periodically. The list of registered and revoked ELDs can be found on the following link: <https:3pdp.fmcsa.dot.gov/ELD/ELDLList.aspx>.

In the event that an ELD is removed from the registration list, FMCSA will make efforts to notify the public and affected users. Motor carriers and drivers are encouraged to sign-up for ELD updates to receive notifications on when an ELD has been listed on the Revocation List.

**11. How will the ELD display screen or printout reflect special driving categories; yard moves and personal conveyance?**

While not required, if the motor carrier configured the driver user account to authorize a special driving category, then the graph-grid will overlay periods using a different style line (such as dashed, dotted line, or shading) in accordance with section 4.8.1.3(c)(1) of the ELD Functional Specifications. The appropriate abbreviation must also be indicated on the graph-grid.

If the motor carrier does not configure the driver user account to authorize special driving categories, then the driver must annotate the beginning and end of the applicable special driving category.

**12. If the vehicle registration for a commercial motor vehicle reflects a model year of 2000 or newer, but the vehicle was manufactured without an engine control module (ECM), is the carrier required to comply with the ELD rule?**

Yes, a motor carrier operating a vehicle with a manufactured model year of 2000 and newer and without an ECM is subject to the ELD rule. If the currently installed engine does not support an ECM and is unable to obtain or estimate the required vehicle parameters, then the operator must use an ELD that does not rely on ECM connectivity, but nevertheless meets the accuracy requirements of the final rule. See Appendix A to Subpart B of Part 395 sections 4.2 and 4.3.1 of the ELD rule for accuracy requirements.

**13. How are motor carriers required to present records of duty status (RODS) from December 11-17, 2017? Will drivers be required to present their records of duty status on electronic logging devices (ELDs)?**

No, drivers will not be required to present RODS on ELDs from December 11, 2017, to December 17, 2017. Drivers can present their previous 7 days of RODS through any of the following:

- Paper records,
- A printout from an electronic logging device,
- A display from a device installed with logging software and electronic signature capabilities,
- Having the records available by entering them into an ELD, or
- Continued use of a grandfathered automatic on-board recording device.

## Electronic Logging Device Exemptions

### **1. Who is exempt from the ELD rule?**

Drivers who use the timecard exception are not required to keep records of duty status (RODS) or use ELDs. 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 logs on paper, using an Automatic On-Board Recording Device (AOBRD), or with a logging software program when required:

- Drivers who use paper RODS for not more than 8 days out of every 30-day period.
- Drivers who conduct drive-away-tow-away operations, where the vehicle being driven is the commodity being delivered.
- Drivers of vehicles manufactured before 2000.
- Drivers who are required to keep RODS not more than 8 days within any 30-day period.
- Drivers who conduct drive-away-tow-away operations, where the vehicle being driven is the commodity being delivered, or the vehicle being transported is a motor home or a recreation vehicle trailer with one or more sets of wheels on the surface of the roadway.
- Drivers of vehicles manufactured before the model year 2000. (As reflected on the vehicle registration)

### **2. What time periods can be used to determine the 8 days in any 30-day period?**

The 30-day period is not restricted to a single month, but applies to any 30-day period. For example, June 15 to July 15 is considered a 30-day period.

### **3. What information may be requested to support the exemption for drivers not required to use records of duty status (RODS) more than 8 days in any 30-day period?**

Authorized safety officials may inspect and copy motor carrier records and request any records needed to perform their duties.

### **4. If the vehicle registration for a commercial motor vehicle reflects a model year of 2000 or newer, but the connections and motor vehicle components (such as the engine) are older than model year 2000, is the vehicle exempt from the ELD rule?**

Yes. When a vehicle is registered, the model year should follow the criteria established by the National Highway Traffic Safety Administration (NHTSA). There may be instances where the model year reflected on the vehicle registration is not the same as the engine model year, most commonly when a vehicle is rebuilt using a "glider kit." In this circumstance, an inspector/investigator should use the model year on the engine to determine if the driver is exempt from the ELD requirements. If the engine model year is older than 2000, the driver is not subject to the ELD rule. In instances in which the engine model year is 2000 or newer, and the vehicle registration reflects a model year older than 2000, the driver is subject to the ELD rule. While the driver is not required to possess documentation that confirms the vehicle engine model year, 49 CFR Part 379 Appendix A requires motor carriers to maintain all documentation on motor and engine changes at the principle place of business. If a determination cannot be made at the roadside, Law Enforcement should refer the case for further investigation.

