FMCSA-ELD-Cross-Border-Transportation-FAQs(2018-04-09)-CORR1

**Cross Border Transportation FAQs**

Note: Canada and Mexico domiciled motor carriers subject to the Electronic Logging Device (ELD) rule may operate in the U.S. with an Automatic On-board Recording Device (AOBRD) that meets the definition of an AOBRD in 49 CFR 395.15. An AOBRD may be used until December 16, 2019, so long as the AOBRD was installed and in use prior to December 17, 2017. A motor carrier domiciled in Canada or Mexico that does not use an AOBRD and is subject to the ELD Rule must use an electronic logging device when operating in the United States.

The frequently asked questions (FAQs) below highlight cross-border transportation ELD questions. The FMCSA has published many additional ELD FAQs for all motor carriers operating commercial motor vehicles in the U.S. We recommend that carriers and drivers review the additional FAQs.

**General**

**Question:** Must a Canada or Mexico domiciled motor carrier use an ELD that (1) meets the U.S technical specifications and (2) is self-certified and registered with FMCSA to present hours of service when operating in the U.S.?

**Guidance:** Yes, if the motor carrier’s operation or the vehicle itself does not meet one of the ELD exemptions.

**Question:** When a Canada/Mexico domiciled motor carrier’s driver is operating a commercial motor vehicle (CMV) and is stopped for an inspection in the U.S., how must the driver verify hours of service (HOS) compliance if required use an ELD?

**Guidance:** A driver operating in the U.S. must have evidence of the hours worked for the current 24-hour period and the previous 7 days.

A driver operating in the U.S. who is subject to the ELD rule must record all time operating in the U.S. on the ELD.

A driver operating in the U.S. may record time operating in Mexico/Canada using one of the following methods:

* Records of duty status (RODS) on paper for time operating in Canada/ Mexico during the current day, and during the previous 7 days,
* An AOBRD display or printout of records of duty status, or
* ELD data transfer that displays the driver’s RODS for any operations both inside and outside the United States.

**Question:** If a Canada/Mexico domiciled motor carrier’s vehicle registration for a CMV reflects a model year of 2000 or newer, but the engine plate or documentation from the manufacturer indicates that the engine is older than model year 2000, is the CMV exempt from the ELD rule?

**Guidance:** Yes. While an ELD may voluntarily be used in vehicles that are model year 1999 or older, use of an ELD is not required in these vehicles; likewise, vehicles with engines predating model year 2000 are to be treated as exempt, even if the VIN number reported on the registration indicates that the CMV is a later model year. When a vehicle is registered, the model year should follow the criteria established by the National Highway Traffic Safety Administration (NHTSA). There may be instances where the model year reflected on the vehicle registration is not the same as the engine model year, most commonly when a vehicle is rebuilt using a “glider kit.” In this circumstance, an inspector/investigator should use the model year on the engine to determine if the driver is exempt from the ELD requirements. If the engine model year is older than 2000, the driver is not subject to the ELD rule. While the driver is not required to possess documentation that confirms the vehicle engine model year, 49 CFR Part 379 Appendix A requires motor carriers to maintain all documentation on motor and engine changes at the principle place of business. If a determination cannot be made at the roadside, the safety official should refer the case for further investigation.

**ELD Data Transfer and Malfunctions**

***NOTE: The following guidance in this section reflects minor correction(s) (e.g., for grammar, typographical errors, or consistency) made on March 10, 2022.***

 **Question:** What happens if cellular network limitations prevent an electronic logging device (ELD) from transferring data during a United States (U.S.) roadside inspection for a Canada/Mexico-domiciled motor carrier’s driver?

**Guidance:** If there are cellular network limitations that prevent the ELD from transferring data to the Federal Motor Carrier Safety Administration’s (FMCSA) web services, the safety official will use the ELD’s display screen or printout to verify compliance with the U.S. hours of service regulations.

**Question:** Can Canada/Mexico-domiciled motor carrier’s drivers fax their hours of service records during a roadside inspection if an electronic logging device (ELD) malfunction prevents electronic transfer or display through the ELD screen or printout?

**Guidance:** If an ELD malfunctions, the safety official can decide what methods of record retrieval not specified in the ELD rule are acceptable. This includes options like accepting hours of service records by fax.

