FMCSA ELD & Regulatory Update
Tennessee Trucking Association Information Session
Nashville, TN
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Topics

- National Registry II Extension
- Entry-Level Driver Training
- Drug and Alcohol Clearinghouse
- Part 40 Final Rule
- Crash Preventability Demonstration Program
- Electronic Logging Device (ELD) Update
- Guidance for Agricultural Operations
- Updated Personal Conveyance Guidance
National Registry II Extension

Docket No. FMCSA-2018-0152
Extension of Compliance Dates for Medical Examiner's Certification Integration

- Interim Final Rule Published June 21, 2018
- Delays Several Provisions from June 22, 2018 to June 22, 2021
What does this mean for certified medical examiners?

- Continue issuing the original paper Medical Examiner's Certificate, Form MCSA-5876 to all qualified drivers including Commercial Learner’s Permit/Commercial Driver’s License applicants/holders.

The interim final rule does not change the requirement for medical examiners to report results of all CMV driver physical examinations performed (including the results of examinations where the driver was found not to be qualified) to FMCSA by midnight (local time) of the next calendar day following the examination. The compliance date for this provision remains as June 22, 2018.
What does this mean for Commercial Learner’s Permit / CDL Applicants/Holders?

• Continue providing the SDLA a copy of their Medical Examiner's Certificate, Form MCSA-5876.

• Continue carrying their Medical Examiner’s Certificate, Form MCSA-5876 as proof of medical certification for the first 15 days following certification.
What does this mean for motor carriers?

• Continue verifying that drivers were certified by a certified Medical Examiner listed on the National Registry.

What does this mean for state driver licensing agencies?

• Continue processing paper copies of Medical Examiner’s Certificates, Form MCSA-5876 they receive from Commercial Learner’s Permit / CDL applicants/holders.
Entry-Level Driver Training (ELDT)
Docket No. FMCSA-2007-27748

Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators
Overview of the Final Rule

• Effective March 21, 2017; compliance date of February 7, 2020
• Establishes new training standards for individuals applying for:
  – A Class A or B commercial driver’s license (CDL) for the first time;
  – An upgrade of their CDL (e.g., a Class B CDL holder seeking a Class A CDL); or,
  – A hazardous materials (H), passenger (P), or school bus (S) endorsement for the first time.
• The rule does not cover individuals for whom States have waived the CDL skills test under 49 CFR 383.
What are CDL applicants required to do?

- CDL applicants subject to the rule must complete a prescribed program of instruction presented by an entity listed on FMCSA’s Training Provider Registry (TPR), prior to taking the State-administered CDL skills test, or for the H endorsement, prior to taking the knowledge test.

- TPR will include all entities (including public and private CDL training programs, fleet-operated CDL training programs, etc.) that register with FMCSA and self-certify they meet the requirements for providing CDL training (minimum criteria for CDL instructors, facilities, curriculum, etc.)
What types of training will CDL applicants receive?

- The Class A and B CDL and endorsement curricula generally are subdivided into theory (knowledge) and behind-the-wheel (BTW) (range and public road) segments.
- There is no minimum number of hours that driver-trainees must spend on the theory portions of any of the individual curricula.
- The training provider must provide instruction in all elements of the applicable theory curriculum and driver-trainees must receive an overall score of at least 80 percent on the theory assessment (written or electronic).
What types of training will CDL applicants receive? (Continued)

- The BTW curricula for the Class A and Class B CDL, comprised of range and public road segments, include discrete maneuvers which each driver-trainee must proficiently demonstrate to the satisfaction of the training instructor.
- There is no minimum number of hours that driver-trainees must spend on the BTW elements of the Class A, Class B, or P or S endorsement curricula.
- The training provider must not issue the certification information unless the driver-trainee demonstrates proficiency in performing all required BTW skills.
What happens when the CDL applicants complete the training?

- Training providers must transmit electronically the training certification information for each student to FMCSA via the TPR when the student completes the course.
- FMCSA will transmit electronically the training certification information to the State Driver Licensing Agency (SDLA) as proof the CDL applicant has completed the training prior to taking the State-administered CDL skills test, or for the H endorsement, prior to taking the knowledge test.
- The SDLAs must modify their IT systems to receive the certification information from FMCSA and to post that information on the applicant’s CDLIS driver record.
When will the new requirements be implemented?

