

FMCSA to Issue 90-Day ELD Waiver to Ag Haulers

November 20, 2017

By David Cullen



The Federal Motor Carrier Safety Administration announced on Nov. 20 that it will be issuing to haulers of agricultural commodities a 90-day temporary waiver of the new electronic logging device mandate — which takes effect just four weeks from now — so that the agency can better address their concerns about operating under the new rules.

In addition, FMCSA said it will be issuing “formal guidance” on the existing hours-of-service exemption for the agricultural industry and on the “personal conveyance” provision for all truckers (which, simply put, refers to when movement of a truck by a driver is not subject to hours-of-service regs), as well as on how enforcement procedures should be carried out once the rule legally kicks in on Dec. 18.

The agency also said it will provide guidance on the existing 150 air miles hours-of-service exemption “to provide clarity to enforcement and industry. The guidance is designed to allow industry to maximize the use of this statutory exemption.”

FMCSA noted that formal publication of the guidance in the *Federal Register* is to be “expected within the next two weeks” and will include a public comment process. The agency added that it will consider comments received from stakeholders before publishing final guidance.

During a telephone briefing with reporters on Nov. 20, agency officials emphasized that FMCSA and its enforcement partners within the Commercial Vehicle Safety Alliance are “fully prepared” for the ELD rule’s Dec. 18 implementation date. In their view, the upcoming guidance “represents the agency’s desire to implement the ELD rule in a manner that improves safety without impeding commerce.”

In August, FMCSA and CVSA [announced a phased-in approach to the ELD mandate](#) that would delay implementing out-of-service criteria related to ELDs until April 1 and that indicated each jurisdiction would have discretion on whether or not to issue citations from the get go of the new rule. Then on Nov. 15, the agency clarified its intention by announcing during its Southern Regional Road Show event in Birmingham, Alabama, that from Dec. 18 through April 1, citations issued to truck drivers at roadside for not complying with the ELD rule will not count against the Safety Measurement System that drives FMCSA’s CSA (Compliance, Safety, Accountability) scoring.

Expanding on that announcement during the Nov. 20 media call, Joe DeLorenzo, director of FMCSA’s Office of Compliance and Enforcement, said that if, from Dec. 18 to April 1, a driver pulled over for not running with an electronic log is otherwise HOS-compliant, he or she will be cited for that ELD violation but “allowed to continue that particular trip” rather than be placed out of service. In addition, he confirmed that such a citation would not ding the driver’s or the carrier’s SMS “or the carrier’s safety record.”

As for the confusion around when designating a vehicle movement as an instance of “personal conveyance” is legal, DeLorenzo pointed out that this is really “an HOS question that’s been raised by the ELD rule.”

DeLorenzo also advised that the agency has gotten an earful from ag haulers — from livestock haulers in particular — “on how the ELD rule will affect how they manage their HOS compliance.”

He said that issuing these truckers a blanket 90-day ELD waiver will enable the agency “to consider their situation on HOS and their exemption request already on file. We’ll continue this conversation” with this segment of trucking.

Editor's note: [Click here](#) for ongoing coverage of the ELD mandate by the editors of HDT.

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