**Question:** Must a Canada/Mexico-domiciled motor carrier’s driver using an electronic logging device (ELD) in the United States (U.S.) have a printer in the commercial motor vehicle (CMV)?

**Guidance:** No. The ELD rule requires that the ELD can transfer data electronically, and produce the driver’s hours of service as either an ELD printout *or* display.

**Question:** What must a Canada/Mexico-domiciled motor carrier’s driver do if an electronic logging device (ELD) malfunction prevents presenting hours of service (HOS) to a safety official at roadside by electronic data transfer, display screen or printout?

**Guidance:** If an ELD malfunction prevents the driver from presenting HOS to a safety official, the driver must:

* Note the malfunction of the ELD and provide written or electronic notification of the malfunction to the motor carrier within 24 hours;
* Reconstruct the record of duty status (RODS) for the current 24-hour period and the previous 7 consecutive days, and record the RODS on graph-grid paper logs that comply with 49 CFR [395.8](https://www.ecfr.gov/current/title-49/subtitle-B/chapter-III/subchapter-B/part-395#p-395.8(a)), unless the driver already has the records or the records are retrievable from the ELD; and
* Continue to prepare RODS on paper a paper log in accordance with §  [395.8](https://www.ecfr.gov/current/title-49/subtitle-B/chapter-III/subchapter-B/part-395#p-395.8(a)), if the malfunction hinders the accurate recording of the driver’s hours of service data, until the ELD is back in compliance.
	+ Recording RODS on a paper log cannot continue for more than 8 days after the malfunction unless an extension is given in accordance with §  [395.34 – ELD Malfunctions and Data Diagnostic Events](https://www.ecfr.gov/current/title-49/subtitle-B/chapter-III/subchapter-B/part-395#p-395.34(a)).
	+ A driver who records hours of service on a paper log for more than 8 days without proof of an extension from the Federal Motor Carrier Safety Administration may be placed out of service.

**ELD Exceptions and Exemptions**

**Question:** Will a Canada/Mexico domiciled motor carrier’s driver be required to use ELDs if they conduct drive-away/tow-away operations in the U.S. and the vehicle being driven is the commodity being delivered?

**Guidance:** No. Drivers are exempt if they are performing a driveaway-towaway operation. In a driveaway-towaway operation, the vehicle driven is the commodity being delivered or a motor home or recreation vehicle trailer with at least one set of wheels on the road surface during transport.

**Question:** If a Canada/Mexico domiciled company with a terminal in the United States dispatches a driver from one of its Canada/Mexico location to move a vehicle to its U.S. terminal for use in the U.S., is the vehicle move considered a driveaway/towaway operation?

**Guidance:** No, because the vehicle being transported is being used in the furtherance of commerce.

***NOTE: The following guidance in this section reflects minor correction(s) (e.g., for grammar, typographical errors, or consistency) made on March 10, 2022.***

**Question:** How will the United States (U.S.) Electronic Logging Device (ELD) rule apply to a Canada/Mexico domiciled company operating a commercial rental truck in the U.S?

**Guidance:**

* A motor carrier driver operating a rental truck with a rental agreement that exceeds 8 days must comply with the ELD rule unless another ELD exemption applies.
* If a property-carrying truck is rented for 8 days or less, as indicated in the rental agreement, drivers are not required to use an ELD. To meet this exemption, the driver and motor carrier must maintain the following:
	+ A copy of Federal Register Notice (FRN) 82 FR 47306, “[Hours of Service of Drivers: Application for Exemptions; Truck Renting and Leasing Association (TRALA)](https://www.regulations.gov/document/FMCSA-2016-0428-0303)” dated Oct. 11, 2017 or an equivalent signed Federal Motor Carrier Safety Administration (FMCSA) exemption document. This document must be provided to safety officials on request.
	+ A copy of the rental agreement. The rental agreement must clearly identify the parties to the agreement, the vehicle, and the dates of the rental period.
	+ Copies of the driver’s record of duty status (RODS) for the current 24-hour period and the prior 7 days, if RODS are required on those days.

**Question:** How does the “8 days within a 30-day period” electronic logging device (ELD) exemption apply to Canada/Mexico-domiciled motor carriers’ drivers when they are operating in the United States (U.S.)?