- The ELDT rule will be implemented on February 7, 2020
- Individuals who obtain a CLP on or after February 7, 2020, would have to satisfy the applicable requirements
- Individuals who obtain a CLP before February 7, 2020 are not required to comply with the new ELDT rule as long as they obtain the CDL or endorsement before the CLP (or renewed CLP) expires
Entry-Level Driver Training (ELDT)
Docket No. FMCSA-2007-27748

To learn more about the final rule and to sign up for ELDT updates:

http://www.fmcsa.dot.gov/eldt
Overview of the Clearinghouse Rule

- Effective December 2016; compliance date of January 4, 2020
- Establishes a national Clearinghouse that will be a database containing CDL drivers’ drug and alcohol program violations and whether a driver has successfully completed the mandatory return-to-duty drug and/or alcohol rehabilitation process
- Clearinghouse requirements fall into two major categories:
  - Reporting and
  - Querying
Reporting

- Employers, consortia/third party administrators (C/TPAs) and/or medical review officers (MROs) will be required to report drug and alcohol testing program violations to the Clearinghouse
- SAPs will be required to report information about drivers undergoing the mandatory return-to-duty drug and/or alcohol rehabilitation process
- Each time information is added to, modified or removed from the Clearinghouse, FMCSA will notify the affected driver
  - To receive electronic notification, drivers will have to register with the Clearinghouse
Querying

• Employers will be required to query the Clearinghouse for covered drivers for two purposes:
  – Pre-employment screening
  – Annual verification

• Pre-employment
  – Purpose: to ensure that the prospective employee is eligible to drive
  – Query-type: full queries would be conducted which means that FMCSA must verify specific driver consent prior to releasing information

• Annual Queries
  – Purpose: to ensure that a driver did not violate the drug and alcohol program with another employer
  – Query-type: limited queries to determine whether any data exists for a driver would be allowed and will only require general driver consent, subject to FMCSA audit
Querying (Continued)

- A limited query only identifies whether information about the driver exists in the Clearinghouse and will not result in release of any driver information.
- If the limited query shows a driver record in the Clearinghouse, the employer would be required to run a full query, triggering FMCSA verification of specific driver consent before releasing information.
- Drivers refusing consent will not be able to perform safety-sensitive functions such as driving a commercial motor vehicle.
- Information regarding the driver will be accessible to employers for a minimum of 5 years. If the driver does not satisfy the mandatory return to duty requirements, the information will remain accessible to employers indefinitely.
Querying (Continued)

- State driver licensing agencies will also be required to query the Clearinghouse when a State-licensed driver obtains, renews, upgrades, or transfers his or her CDL
- The National Transportation Safety Board (NTSB) will be able to access Clearinghouse information for drivers involved in a crash under investigation by the NTSB
Fees

• There will be no fees for a driver to access their own record in the Clearinghouse

• Motor Carriers will pay a fee to query the Clearinghouse; the fee amount has not yet been determined, but will include options for subscription and batch use
Drug and Alcohol Clearinghouse
Docket No. FMCSA-2011-0031

To learn more about the final rule:

Procedures for Transportation Workplace Drug and Alcohol Testing Programs: Addition of Certain Schedule II Drugs to the DOT’s Drug Testing Panel and Certain Minor Amendments
Overview of Final Rule

- Effective January 1, 2018
- Added four semi-synthetic opioids (hydrocodone, oxycodone, hydromorphone, oxymorphone) to panel
- Revised Custody and Control Form (CCF); “old” CCF cannot be used after June 30, 2018
What does this mean for employees (drivers)?

- Employees are also tested for four semi-synthetic opioids (i.e., hydrocodone, oxycodone, hydromorphone, oxymorphone)
- Some common names for these semi-synthetic opioids include OxyContin®, Percodan®, Percocet®, Vicodin®, Lortab®, Norco®, Dilaudid®, Exalgo®
What does this mean if an employee tests positive for any of the semi-synthetic opioid drugs on lab test?

- The MRO will conduct an interview with the employee to determine if there is a legitimate medical explanation for the result.
- If there is a valid prescription, the employee should provide it to the MRO, who will determine if the prescription is valid.
- If a legitimate medical explanation is established, the MRO will report the result to the employer as a ‘negative’.
- If not, the MRO will report the result to the employer as ‘positive’.
Will the MRO report prescribed medication use / medical information to a third party?