### **5. If a motor carrier's operation is exempt from the requirements of 49 CFR Part 395.8, is the motor carrier also exempt from the ELD rule?**

Yes. Motor carriers with operations that are exempt from the requirements of 395.8 are exempt from the ELD rule.

### **6. Are Canada- and Mexico-domiciled drivers required to use electronic logging devices (ELDs) when they are operating in the United States?**

Yes. Canada- and Mexico-domiciled drivers must comply with the Federal hours of service rules while operating in the United States. This includes using ELDs compliant with 49 CFR Part 395, unless they qualify for one of the exceptions. A driver operating in multiple jurisdictions will be able to annotate the driver's record of duty status on the ELD with information on periods of operation outside the United States.

**7. How should an ELD record a driver's hours of service when operating in another country such as Canada?**

The ELD provider may tailor the device to its customers' needs/operations to assist them in accurately monitoring drivers' hours of service compliance in accordance with the hours of service standards of the country operated in, such as cross-border operations.

**8. Can drivers operate commercial motor vehicles (CMVs) equipped with electronic logging devices (ELDs), if they are not required to use them due to an exception?**

Yes. Drivers can drive CMVs equipped with ELDs and still use their exception. A motor carrier may configure an ELD to show the exception for drivers exempt from using the ELD, or use the ELD annotation to record the status.

**9. Are motor carriers that meet the agricultural exemption defined in 395.1(k) or the covered farm vehicle 395.1(s) subject to the ELD rule?**

The ELD rule does not change any of the current hours of service exemptions. Therefore, motor carriers that meet the exemptions defined in 395.1 are not subject to Part 395, including the ELD rule while they are operating under the terms of the exemption. The duty status of the driver may be noted as either off-duty (with appropriate annotation), or "exempt."

**10. If a commercial motor vehicle is equipped with a glider kit that is newer than model year 2000, but the connections and motor vehicle components (such as the engine) are older than model year 2000, is the vehicle exempt from the ELD rule?**

No. ELD use is required for vehicles whose VINs reflects a model year of 2000 or newer. The ELD rule requires a reasonable proxy for this data if the engine control module (ECM) or ECM connectivity does not provide it. If the currently installed engine does not support an ECM to obtain or estimate the required vehicle parameters, then the operator must use an ELD that does not rely on ECM connectivity, provided that the accuracy requirements of the final rule are met. See Appendix A to Subpart B of Part 395 section 4.3.1 of the ELD rule for accuracy requirements

**11. Can a driver use an ELD on a commercial motor vehicle with a model year older than 2000?**

Yes. However, the ELD must comply with the ELD rule's technical specifications. The ELD may use alternative sources to obtain or estimate the required vehicle parameters, in accordance with the accuracy requirements in Section 4.3.1 of the ELD rule.

**Voluntary Usage and Compliance Phases**

**1. How soon can electronic logging devices (ELDs) be installed and used in commercial motor vehicles (CMVs)?**

Since February 16, 2016, ELD manufacturers have been able to register and self-certify their ELDs with FMCSA, and motor carriers have been able to elect to use ELDs listed on the website. All motor carriers and drivers subject to the requirements in the ELD rule must begin using an ELD or "grandfathered AOB RD" on December 18, 2017, the compliance date of the ELD rule.

**2. What are the enforcement procedures for registered electronic logging devices (ELDs) installed and used in commercial motor vehicles (CMVs) prior to the compliance date of the ELD rule?**

Prior to the compliance date of December 18, 2017, ELD use is voluntary. Safety officials will review ELD information to determine compliance with the hours of service regulations and to detect falsifications.

**3. What are the options for carriers and drivers to complete records of duty status (RODS) prior to the Electronic Logging Device (ELD) rule compliance date?**

Prior to December 18, 2017 drivers and motor carriers can use:

- Automatic onboard recording device (AOBRDs),
- ELDs,
- Paper logs or
- Devices with logging software programs.

#### **4. What is a "grandfathered" automatic onboard recording device (AOBRD)?**

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. The device must meet the requirements of 49 CFR 395.15. 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. See Section 395.15 (a) of the ELD final rule.

#### **5. When are drivers subject to the ELD rule required to start using electronic logging devices (ELDs)?**

Motor carriers and drivers subject to the ELD rule must start using ELDs by the compliance date of December 18, 2017, unless they are using a grandfathered Automatic On-board Recording Device (AOBRD).

