



THE SECRETARY OF TRANSPORTATION
WASHINGTON, DC 20590

December 28, 2020

The Honorable Richard C. Shelby
Chairman
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Chairman Shelby:

As requested by House Report 115-750 accompanying H.R. 6072 (115th Congress) and the Joint Explanatory Statement accompanying the Consolidated Appropriations Act, 2019 (P.L. 116-6), this letter report provides information on the implementation of the Electronic Logging Device (ELD) mandate. The ELD rule was adopted in accordance with section 32301(b) of the Moving Ahead for Progress in 21st Century Act (MAP-21) (P.L. 112-141).

In response to a MAP-21 mandate, the Federal Motor Carrier Safety Administration (FMCSA), an operating administration within the U.S. Department of Transportation, published a final rule on December 16, 2015. That final rule required most motor carriers and drivers who were required to prepare and retain paper records of duty status to comply with the hours-of-service (HOS) regulations under 49 CFR part 395, to use ELDs by December 18, 2017. Full implementation by motor carriers that were using Automatic On-Board Recorders (AOBRD) was required by December 16, 2019.

To assist motor carriers, drivers, and vendors with compliance, FMCSA conducted numerous webinars, live question and answer sessions, and outreach efforts, and established an ELD-focused website that averages nearly 40,000 views per month. To support ELD equipment vendors, FMCSA deployed file validators to test and verify the functionality of the devices. In addition, a version of Electronic Records of Duty Status (eRODS), the software used to download data from the ELDs by law enforcement, is available for public use.

Since the final rule's initial implementation, driver inspections with violations for not having a required ELD represent less than one percent of all driver inspections, down from 4.6 percent in December 2017. Additionally, violations of the daily and weekly HOS driving and working limits decreased by nearly 50 percent. The electronic transfer of HOS data to law enforcement continues to improve. Over 95 percent of attempted data transfers are successful.

In response to industry concerns related to the ELD rule and to provide additional flexibility, FMCSA issued revised guidance in June 2018 on driving a commercial motor vehicle for personal use while off-duty or "personal conveyance." Specifically, this guidance clarifies the circumstances when a driver may use personal conveyance to travel from a shipper to a safe location for rest, clarifies that a laden vehicle may be used for personal conveyance, and includes passenger carrier-specific scenarios. This guidance confirmed that the use of personal conveyance does not impact on-duty time.

Also in June 2018, FMCSA issued revised guidance to clarify the applicability of the agricultural commodity exception in the HOS regulations. This regulatory guidance discusses operations that are not subject to the HOS regulations while operating within a 150 air-mile radius of the source of the commodity and clarifies what is a source of an agricultural commodity. In November 2020, FMCSA issued an interim final rule clarifying the definition of the terms “any agricultural commodity,” “livestock,” and “non-processed food,” as the terms are used in the definition of “agricultural commodity” for the purposes of the HOS regulations. FMCSA codified these definitional clarifications to promote more consistent understanding of existing terms so the agricultural commodity exception is utilized and applied consistently.

FMCSA worked extensively with the Federal Highway Administration (FHWA) on a variety of efforts specific to truck parking, such as conducting studies to accelerate Smartpark development, participating in the National Coalition on Truck Parking, and assisting FHWA with the implementation of Jason’s Law, which requires DOT to survey nationwide parking availability periodically. In evaluating truck parking concerns, FMCSA recognizes drivers’ need to stop in proximity to their destinations.

Throughout implementation, FMCSA worked closely with State partners and the Commercial Vehicle Safety Alliance to develop guidance and practical enforcement criteria for ELD enforcement.

FMCSA developed and conducted over 60 training sessions for State and Federal law enforcement personnel. Training efforts focused on the differences between logging software, AOBDRs, and ELDs; ELD enforcement at the roadside; and the use of eRODs during investigations and safety audits. Additional multi-day “train the trainer” sessions were held for subject matter experts representing each State. More than 5,000 State and Federal staff members have attended ELD-Investigative and ELD-Roadside classes since 2017. Additional training for enforcement personnel is scheduled for Fall 2020.

In response to industry concerns about the HOS regulations, FMCSA published a Notice of Proposed Rulemaking (NPRM) on HOS on August 22, 2019. The Agency received close to 3,000 comments to the NPRM and with this input, developed a Final Rule, which was published in the Federal Register on June 1, 2020. The Final Rule made four significant revisions to the existing HOS rules. First, the new HOS regulations increased flexibility by requiring a 30-minute break after 8 hours of consecutive driving rather than 8 hours of on duty time and allowing the break to be satisfied by a driver using on-duty, not driving status, rather than requiring the break to be time spent off-duty. Second, the new rule modified the sleeper-berth exception to allow drivers to split their required 10 hours off duty into two periods, provided one off-duty period is at least 2 hours long and the other involves at least 7 consecutive hours spent in the sleeper berth, with neither period counting against the driver’s 14-hour driving window when paired. Third, the Agency modified the adverse driving conditions exception by extending the maximum 14-hour driving window during which driving is permitted by up to 2 hours. Lastly, the new rule changed the short-haul exception available to certain commercial drivers by lengthening a driver’s maximum on-duty period from 12 to 14 hours and extending the distance limit within which the driver may operate from 100 air miles to 150 air miles.

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FMCSA's HOS rule was crafted to allow drivers additional flexibility without compromising driver health or safety on the nation's roadways. The rule changes do not increase permissible driving time or, except in the event of adverse driving conditions, allow drivers to operate a commercial motor vehicle after the 14th hour after coming on duty.

The trucking industry is a key component of the national economy, employing more than seven million people and moving 70 percent of the nation's domestic freight. FMCSA's rule modernizing hours-of-service regulations is estimated to provide nearly \$274 million in annualized cost savings for the U.S. economy and American consumers.

The new HOS rule went into effect on September 29, 2020. At this time, DOT has no additional recommendations to facilitate ELD implementation. FMCSA will continue to provide training and conduct outreach efforts to ensure smooth and complete implementation of the ELD rule.

A similar letter has been sent to the Ranking Member of the Senate Committee on Appropriations and the Chairman and Ranking Member of the House Committee on Appropriations.

Sincerely,

A handwritten signature in blue ink that reads "Elaine L. Chao". The signature is written in a cursive style with a large initial "E".

Elaine L. Chao