- As of January 1, 2018, prior to the MRO reporting information to a third party, the employee will have up to five days to have their prescribing physician contact the MRO.
- The employee is responsible for facilitating the contact between the MRO and their prescribing physician.
- The prescribing physician should be willing to state to the MRO that the employee can safely perform safety-sensitive functions while taking the medication(s), or consider changing the medication to one that does not make the employee medically unqualified or does not pose a significant safety risk.
What does this mean for Service Agents?

- Collectors, alcohol testing technicians, MROs, and Substance Abuse Professionals will be required to subscribe to ODAPC's list-serve at: [https://www.transportation.gov/odapc/ListServe_Notices](https://www.transportation.gov/odapc/ListServe_Notices).

- Unauthorized use of DOT-branded items (such as logos or emblems) on a service agent’s website, publications, etc., could be a basis for the DOT to initiate a Public Interest Exclusion proceeding.
Revised Custody and Control Form (CCF)

- Required due to four semi-synthetic opioids added to panel
- “Old” CCF cannot be used after June 30, 2018
- The revised CCF includes the following changes:
  - **In Step 1D:** Removal of the checkbox, the letters “DOT” and hash line in front of the text “Specify DOT Agency”
  - **In Step 5A:** Addition of four new analytes; Removal of the analyte methylenedioxyethylamphetamine (MDEA)
Changes to Employer Part 40 Policies

• No need for motor carriers to make any changes if their current DOT policies refer to adhering to “... Part 40.” However, there are exceptions when an employer’s DOT policy lists the following optional information:
  – If sub-categories of drugs tested under the 5-panel are listed – for example, if a policy lists "Opiates (codeine, heroin, & morphine)" and/or “Amphetamines (amphetamine, methamphetamine, MDMA, MDA, MDEA), then “Opiates” needs to change to “Opioids (codeine, heroin, morphine, oxycodone, oxymorphone, hydrocodone, hydromorphone)” and “MDEA” will need to be removed from the list under Amphetamines. If however, employers would like to delete the sub-categories of drugs, doing so will also be acceptable
To learn more about the final rule and additional guidance on drug and alcohol testing:

https://www.transportation.gov/odapc
Program Overview

- FMCSA's Safety Measurement System (SMS) uses safety performance data, which includes State-submitted crash records, to prioritize resources to identify commercial motor carriers for safety interventions
  - Crash data reported to FMCSA by the States does not specify a motor carrier's role in crashes or whether or not the crash was Preventable
- Stakeholders, including those in the motor carrier industry, have expressed concern that including all crashes in SMS without an indication of preventability may give an inaccurate impression about the risk posed by a company
- Studies conducted by FMCSA and others demonstrate that crash involvement is a strong indicator of future crash risk, regardless of role in the crash
Crash Preventability Demonstration Program
Docket No. FMCSA-2014-0177

Request and Review Process

1. Submit
   - Motor carriers can submit requests through DataQs

2. Review
   - FMCSA reviews requests and determines crashes are:
     - NOT PREVENTABLE
     - PREVENTABLE
     - UNDECIDED

3. Input
   - General public can provide input for Not Preventable crashes

4. Post
   - FMCSA posts final determinations to SMS

U.S. Department of Transportation
Federal Motor Carrier Safety Administration
Eligible Crash Types

1. When the commercial motor vehicle (CMV) was struck by a motorist driving under the influence (or related offense);
2. When the CMV was struck by a motorist driving the wrong direction;
3. When the CMV was struck in the rear;
4. When the CMV was struck while legally stopped or parked, including when the vehicle was unattended;
5. When the CMV was struck by an individual committing or attempting to commit suicide by stepping or driving in front of the CMV;
6. When the CMV sustained disabling damage after striking an animal in the roadway;
7. When the crash was a result of an infrastructure failure, falling trees, rocks, or other debris; or
8. When the CMV was struck by cargo or equipment from another vehicle.
Crash Preventability Demonstration Program

Docket No. FMCSA-2014-0177

Requesting a Data Review

• On August 1, 2017, FMCSA began accepting Requests for Data Review (RDRs) through the DataQs system, for a minimum of 24 months, for crashes that occurred on or after June 1, 2017
• RDRs must include compelling evidence that a crash is Not Preventable
• Suggested documentation includes, but is not limited to:
  – Police accident reports;
  – Insurance claim information;
  – Videos;
  – Pictures;
  – Hearing transcripts; or
  – Affidavits
Requests for Data Review (RDR)

To submit a RDR, log into DataQs at https://dataqs.fmcsa.dot.gov.

