

// The rise of electronic logbooks has meant a lot of significant changes for the trucking industry, as well as confusion.

LOGBOOKS GET 'SMART'

Uncle Sam wants to ditch paper driving logs in favor of electronic options such as smartphones and tablets.

– By Jason Gregory

For years, the Federal Motor Carrier Safety Administration (FMCSA) has maintained an unsuccessful push for legislation that would decrease costs and increase safety for truckers and their employers by requiring driving logs to be compiled electronically rather than using the traditional, decades-old paper standard.

Those failed attempts can be traced in part to the notion that electronic record-keeping would be a distraction to drivers. Now, thanks to the increasing prevalence of smartphones, tablets and other lightweight computers, it is only logical that the federal government would attempt to harness those devices to eliminate paperwork and deliver more accurate driving records.

The combination of social media making the public more comfortable with the idea of posting status updates and the wide prevalence of smartphones, which are used by more than 60 percent of the U.S. population, may well be the end for paper logbooks. This time, however, Uncle Sam has drafted specific rules that would prevent trucking carriers from being too intrusive on their drivers.

In March 2014, the U.S. Department of Transportation issued proposed rules

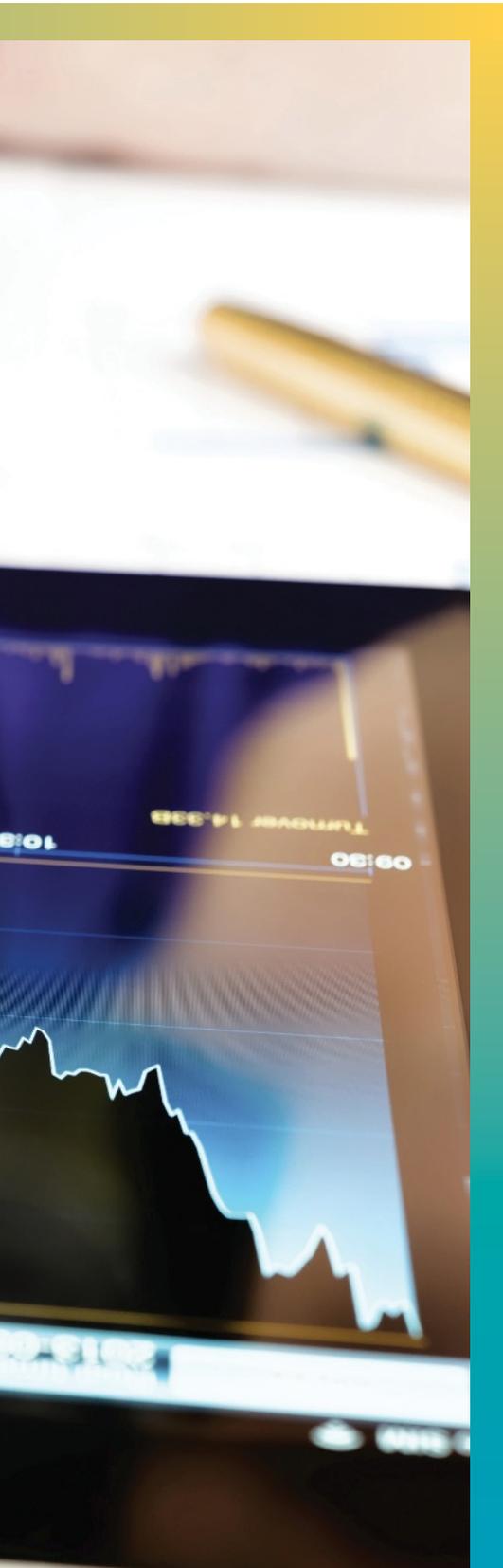
pertaining to Electronic Logging Devices (ELDs) and Hours of Service Supporting Documents that address several areas of concern that prior versions of the rule failed to consider.

The new rules, if enacted, will create a new record-keeping landscape for drivers and carriers in the hopes of reducing driver fatigue while lowering costs and increasing safety. Following is a brief overview of the main components contained in the proposed new rules.

Mandating Electronic Devices

The proposed rules do not mandate the use of a particular ELD or require a specific data format. This means such devices could come in a variety of types and formats – from tablets to smartphone applications.

While the government does not appear concerned with device hardware, it provides very specific requirements for the categories of data and functions of the logging devices. The most important functions of the ELD are the ability to transfer data to authorized safety officials and resistance to tampering. The specific data that must be transferred to safety officials include date, time, vehicle location, engine hours, vehicle miles, driver/user identification data, vehicle



identification data and motor carrier identification data.

