



CANADIAN TRUCKING ALLIANCE

Summary of Excerpts from:

Regulations Amending the Commercial Vehicle Drivers

Hours of Service Regulations

(Electronic Logging Devices and Other Amendments):

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OBJECTIVES OF REGULATION

- The Government of Canada is committed to a transportation system that is safe and reliable and that facilitates trade and the movement of people and goods. The National Transportation Policy calls for a competitive national transportation system that meets the highest practicable safety and security standards. Transport Canada (TC) is therefore committed to facilitating fair competition within and between modes of transportation throughout Canada.
- The objectives of the amendments are to improve commercial vehicle safety, administrative efficiency and compliance with HOS regulations. In addition, the amendments serve to facilitate fairer competition by requiring the use of ELDs by motor carriers and their commercial bus and truck drivers. The new ELD requirements are aligned, to the extent possible, with those of the U.S. in order to facilitate trade and minimize the impact on Canada's cross-border operators.
- Motor carriers and drivers who operate in excess of the HOS limits may also have a competitive advantage over those that do not, due to the increased productivity obtained through the additional operational hours. As these drivers are able to work more hours, they may be paid more than those who are following the rules. As a result, non-compliance with the Regulations may be used as a tactic to recruit and retain drivers at a time when the industry is dealing with a driver shortage.
- The amendments will, in alignment with the U.S. requirements, mandate the use of electronic logging devices (ELDs) by drivers who are currently maintaining a daily log and establish more specific requirements for supporting documents (e.g. bills of lading) that must be kept by the driver and motor carrier.
- The amendments require motor carriers to acquire and install certified ELDs in their commercial vehicles that their drivers operate outside of a 160-km radius of their home terminal.

CERTIFICATION & TECHNICAL STANDARD

- The Regulations incorporate by reference the Technical Standard for Electronic Logging Devices (the Technical Standard) published by the Canadian Council of Motor Transport Administrators (CCMTA) (*link to technical standards document included at end of summary*). The standard establishes minimum performance and design specifications for the ELD that are based on U.S. technical requirements, but adapted to accommodate the Canadian HOS regulations. Transport Canada will require that each ELD model be certified for use by the motor carrier. To obtain certification, the ELD model will need to be certified by an accredited certification body. This will ensure that the ELD meets the criteria set out in the Technical Standard and the Regulations. Motor carriers and drivers will also be required to use only ELD models and software versions that have been certified as compliant.
 - The amendments will also incorporate by reference a technical standard to establish minimum performance and design specifications for ELDs. All ELDs will need to be certified by an accredited third party in accordance with the criteria set out in the technical standard and the Regulations.
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There will be a 24-month implementation period. During this period, the ELDs will be tested and certified and motor carriers will need to select, acquire and install ELDs in their commercial vehicles for drivers to begin using them.

- The amendments require motor carriers and drivers to only use ELDs that have been certified for use by an accredited certification body, as compliant with the Technical Standard and the Regulations. The amendments include provisions for interested certifying bodies that make application for accreditation to Transport Canada and undergo an assessment of their capability to certify ELD models for compliance.
- ELD providers that want to offer certified devices for motor carriers to use are expected to submit their devices to a certification body that will test the devices for compliance. When a device is found to be compliant, the ELD provider will be assigned a certification number by the certifying body, which will form part of the ELD record in each installed device to provide assurance to motor carriers and roadside enforcement that the device has been certified. The process to accredit certifying bodies and certify the ELD models is expected to take 12 months.
- A list of ELD providers and their certified devices will be maintained on Transport Canada's website, which can be used to confirm certification. The amendments also have provisions to allow Transport Canada to suspend or cancel the accreditation of a certification body.

IMPLEMENTATION

- A 24-month phase-in period was chosen (compliance required by June 12, 2021) because it provides adequate preparation time for the certification of the ELDs and for motor carriers and drivers to become fully compliant. The certification process is expected to take up to 12 months to complete. Most CMVs already have U.S.-compliant ELDs or ERDs on board, so to become compliant, the devices would require a simple software upgrade that can be quickly deployed, in most cases remotely. A smaller portion of trucks and buses will require their motor carriers to arrange to select, acquire and purchase their ELDs and motor carriers are expected to have approximately 12 months or so to do that. This phase-in period aligns with the approach taken by the U.S., and would allow additional time for outreach to ensure that motor carriers, shippers and consignees are informed of the new requirements. Provincial and territorial governments would benefit from the additional time to train their inspectors and auditors, develop enforcement policies, and to consider adoption of their own ELD mandate for intra-provincial motor carriers.
- According to the ELD providers that were consulted, existing U.S.-compliant ELDs and ERDs would not require replacement in order to be compliant with these amendments. The U.S.-compliant units and the ERDs will receive a software upgrade that, in most cases, can be deployed remotely to the devices through over-the-air software.