1. Click the “Add a Request” button, and submit your request under “Crash Could Not Be Prevented”

2. Follow the prompts to search for existing crash reports or manually enter details in the request wizard

3. In order for FMCSA to review your request you must submit compelling evidence.
   - Documentation should be enough so it’s clear the crash was Not Preventable, contain appropriate content, and support the RDR

4. Once complete, review your submission, and submit your request
Public Input

- If FMCSA reviews a crash preventability RDR and makes a preliminary determination that the crash is Not Preventable, FMCSA will post information about those crashes to DataQs for 30 days.
- Anyone with relevant information to refute the preliminary determination should submit it through DataQs.
- FMCSA will review any relevant information received before making a final determination.
Review Process

• FMCSA will:
  – Review all qualifying crash preventability RDRs;
  – Consider all relevant evidence;
  – Determine that crashes are either Not Preventable, Preventable, or Undecided; and
  – Post final determinations to SMS within 60 days of the determination

• Crashes reviewed as part of this demonstration program will remain in SMS with FMCSA’s determinations noted
  – Motor carriers and enforcement users logged into SMS will be able to view percentiles and measures calculated both with and without Not Preventable crashes
Crash Review Decisions

- FMCSA will continue to list all crashes on SMS and use this data for prioritization.
- Reviewed crashes will have notes reflecting the results of the reviews
  - **Not Preventable:** The notation will read, “FMCSA reviewed this crash and determined that it was not preventable”
    - The motor carrier and enforcement views of SMS will show measures and percentiles with and without any Not Preventable crashes
  - **Preventable:** The notation will read, “FMCSA reviewed this crash and determined that it was preventable”
  - **Undecided:** If the documentation associated with a crash submitted does not allow for a conclusive decision, the notation will read, “FMCSA reviewed this crash and could not make a preventability determination based on the evidence provided”
Crash Preventability Demonstration Program
Docket No. FMCSA-2014-0177

Data Analysis

- FMCSA will evaluate if these preventability determinations improve the Agency’s ability to identify high risk motor carriers.

- FMCSA will maintain data throughout the Demonstration Program so that the Agency can conduct analyses to include:
  - The cost of operating the test and implications for a larger program;
  - Future crash rates of carriers that submitted RDRs;
  - Future crash rates of carriers with Not Preventable crashes; and
  - Impacts to the SMS Crash BASIC Indicator and prioritization.
For More Information

• FMCSA Crash Preventability Demonstration Program Website: [https://fmcsa.dot.gov/safety/crash-preventability-demonstration-program](https://fmcsa.dot.gov/safety/crash-preventability-demonstration-program)
  – FMCSA is maintaining a list of Final Not Preventable determinations on its website that will be updated monthly


• DataQs: [https://dataqs.fmcsa.dot.gov](https://dataqs.fmcsa.dot.gov)

• Questions?
  – Email: [Crash.Preventability@dot.gov](mailto:Crash.Preventability@dot.gov)
Electronic Logging Device (ELD) Update
ELD Phase II: “Phased-In Compliance”
Are you subject?

Docket No. FMCSA-2010-0167

- Are you currently required to record your hours of service on a paper graph grid?
  - Yes: Are one of the ELD exemptions applicable to you or the commercial motor vehicle you operate?
    - Yes: You are not required to operate with an ELD
    - No: You are required to operate with an ELD
  - No: You are not required to operate with an ELD
The rule is being implemented in three phases over a four-year period:

- **12/16/2015** ELD Final Rule Published
  - Voluntary use of ELDs

- **12/18/2017** ELD Final Rule Compliance Date
  - Mandatory use of ELDs with existing AOBRDs grandfathered for 2 years

- **12/16/2019** Mandatory Use of ELDs
  - Full Compliance Phase
ELD Rule Implementation
https://www.fmcsa.dot.gov/hours-service/elds/implementation-timeline