#### **6. What will be the enforcement procedures for "grandfathered" automatic onboard recording devices (AOBRDs) and electronic logging devices (ELD) during the two-year period following the compliance date of the ELD rule?**

During the period when both "grandfathered" AOBRDs and ELDs will be used (December 18, 2017 to December 16, 2019), authorized safety officials will enforce ELD rule requirements for ELDs and the requirements in 49 CFR 395.15 for "grandfathered" AOBRDs. The supporting document requirements for drivers and motor carriers using either device will take effect on the ELD rule compliance date of December 18, 2017

#### **7. According to § 395.8, if a motor carrier "installs and requires a driver to use an AOBRD...before December 18, 2017 they may continue to use the AOBRD until December 16, 2019." Does this mean I can move an AOBRD from one vehicle to another after December 18, 2017?**

If your operation uses AOBRDs before December 18, 2017, and you \*replace vehicles in your fleet you can install an AOBRD that was used in the previous CMV. However, you may not purchase and install a new AOBRD in a vehicle after December 18, 2017.

### **Harassment**

#### **1. What is the definition of harassment in the Electronic Logging Device (ELD) rule?**

FMCSA defines harassment as an action by a motor carrier toward one of its drivers that the motor carrier knew, or should have known, would result in the driver violating hours of service (HOS) rules in 49 CFR 395 or 49 CFR 392.3. These rules prohibit carriers from requiring drivers to drive when their ability or alertness is impaired due to fatigue, illness or other causes that compromise safety. To be considered harassment, the action must involve information available to the motor carrier through an ELD or other technology used in combination with an ELD. FMCSA explicitly prohibits a motor carrier from harassing a driver.

#### **2. How does the Electronic Logging Device (ELD) rule address harassment of drivers using ELDs?**

The ELD rule has provisions to prevent the use of ELDs to harass drivers. FMCSA explicitly prohibits a motor carrier from harassing a driver, and provides that a driver may file a written complaint under 49 CFR 386.12(b) if the driver was subject to harassment. Technical provisions that address harassment include a mute function to ensure that a driver is not interrupted in the sleeper berth. Furthermore, the design of the ELD allows only limited edits of an ELD record by both the driver and the motor carrier's agents, and in either case, the original ELD record cannot be changed. As a result, motor carriers will be limited in forcing drivers to violate the hours of service (HOS) rules without leaving an electronic trail that would point to the original and revised records. The driver certification is also intended, in part, to protect drivers from unilateral changes—a factor that drivers identified as contributing to harassment.

Harassment will be considered in cases of alleged hours of service (HOS) violations; therefore, the penalty for harassment is in addition to the underlying violation under 49 CFR 392.3 or part 395. An underlying HOS violation must be found for a harassment penalty to be assessed.

#### **3. Does the Electronic Logging Device (ELD) rule require real-time tracking of commercial motor vehicle (CMVs) with ELDs?**

No. Real-time tracking of CMVs is not required in the ELD rule. However, 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).

#### 4. What are the differences between harassment and coercion?

A motor carrier can only be found to have committed harassment if the driver commits a specified underlying hours of service (HOS) violation based on the carrier's actions and there is a connection to the electronic logging device (ELD). Adverse action against the driver is not required, because the driver complied with the carrier's instructions. In contrast, coercion is much broader in terms of entities covered, and addresses the threat to withhold work from or take adverse employment action against a driver in order to induce the driver to violate a broader range of regulatory provisions or to take adverse action to punish a driver for the driver's refusal to operate a commercial motor vehicle (CMV) in violation of the specified regulations. Unlike harassment, coercion does not have to result in the driver being in violation of the regulations and does not have to involve the use of an ELD.

#### 5. What should a driver consider before filing a harassment complaint?

FMCSA encourages any driver who feels that he or she was the subject of harassment to also consider FMCSA's coercion rule and the Department of Labor's whistleblower law (enacted as part of the Surface Transportation Assistance Act (49 U.S.C. 31105)), which provides retaliation protection.

#### 6. How much time is allowed for a driver to file a harassment complaint?

A driver must file a written harassment complaint no later than 90 days after the event.

#### 7. Where should a driver file a harassment complaint?

The driver's must file a written complaint with the National Consumer Complaint Database at <http://nccdb.fmcsa.dot.gov> or with the FMCSA Division Administrator for the State where the driver is employed (<http://www.fmcsa.dot.gov/mission/field-offices>).

#### 8. What information must be submitted in a harassment complaint?

The following information must be submitted in writing:

1. Driver's name, address, and telephone number;
2. Name and address of the motor carrier allegedly harassing the driver; and
3. Statement of the facts to prove each allegation of harassment, including:
  - a. How the electronic logging device (ELD) or other technology used with the ELD contributed to harassment.
  - b. The date of the alleged action.
  - c. How the motor carrier's action violated either 49 CFR 392.3 or 49 CFR 395.
4. Driver's signature.