The ELD does not necessarily have to be a permanent fixture in the vehicle. In fact, a number of ELDs come in the form of applications (or apps) for smartphones or tablet devices. These devices would require FMCSA certification, which should make it easy for a carrier to select a device. It is imperative that the carrier select a certified device.

Certified ELDs must be designed to be tamper-resistant such that no one can disable, deactivate, damage, jam or block/degrade a signal so the device would not accurately record the duty status of a driver. The rules specifically acknowledge that the devices cannot be tamper-proofed. That makes it crucial for the driver and carrier to ensure the ELD is functioning properly routinely.

As soon as any malfunction or irregularity in the device is detected, the driver and carrier must report any and all issues in a timely fashion. When the

The new ELD requirement is applicable to all vehicles operated by drivers required to prepare Record of Duty Status (RODS) reports more than eight days in a single 30-day period. The 30-day period begins on each day of driver operation and looks back retroactively. Further, drivers engaging in interstate commerce must operate with ELDs.

Reducing Paperwork

It is critical that drivers and carriers understand that ELDs will only reduce – not eliminate – paperwork documenting compliance with regulations. Under the proposed regulations, a supporting document is defined as any record generated or received by a motor carrier in the normal course of business that could be used to verify a driver's record of duty status. It is the duty of carriers to maintain supporting documents. However, a driver has the right to these documents and can request access to them.

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ELD is damaged or malfunctions, the carrier would have to repair it within eight days. If the repairs cannot be made, an extension must be sought.

If a malfunction occurs and the driver is stopped, he or she will face a fine for the malfunctioning ELD, which is another reason to make sure the device is working properly. If an irregularity is suspected, it should be reported as soon as practical. In the meantime, the driver should use traditional documentation methods to comply with all regulations.

Supplemental documentation is important in situations such as those indicated above, when logging devices are not functioning properly, or in critical areas such as verifying on-duty periods when the driver isn't driving. The new regulations acknowledge that ELDs cannot accurately note personal or off-duty driving time. It is critical that drivers be aware of this fact and accurately record their time to protect themselves and ensure they are not violating hours-of-service (HOS) regulations.

Preventing Driver Distraction

Finally, the federal government is seeking to add an entirely new section of rules specifically addressing the distraction/harassment of drivers. This proposal particularly focuses on the problems of inappropriate communications that affect drivers' rest periods, and drivers being pressured to exceed HOS limitations.

In addressing inappropriate communications, the proposed new rules provide drivers the right to place ELDs in a specific "sleeper berth" mode. The device must then automatically mute the volume, turn off the audible output, or allow the driver to perform these functions manually.

In dealing with hours of service limitations, the new rules provide a number of driver protections. As mentioned above, drivers have access to not only supplemental documentation but their logging-device records as well. A carrier is required to provide drivers with this access for the entire six-month required document maintenance period.

Drivers also have the right to annotate their ELD records to reflect issues such as fatigue and weather. However, anyone annotating these records is required to list their authorship. Critically, a carrier could only propose edits to the driver for their approval.

The ELD itself is not required to provide an HOS limit notification. It is important for drivers and carriers to monitor HOS issues and ensure complete compliance.

Privacy Issues

The new regulations seek to prevent unnecessary invasion of drivers' privacy. For instance, when transmitting data to safety officials, the logging device is required to possess a transfer function that allows acts to occur without an official having to enter a driver's vehicle.



// ELDs need to conform to a number of federally mandated standards in terms of the data they collect from drivers.

To access the ELD, drivers and support personnel must maintain specific credentials to access the collectible information. The collectible information is limited to the driver's name, date, license number, location and other users of the logging device – generally all readily obtainable information. Any information obtained may be used only to enforce federal regulations. If a driver believes this information is being used for another purpose, he or she has recourse – even against safety officials.

Although the federal government does not believe it can prevent each instance of harassment, drivers have recourse to have their concerns addressed. The new

rule establishes new complaint procedures – as well as enhanced penalties – that are designed to deter harassment.

Specifically, a driver has the right to file a complaint with FMCSA alleging harassment against the carrier. The complaint should describe the act of the carrier that the driver deems harassing and how the logging device or related technology might have been involved in the alleged misdeed.

Tremendous Promise, Uncertainty

The proposed requirement for ELDs can greatly benefit both drivers and motor carriers. These 21st century devices pose the potential for reducing

paperwork, eliminating fraud, providing better monitoring of regulations and increasing efficiency.

However, as with any new rule, the FMCSA's proposals face real concerns and issues that will take time to address and resolve. It is important that drivers and carriers familiarize themselves with the potential changes so that they can understand how the new regulations will affect their operations. 🌈

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