Phase 2 “Phased-In Compliance”
• December 18, 2017 – December 19, 2019
• Carriers and Drivers Subject to the Rule Can Use:
  – AOBRDs that were installed prior to December 18, 2017
  or
  – Certified, registered ELDs

Phase 3 “Full Compliance”
• After December 19, 2019 …
• All carriers and drivers subject to the rule must use certified, registered ELDs that comply with the ELD regulations
Since CVSA OOS went into effect on April 1, 2018, less than 1% (4,720) of all driver inspections (559,940) have resulted in the driver being cited for operating without a required ELD or grandfathered AOBRD.
Exceptions

395.1 – Scope of rules in this part
395.8(a)(1)(iii)(A) – Driver’s record of duty status

• **NOTE:** The ELD final rule did not change any of the HOS exceptions in 395.1, such as the “Short-haul Operations” exceptions:
  – 100 air-mile radius drivers may continue to use timecards, as allowed by §395.1(e)(1)
  – 150 air-mile radius non-CDL freight drivers may continue to use timecards, as allowed by §395.1(e)(2)
• Drivers using paper RODS for not more than 8 days during any 30-day period do not need an ELD
• Conducting “driveaway-towaway” operations in which vehicle being driven is part of the shipment being delivered or vehicle being transported is a motor home or a recreation vehicle trailer
• Vehicles manufactured before model year 2000
• Agricultural commodity means any agricultural commodity, nonprocessed food, feed, fiber, or livestock
• Carriers covered by ELD waivers must comply with FMCSR including preparation of paper RODS when required
• Most recent 90-day waiver for all agricultural commodities expired June 18, 2018
• NOTE: Livestock (as defined in 49 CFR 395.2) and insect haulers are not required to comply with the ELD rule for the duration of the FY 2018 appropriations bill (September 30, 2018), and any subsequent continuing resolutions.
ELD Limited Exemption for Truck Renting and Leasing Association (TRALA)

Docket No. FMCSA-2016-0428

- Exemption Applicable October 11, 2017 through October 11, 2022
- Exemption covers rental of any property-carrying CMV for a period of 8 days or less regardless of reason for rental
  - Evidence that a carrier has replaced one rental CMV with another on 8-day cycles or attempted to renew a rental agreement for the same CMV for an additional 8 days will be regarded as a violation of the exemption and subject the carrier to the penalties for failure to use an ELD
- Drivers must have a copy of this notice or equivalent signed FMCSA exemption document in their possession while operating under the exemption, along with a copy of the rental agreement in the CMV, and make it available to law enforcement officers on request
- Driver must possess copies of their RODS for the current day and the prior 7 days, if required on those days
Automatic Onboard Recording Devices (AOBRDs)

395.8(a)(1)(ii) – Driver’s record of duty status
395.15 – Automatic Onboard Recording Devices

- A “grandfathered” AOBRD that can be used during the 2-year transition period between December 18, 2017 and December 16, 2019 must have been installed and in use prior to December 18, 2017
- Not subject to the technical specifications in the ELD rule
- Expansion of fleet = ELD installation
- Replacement of CMV = AOBRD reinstall
May a motor carrier that installed and required its drivers to use an AOBRD before December 18, 2017, install and use a registered ELD-capable device that runs compliant AOBRD software after that date?

Yes, until December 16, 2019.
What must a driver do if there is an Automatic On-board Recording Device (AOBRD) malfunction?

If an AOBRD malfunction prevents the accurate recording of the driver’s hours-of-service, the driver should take the following steps.

1. Note the AOBRD malfunction;
2. Reconstruct the record of duty status (RODS) for the current 24-hour period and the previous 7 consecutive days, and record them on graph-grid paper or electronic logs that comply with 49 CFR 395.8 (unless the driver already has the records or retrieves them from the AOBRD);
3. Continue to prepare paper or electronic graph-grid RODS in accordance with 49 CFR 395.8.
4. The driver should notify the motor carrier of the malfunction (in writing or electronically) within 24 hours. Paper or electronic grid-graph recording of hours of service should not continue for more than 8 days after the malfunction is discovered.

May a motor carrier request an extension to the 8-day period to correct, repair, replace, or service a malfunctioning Automatic On-board Recording Device (AOBRD)?