GRANDFATHERING


- Transport Canada will eliminate the proposed two-year grandfathering period for Electronic Recording Devices (ERD), as it is no longer considered necessary. Transport Canada had assumed that most ERDs would need to be replaced. Approximately 86% of CMVs have either an ERD or U.S.-compliant ELD installed in the vehicle. ELD providers advise that they will be able to upgrade these devices to be compliant with the amendments through a software upgrade, which, in most cases, would be deployed to the motor carrier at no additional cost, through an over-the-air software push directly to the ELD. By not having to replace their existing ERD hardware, motor carriers will need little time to become compliant and will avoid the cost of replacement. ELD providers will be able to focus their efforts during the implementation period on those motor carriers that do not have any devices in their commercial vehicles. The grandfathering period is not needed given the upgrades can be done quickly, at little to no cost to the motor carrier, and with minimal impact on the ELD providers.
- The Regulations previously required commercial drivers to self-report, in a prescribed format, their driving, on-duty and off-duty times in a paper daily log or Electronic Recording Device (ERD), which is reviewed by provincial and territorial roadside inspectors and facility auditors for compliance with the Regulations. As an alternative to using a paper daily log, the Regulations also permitted drivers to use an ERD, which is an electric, electronic or telematics device that is installed in a commercial vehicle and used to record their daily log electronically. There are few additional technical specifications that apply to these first-generation devices beyond those required for the paper daily log. Given that there are so few technical specifications for ERDs, the marketplace largely determines the features of these devices, resulting in a significant variation in their capabilities, ranging from devices that are very sophisticated to others that are as simple as a laptop loaded with a modified spreadsheet program. In many cases, the ERD is already a component of a comprehensive fleet management system (FMS).

APPLICATION & EXCEPTIONS

- Subject to a few exceptions listed below, the amendments require that ELDs be used by all federally regulated motor carriers and their drivers of commercial buses and trucks, who are currently required to maintain a paper daily log.

Exemptions: There are four main exemptions to this mandatory requirement to use an ELD:

1. commercial vehicles that are operated under an hours of service permit issued pursuant to the Regulations by a director under the Regulations,
 2. commercial vehicles that are operated under a statutory exemption,
 3. commercial vehicles that are subject to rental agreements for a term of 30 days or less, and
 4. commercial vehicles that were manufactured before the year 2000.
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- The proposed amendments did not alter the application of the Regulations or the HOS limits for drivers, so requests for further exemptions are not addressed in the amendments.

ELD MALFUNCTIONS

- The amendments allow for a driver to use a paper daily log if their ELD has a malfunction, as described in the Technical Standard. The driver may use the paper daily logs for a maximum of 14 days or upon return to the home terminal from the currently planned trip, if the trip takes longer than 14 days. After this period, the ELD must be repaired or replaced and fully functional before the commercial motor vehicle and its ELD are dispatched on another trip. Drivers are required to notify the motor carrier when a malfunction occurs. Upon notification, the motor carrier is required to maintain a register of the malfunction, detailing prescribed information such as when it occurred, the nature of the malfunction and the actions taken by the motor carrier to repair or replace the ELD. Motor carriers are required to maintain this register for a period of six months from the day on which the ELD is repaired or replaced, and this register is subject to audit by provincial or territorial facility auditors.

TRANSMISSION OF ELD RECORDS TO ROADSIDE ENFORCEMENT


- The driver's record of duty status will be available to roadside enforcement through a display or printout from the ELD. Upon request by an inspector, the ELD record will be emailed to an address provided by the inspector.

SUPPORTING DOCUMENTS

- The amendments include a description of what constitutes a supporting document and requires drivers to forward all supporting documents to the relevant motor carriers. The supporting document provisions reflect the types of documents currently received by the driver or motor carrier in the normal course of their operations, and those that are retained by the motor carrier for other business or tax purposes, such as expense receipts, bills of lading and payroll records. The amendments also include additional documents that have been issued by the federal or provincial/territorial governments, such as customs receipts, citations and collision or inspection reports.

FATIGUE AND COLLISION RISK

- Provincial and territorial law enforcement officials have found that daily logs can be falsified or incomplete and in some cases they are duplicated or missing altogether in an effort to avoid accountability for non-compliance with the Regulations. This can make it difficult and frequently impossible for roadside enforcement to detect the occurrence of non-compliance with HOS requirements. Despite these difficulties, the provincial and territorial governments recorded an average of 9 400 convictions per year for HOS violations between 2010 and 2015.
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- Approximately 25% of these HOS convictions are for exceeding the maximum hours prescribed by the Regulations. Another 11% are convictions for operating two daily logs at the same time or for falsifying the information in the daily log. Approximately 48% of the HOS convictions are for failing to maintain or failing to produce a daily log, which is widely recognized by law enforcement (and acknowledged by industry) as a strong indicator that the driver may have been exceeding the maximum hours and chooses to submit no daily log for inspection rather than submit one that would show non-compliance.
 - In interviews with truck drivers, the U.S.-based Insurance Institute for Highway Safety (IIHS) found that a quarter of interviewed drivers admitted to omitting hours worked in the daily log; driving more than the daily limit; taking less than the required daily off-duty time; and working longer than permitted during the past month. Although Canada-specific data is limited, Transport Canada estimates, after consulting with industry, that 5% to 10% of drivers routinely exceed allowable HOS limits, which can result in fatigue. There is an international consensus that fatigue is associated with 15% to 20% of crashes in transportation. In their survey, the IIHS found that drivers with daily log violations, compared to those with no violations at all, were 2.3 times more likely to have a large truck crash.

Background Documents

Full Gazette II text: <http://www.gazette.gc.ca/rp-pr/p2/2019/2019-06-12/html/sor-dors165-eng.html>

CCMTA ELD Technical Standard Documents:

<https://www.ccmta.ca/en/national-safety-code/canadian-eld-standard>
