

PMAA COMPLIANCE BULLETIN

November 16, 2017

NEW ELECTRONIC LOG BOOK REQUIREMENT FOR RECORDING DRIVER HOURS OF SERVICE

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BACKGROUND:

The Federal Motor Carrier Safety Administration's (FMCSA) deadline for compliance with electronic logging device (ELD) requirements for recording drivers daily hours of service (HOS) is December 16, 2017. The ELD rule was mandated by Congress as part of the 2012 transportation authorization and funding law known as *Moving Ahead for Progress in the 21st Century Act (MAP-21)*. The law directs the FMCSA to require all CDL drivers who currently keeping written hours of service log books to switch to electronic recording devices. The FMCSA promulgated a final rule implementing the ELD mandate back in 2015. Efforts by industry stakeholders to rescind or delay the ELD mandate have failed thus far, including an appeal to the U.S. Supreme Court. PMAA is currently requesting an expansion of the 100-air mile radius exemption from keeping written log books to a 300 air-mile radius. This would expand the exemption from using ELDs to a larger class of short haul drivers. The final rule contains a number of exemptions to the ELD requirement and provides an extended compliance deadline of December 16, 2019 for those drivers already using automatic onboard recording devices (AOBRDS) to log hours of service.

There is a lot of conflicting information circulating around the industry from a variety of sources that is incomplete, inaccurate, and even misleading. It is important for petroleum marketers to fully understand the requirements of the EDL rule, including the exemptions and the flexibility it provides in order to make compliance less onerous in terms of both time and money.

COMPLIANCE DEADLINE:

- All CDL drivers currently using written log books to record hours of service must switch to an approved ELD device no later than **December 16, 2018**.
- All CDL drivers currently using automatic onboard recording devices to record hours of service must switch to an approved ELD device no later than **December 16, 2019**

ELD EXEMPTIONS:

There are two exemptions available under the final rule applicable to drivers hauling petroleum products are:

- **Short Haul Exemption** - Drivers who use the 100 air-mile radius exemption from keeping written HOS log books are not required to use an ELD ("Short Haul" exemption). Under the short haul exemption, the ELD requirement will not apply to any driver who:
 - Starts and returns to the same location within 12 hours of going on duty,
 - Drives no more than 11 hours during a shift,
 - Takes ten consecutive hours off between shifts, and

- Travels no further than a 100 air-mile radius from the original starting location at the beginning of the shift.

The short haul exemption also provides additional flexibility for drivers who must occasionally drive beyond the 100 air-mile radius limit. Under the rule, a short-haul driver can drive beyond the 100 air-mile radius 8 times within each 30 day period without losing the ELD exemption. The driver would however, be required to keep a written HOS log for each day travelled beyond the 100 air-mile radius limit. This “exemption within an exemption” is useful for drivers who must travel longer distances for product due to terminal outages or supply shortages or allocations.

- **Model Year Exemption** - Drivers of vehicles with engines manufactured before model year 2000 are not required to use an ELD. The model year of the engine must be used to meet this exemption and not the Vehicle Identification Number. The 2000 model year cut off was put into place because most vehicles manufactured prior to 2000 do not have an engine control module (ECM), which is required for ELD operation.

COMPLIANCE TRIGGER:

Compliance with the ELD requirement is on a *per driver* basis. The determining factor is whether the driver is required to keep written log books to record hours of service and the model year of the vehicle being used. This means that some drivers within a company fleet may be required to use an ELD while others drivers will not.

Example: If a driver qualifies for the short haul 100 air-mile exemption from keeping written log books, then that driver will not be required to use an ELD. Moreover, a driver qualifying for the short haul exemption is allowed to drive beyond the 100 air-mile radius up to 8 times over a rolling 30 day period without being required to use an ELD. Instead, the driver records the hours of service for those trips in excess of the 100 air-mile radius in a written log book. All other days within the rolling 30 day period where the driver remains within the 100 air mile radius need not be recorded in a written log book or ELD.

Example: If a driver stays with the short haul 100-air mile radius and returns to the point of origin at the end of the shift and goes off duty after 14 hours, then the driver **does not** qualify for the short haul exemption and is required to record HOS on an ELD. This is true even if the driver never goes beyond the 100-air mile radius. Why? Because it is not enough to simply stay within the 100- air mile radius to qualify for the short haul exemption. Drivers also must go off duty after 12 hours and get 10 consecutive hours of rest before beginning the next shift.

Example: If a driver operates a vehicle equipped with a model year engine manufactured before the year 2000, then the ELD requirements do not apply to that driver. If the driver switches to a vehicle with a 2000 model year engine or newer, then the driver must use and ELD.

Example: If a driver is *required* to keep a written log book to record hours of service and drives a vehicle with a 2000 model year engine or newer, the driver must use an ELD.

In other words, the FMCSA looks at the driving criteria of each individual driver to determine applicability of the ELD requirement and *not* at the company as a whole. This limitation in the rule is important to understand because many ELDs come with fleet functionality capabilities that are not needed if only one or two drivers within a company qualify for ELD compliance. Less expensive standalone ELD devices are available in this case.

INTERSTATE VS. INTRASTATE DRIVERS:

Many petroleum marketers are asking whether they are exempt from the ELD requirement because they operate solely in intrastate transportation (they don't cross state lines). The answer is “probably no”. The majority of states adopt the federal HOS regulations by reference and make them applicable to their

intrastate drivers. A few states may vary their ELD requirements including extending the compliance date, but most follow the FMCSA rule. Marketers should call their state motor carrier office to see how the ELD rule applies in their state for intrastate drivers. Click [here](#) for a list of state motor carrier contacts.

ELD EQUIPMENT REQUIREMENTS:

The FMCSA only allows the use of ELD equipment that is certified and compliant with all the technical specifications for functionality and operation required under the rule. Once these specifications are met, manufacturers register their ELD with the FMCSA and it is included on the agency's approved device list. Petroleum marketers may not use any ELD device that is not included on the FMCSA list. There are currently more than 50 ELD devices on the FMCSA approved device list. Keep in mind that many of these devices were developed for the long haul transportation market and may not be suitable for short haul operational needs. One size does not fit all when it comes to ELD selection. It is important to familiarize yourself with the functional operation of any ELD to make sure it is the right one for you. You will pay more for an ELD with all the long haul bells and whistles that you likely won't need. Click [here](#) for the list of FMCSA approved ELD devices.

DRIVER TRAINING:

Drivers must be trained on how to use ELD equipment. Drivers must understand and be able to use ELDs by the required deadline, including how to annotate and edit RODS, certify RODS, and collect required supporting documents. Drivers will also need to know how to display and transfer data to safety officials when requested. ELD vendors generally provide training information for drivers based on the specific model they sell.

ADDITIONAL INFORMATION:

Click [here](#) for frequently asked questions about the ELD requirements.

Click [here](#) for guidance on how to select an ELD.

Click [here](#) for ELD operational requirements for drivers.

Email or call FMCSA at: ELD@DOT.gov or 1-800-832-5660