Yes, if the AOBRD malfunction prevents accurate hours-of-service recording. The motor carrier must submit a request to the FMCSA Division Administrator (DA) in the State of the motor carrier’s principal place of business within 5 days of driver notification of malfunction.
ELD Device Registration
395.22 – Motor carrier responsibilities

• ELDs are self-certified by the manufacturer in accordance with the technical specifications, and registered with FMCSA

• Applications are reviewed by FMCSA and registered devices are shown on the FMCSA website, https://csa.fmcsa.dot.gov/ELD/List

• A compliance checklist and data validation test is available on the website to assist vendors with self certification

• FMCSA does not endorse any electronic logging devices
List of Users

395.22 – Motor carrier responsibilities

- Driver Identification Data
  - Driver’s first and last name as reflected on the driver’s license
  - Unique ELD username
  - Driver’s license number; and
  - State or jurisdiction that issued the driver’s license

- Support Personnel
  - First and last name
  - Unique ELD username

- Multiple persons cannot share one account
- All drivers of the CMV may have a driver account
  - e.g., Exempt account
In-Vehicle Information

395.22 – Motor carrier responsibilities
395.11(g) – Supporting documents at roadside

- User’s Manual
- Data Transfer Instruction Sheet
- ELD Malfunction Instruction Sheet
- Supply of blank record of duty status graph grids
- Any supporting documents in the driver’s possession must be provided to the safety official upon request
Manual Input

395.24 – *Driver responsibilities*

- Off duty
- Sleeper berth
- On-duty not driving
- Annotations
- Driver’s location description, when prompted by ELD
- Commercial Motor Vehicle Power Unit number
- Trailer number
- Shipping document number
Special Driving Conditions
395.28 – *Special driving categories; other driving statuses*

- Define when a driver may use the CMV for personal reasons (personal conveyance – PC)
  - ELD is required to allow a carrier to configure a driver account for PC
  - A driver can record periods when using a vehicle for authorized personal use.
  - Motor carriers are not required to allow drivers to use PC

- Define when a driver may use Yard Moves (YM)
  - Private property with no public access
Annotations
395.30 – ELD record submissions, edits, annotations, and data retention

• Adverse Driving Conditions
  – A driver can annotate the record to document sudden bad weather, crashes, or other unforeseeable conditions.
  – Provide clear instructions on documenting/annotations

• Operating under Exemptions
  – HOS exemptions 395.1
  – Emergency relief (complete exemption from 395)
    • Annotate driving time
    • Logging into ELD is not required
      – Annotate Unidentified Driving accordingly
Editing ELD Data
395.30 – *ELD record submissions, edits, annotations, and data retention*

- Motor carrier can request edits
  - Annotate
  - Maintain original data

- Driving time **cannot** be shortened
  - Team drivers only
Unidentified Driving
395.32 – Non-authenticated driver logs

- Annotate
- Assign
- Maintain Unidentified driving records for 6 Months
- Must provide to requesting safety official
- Unidentified driving prevention
  - Know when to login
  - Make sure you logout
  - Create appropriate accounts (exempt driver)
- Drivers can decline assigned driving
- Later accepted driving/time can contribute to hours-of-service violations
ELD Malfunction
395.34 – ELD Malfuctions and Diagnostic Events

• Policy should include specific instructions for reporting malfunctions
  – Address time frame and method for reporting malfunction
    • 24-hour notice required
    • Motor carrier may be more stringent
  – Written notification required
    • Identify who will receive notifications and facilitate the repairs
      – May include an electronic message, such as an email, text and/or a fleet management systems message

• Procedures for reconstructing the previous 7 days
  – May email driver.pdf version on personal device (telematics system)
    • Assist driver with accurate reconstruction
• Retain any paper RODS generated during the malfunction
• Rule requires repair/replacement within 8 days
• To request an extension, contact FMCSA Division Administrator
Procedures for Record Retention

395.30 – ELD data retention
395.32 – Non-authenticated driver logs

- Ensure additional ELD information is retained
  - List of users
  - Unidentified Driving
  - Original ELD Data
  - Paper Logs generated by exempt drivers or during malfunctions

- Providing ELD data for review by safety official
  - Telematics; email and webservices
  - Local; USB and Bluetooth
Electronic Data Transfer

395.24(d) – Driver use of ELD
395.26 – ELD data automatically recorded

1. **RECORD**
   ELD synchronizes with CMV engine to automatically record data.