Any supporting evidence that will assist FMCSA in the investigation of the complaint should also be included along with the complaint.

### Differences between AOBDRDs and ELDs

#### 1. What are the differences in the technical specifications in the 1988 automatic onboard recording device (AOBRD) Rule (49 CFR 395.15) and the Electronic Logging Device (ELD) rule?

The table below compares the technical specifications in the AOBRD rule (49 CFR 395.15) and the ELD rule.

Feature/Function	1988 AOBRD Rule	ELD Rule
Integral Synchronization	Integral synchronization required, but term not defined in the Federal Motor Carrier Safety Regulations (FMCSRs)	Integral synchronization interfacing with the CMV engine electronic control module (ECM), to automatically capture engine power status, vehicle motion status, miles driven, engine hours (CMVs older than model year 2000 exempted)

Feature/Function	1988 AOBRD Rule	ELD Rule
Recording Location Information of Commercial Motor Vehicle (CMV)	Required at each change of duty status Manual or automated	Requires automated entry at each change of duty status, at 60-minute intervals while CMV is in motion, at engine-on and engine-off Instances, and at beginning and end of personal use and yard moves
Graph Grid Display	Not required- "time and sequence of duty status changes"	An ELD must be able to present a graph and of driver's dally duty status changes either on a display or on a printout
Hours of Service (HOS) Driver Advisory Messages	Not addressed	HOS limits notification is not required  "Unassigned driving time/miles" warning must be provided upon login
Device "Default" Duty Status	Not addressed	On-duty not driving status, when CMV has not been in-motion for five consecutive minutes, and driver has not responded to an ELD prompt within one minute No other non-driver-initiated status change is allowed
Clock Time Drift	Not addressed	ELD time must be synchronized to Universal Coordinated Time (UTC), absolute deviation must not exceed 10 minutes at any time
Communications Methods	Not addressed – focused on interface between AOBRD support systems and printers	Two Options  1- "Telematics" As a minimum, the ELD must transfer data via both wireless Web services and wireless e-mail  2- "Local Transfer" As a minimum, the ELD must transfer data via both USB 2.0 and Bluetooth  Both types of ELDs must be capable of displaying a standardized ELD data set to authorized safety officials via display or printout
Resistance to Tampering	AOBRD and support systems must be tamperproof, to the maximum extent practical	An ELD must not permit alteration or erasure of the original information collected concerning the driver's ELD records or alteration of the source data streams used to provide that information ELD must support data integrity check functions
Identification of Sensor Failures and Edited Data	AOBRD must identify sensor failures and edited data	An ELD must have the capability to monitor its compliance (engine connectivity, timing, positioning, etc.) for detectable malfunctions and data inconsistencies An ELD must record these occurrences.

## **Differences between AOBRDs and logging Software Programs**

### **1. What are the differences between automatic onboard recording devices (AOBRDs) and devices using logging software programs?**

A key difference between devices with logging software programs and AOBRDs relates to connectivity with the commercial motor vehicle (CMV) operations. An AOBRD must be integrally synchronized with the specific operations of the CMV on which it is installed. AOBRDs must also record engine use, speed, miles driven, and date and time of day, as specified in 49 CFR 395.2. AOBRDs automatically record engine data for driving time versus the use of Global Positioning System (GPS) data or a driver inputting his or her driving status hours.

The display and output from devices using logging software must meet the requirements in 49 CFR 395.8. Drivers can manually enter their hours of service (HOS) information using the application or software program on the device, and then manually or electronically sign the RODS at the end of each 24-hour period to certify that all required entries are true and correct. During a roadside inspection, drivers using logging software programs can hand their device to the safety official to review their RODS. Additionally, officers conducting inspections can request a printed copy of the driver's log with the current and prior seven days HOS information.

## **Automatic On-Board Recording Device (AOBRD)**

### **1. Can a motor carrier purchase automatic on-board recording devices (AOBRDs) in bulk quantities for installation after December 18, 2017?**

No. To be grandfathered, an AOBRD must be installed in a CMV prior to December 18, 2017. If a grandfathered AOBRD subsequently becomes inoperable, then that AOBRD must be replaced by an ELD.

### **2. If a motor carrier adds an owner operator to its fleet after December 18, 2017, and the owner operator operates with a grandfathered AOBRD in their CMV, can the owner operator continue to use its grandfathered AOBRD while employed by the motor carrier?**

Yes, an owner operator that operates with a grandfathered AORBD and is hired by a motor carrier after December 18, 2017 may continue to operate with its grandfathered AOBRD while employed by the motor carrier.