**Guidance:** If a driver operates in the U.S. and is required to use a record of duty status (RODS) for more than 8 days out of any 30-day period, the driver is subject to the ELD rule unless another ELD exception applies.

**Question:** Does the 150 air-mile radius exception apply to cross-border operations?

**Guidance:** Yes. If the United States (U.S.) destination is within a 150 air-mile radius of a Canada/Mexico-domiciled motor carrier’s driver’s normal work reporting location and the driver returns to that location and is released from work within 12 hours, then the driver is not required to keep a paper log or use an electronic logging device (ELD) during the U.S. portion of the trip.

**Question:** Is a Canada/Mexico-domiciled motor carrier’s driver, who is exempt under the 100 air-mile radius exception, still exempt from using an ELD when entering the United States (U.S.) more than 8 times in a 30-day period?

**Guidance:** Yes. Drivers qualify for the 100 air-mile radius (short-haul) exception regardless of the number of times they enter the U.S., provided they meet all requirements of the short-haul exception under 49 CFR [395.1](https://www.ecfr.gov/current/title-49/subtitle-B/chapter-III/subchapter-B/part-395/subpart-A/section-395.1#p-395.1(e)).

If a driver operates in the U.S. for more than 8 days during a 30-day period and does not qualify for the short haul exception after the 8th day, the driver is subject to the ELD rule unless another exemption applies.

**ELD Technical Specifications**

**Question:** Can a Canada/Mexico domiciled motor carrier’s driver manually enter the Vehicle Identification Number (VIN) for the power unit if the ELD is unable to automatically retrieve the VIN from the engine?

**Guidance:** Yes. The driver can add the VIN manually if the ELD cannot retrieve the VIN from the vehicle engine data.

**Question:** Can a Canada/Mexico domiciled motor carrier’s driver use a portable ELD unit, smartphone or other wireless device as an ELD when operating in the U.S.?

**Guidance:** Yes. A driver may use a portable handheld ELD, smartphone or other wireless device if the device meets the ELD rule’s technical specifications and is on the Registered ELD list on FMCSA’s website.

While operating in the U.S., the portable ELD unit, smartphone or other wireless device must be mounted in a fixed position during the vehicle (operation and must be visible to the driver from a normal seated position.

**Question:** Can a Canada/Mexico domiciled motor carrier’s driver use electronic logging software, installed on cellular phones, tablets or personal computers, which does not meet the technical specifications of the ELD rule?

**Guidance:** No. If the driver is subject to the ELD rule, the driver must use one of the following: a self-certified and registered ELD, registered ELD software installed on a portable device, or a qualifying AOBRD (so long as the AOBRD was installed and in use prior to December 17, 2017).

**FAQS Applicable to Canada Domiciled Motor Carriers Operating in the United States**

***NOTE: This guidance in this section reflects minor correction(s) (e.g., for grammar, typographical errors, or consistency) made on March 10, 2022.***

**Question:** Are Canadian Armed Forces exempt from the Federal Motor Carrier Safety Regulations (FMCSRs), including the electronic logging device (ELD) requirements, if they have proper documentation when operating in the United States (U.S)?

**Guidance:** Yes, vehicles operated by the Canadian Armed Forces in the U.S. are not subject to the FMCSRs.

U.S. Federal, State and local enforcement personnel should not conduct driver/vehicle inspections on vehicles operated by Canadian Armed Forces provided:

* the driver possesses an appropriate military personal identity card issued by Canada,
* the driver possesses an individual or collective movement order,
* the vehicle carries a registration number, and
* the vehicle contains the distinctive nationality mark of Canada.

Note that the exemption described above applies only to Canadian Armed Forces and not to contractor drivers or vehicles used by the Canadian Armed Forces.

**Question:** If a Canada-domiciled motor carrier operates in the United States (U.S.), will the electronic logging device (ELD) need to display accumulated vehicle miles and total vehicle miles in units of whole miles?

**Guidance:** Yes. When operating in the U.S., a motor carrier must use an ELD that displays vehicle road miles information in units of whole miles.

**Contact Info:** FMCSA ELD Information, 1-800-832-5660 or ELD@dot.gov.

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*Note: This guidance document does not have the force and effect of law and is not meant to bind the public in any way. It is intended only to provide information and clarity regarding existing requirements under the law or agency policies.*

**Regulatory Topic: ELD Guidance**

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