2. **CERTIFY**
   Driver certifies records, making any necessary annotations.

3. **TRANSFER**
   Upon request, driver starts data transfer. Data is routed to safety official using secure methods.

4. **REVIEW**
   Data file is sent to safety official with potential HOS violations flagged for review.

**RECORDS:**
- Engine power status
- Vehicle motion status
- Miles driven
- Engine hours
- Identification of driver/authorized user, vehicle, and motor carrier
- Duty status

**OPTION 1**
Both ELD and safety official must connect to internet

**OPTION 2**
Data is transferred locally

- Web Services
- Email
- USB 2.0
- Bluetooth®
ELD Provider Complaints

- Complaints against ELD providers for selling an alleged non-compliant device

<table>
<thead>
<tr>
<th>Complaint Detail</th>
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<tbody>
<tr>
<td><strong>Electronic Logging Device</strong></td>
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<tr>
<td>- Coerced to Commit ELD Violation</td>
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<tr>
<td>- I was coerced to falsely certify my ELD records.</td>
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<tr>
<td>- Harassment for Refusal to Commit an Hours of Service Violation</td>
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<tr>
<td>- I was harassed by my motor carrier employer based on information that my employer accessed through an Electronic Logging Device (ELD) or related technology that resulted in me violating the hours of service rules of the Federal Motor Carrier Safety Regulations.</td>
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<tr>
<td>- Non-compliant ELD</td>
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<tr>
<td>- The ELD provider failed to cure the non-compliant deficiencies identified by FMCSA.</td>
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For More ELD Information

• Visit the website [www.fmcsa.dot.gov/elds](http://www.fmcsa.dot.gov/elds):
  - Sign up for the ELD newsletter to receive email updates;
  - Visit the Training and Events section for upcoming opportunities hosted by FMCSA and view webinar materials;
  - Learn more about using ELDs in the Drivers and Carriers section; and
  - Read the FAQs for an in-depth understanding of the rule

• Email FMCSA directly if you need to contact someone in the ELD program office: [ELD@dot.gov](mailto:ELD@dot.gov)
- Regulatory Guidance Published June 7, 2018
- 395.1(k)(1) 150 air-mile radius “Agricultural commodity” exception
- The provisions of part 49 CFR 395-Hours of Service shall not apply during planting and harvesting periods, as determined by each State, to drivers transporting:
150 air-mile Agricultural Exception

(1) Agricultural commodities from the source of the agricultural commodities to a location within a 150 air-mile [172.6 statute mile] radius from the source;

395.2 Definition

Agricultural commodity means any agricultural commodity, nonprocessed food, feed, fiber, or livestock (including livestock as defined in sec. 602 of the Emergency Livestock Feed Assistance Act of 1988 [7 U.S.C. 1471]) and insects.
150 air-mile Agricultural Exception

(2) Farm supplies for agricultural purposes from a wholesale or retail distribution point of the farm supplies to a farm or other location where the farm supplies are intended to be used within a 150 air-mile radius from the distribution point; or

395.2 Definition

Farm supplies for agricultural purposes means products directly related to the growing or harvesting of agricultural commodities during the planting and harvesting seasons within each State, as determined by the State, and livestock feed at any time of the year.
150 air-mile Agricultural Exception

(3) Farm supplies for agricultural purposes from a wholesale distribution point of the farm supplies to a retail distribution point of the farm supplies within a 150 air-mile radius from the wholesale distribution point.

395.2 Definition

Farm supplies for agricultural purposes means products directly related to the growing or harvesting of agricultural commodities during the planting and harvesting seasons within each State, as determined by the State, and livestock feed at any time of the year.
150 air-mile Agricultural Exception

The 395.1(k) agricultural HOS exception is NOT limited to any specific type of carrier / operator.

• Eligibility is determined by the nature of the load onboard, the source and destination of the load, and the air-mile radius from the source of the load.
150 air-mile Agricultural Exception

Question: Does the agricultural commodity exception (§395.1(k)(1)) apply to drivers while driving unloaded within 150 air-miles of the place where an agricultural commodity will be loaded, and to that portion of an unloaded return trip which occurs within a 150 air-mile radius of the place where the agricultural commodity was loaded?

Guidance: Yes, provided that the trip does not involve transporting other cargo and the sole purpose of the trip is to make a pick-up or delivery of agricultural commodities, as defined in § 395.2. In that case, driving and on-duty time are not limited, nor do other requirements of 49 CFR part 395 apply.
150 air-mile “Agricultural commodity” Exception

**Question:** Does the agricultural commodity exception (§ 395.1(k)(1)) apply if the destination for the commodity is beyond the 150 air-mile radius from the source?

**Guidance:** Yes, the exception applies to transportation during the initial 150 air-miles from the source of the commodity, regardless of the distance to the final destination.
150 air-mile “Agricultural commodity” Exception

Question: How is the “source” of the agricultural commodities in § 395.1(k)(1) determined?

Guidance: The “source” of an agricultural commodity, as the term is used in § 395.1(k)(1), is the point at which an agricultural commodity is loaded onto an unladen commercial motor vehicle. The location may be any intermediate storage or handling location away from the original source at the farm or field, provided the commodity retains its original form and is not significantly changed by any processing or packing.
150 air-mile “Agricultural commodity” Exception

**Question:** How is the “source of the agricultural commodities” determined if the driver makes multiple pick-ups of the commodity en route to the final destination?

**Guidance:** When a driver loads some of an agricultural commodity at a “source” and then loads more of that commodity at additional stops, the first place where the commodity was loaded is the measuring point for the 150 air-mile radius.
150 air-mile “Agricultural commodity” Exception

Question: Will the time a driver spends operating inside the 150 air-mile radius of the source count toward a driver’s HOS calculations?

Guidance: No. The time a driver spends operating inside the 150 air-mile radius of the source does not count toward a driver’s HOS calculations.
Recording HOS when Transporting Agricultural Commodities

Option 1
A driver can operate within the 150-air mile radius without logging into the ELD, and then log into the ELD once the vehicle reaches the 150-air mile radius limit. Driving time within the 150-air mile radius will be identified on the ELD as “unidentified driving” time. The driver will reject the unidentified driving time on the ELD and the motor carrier must annotate the ELD data to explain that the “unidentified driving” time occurred while operating under an agricultural HOS exemption.

Option 2
The driver can log into the ELD when coming on duty and identify the time operating within the 150-air mile radius with an ELD annotation stating that the vehicle was operating under an agricultural HOS exemption.

Option 3
If authorized by the motor carrier, the driver can log into the ELD when coming on duty and identify the time operating within the 150 air-mile radius as authorized personal use (personal conveyance). A driver operating a CMV under the authorized personal conveyance provision must select on the ELD the personal conveyance driving category before the start of the status and deselect when the indicated status ends.
What is Personal Conveyance?

Personal conveyance is the movement of a commercial motor vehicle 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.
What is the motor carrier’s responsibility?

- Ensure driver is in compliance with the hours of service regulations, and not operating a vehicle while ill or fatigued, regardless of the amount of driving and working time.

- A company may have a policy on Personal Conveyance that is more restrictive than the regulation and guidance
  - Time and/or distance
  - Prohibit laden vehicles from operating under personal conveyance
What is the driver’s responsibility?

- Record start and end time of personal conveyance
- Comply with hours of service rules
  - Don’t drive while fatigued
Proper Use of Personal Conveyance

1. Time spent traveling to a nearby, reasonable, 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.
4. Moving a CMV at the request of a safety official during the driver’s off-duty time

5. Time spent traveling in a motorcoach without passengers to en route lodging (such as motel or truck stop), or to restaurants and entertainment facilities and back to the lodging. No passengers may be on board.

6. Time spent transporting personal property while off-duty.

7. Authorized use of a CMV to travel home after working at an offsite location.
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.
4. Continuation of a CMV trip in interstate commerce in order to fulfill a business purpose, including repositioning a CMV (tractor or trailer) at the direction of the motor carrier.

5. After being placed out of service for exceeding the maximum periods permitted under part 395, time spent driving to a location to obtain required rest, unless so directed by an enforcement officer at the scene.

6. Time spent traveling to a motor carrier’s terminal after loading or unloading from a shipper or a receiver.

7. Time spent operating a motorcoach when luggage is stowed, the passengers have disembarked and the driver has been directed to deliver the luggage.
Questions?