Publication of the FMCSA’s final Electronic Logging Device (ELD) rule is just around the corner. Considering the mandate applies to over three million drivers on the road today, it’s important that the trucking industry as a whole knows how it will impact them. In its simplest form, an ELD is a device used to electronically and automatically collect RODS information needed for HOS requirement compliance, replacing paper log books. The ELD Mandate includes technical and performance specifications that define exactly what an ELD must do, including:

- Connect to a truck’s engine to record if a truck is in motion
- Allow the driver to login and select On-duty, Off-duty, or On-Duty Not Driving
- Automatically select drive segments based on vehicle movement
- Graphically display RODS so a driver can quickly see their hours in a day
- Provide data in a standardized format
- Be capable of transmitting data to law enforcement in specifically defined ways
- Be certified by a vendor stating the device meets technical specifications
- Be listed on the FMCSA website with an accepted registration number
The ELD Mandate  
Reduced Crash Risks and Increased Productivity

Efforts to create comprehensive, commonsense regulations about the implementation of electronic driver logs have been going on for over 20 years. In 2010, a solution was nearly reached with the EOBR 395.16 standard. However, due primarily to concerns about potential driver harassment and privacy violations, that ruling was vacated by the Federal Courts. There were minimum technical specifications that make implementation costly. Now, after significant review, research and revision, it is expected that the FMCSA will issue its final ruling on the Electronic Logging Device (ELD) Mandate in late September 2015.

Fleets want to know when, and if, they will be required to implement an ELD solution, which can also be Electronic On-Board Recorders (EOBRs) or even Automatic On-Board Recording Devices (AOBRDs). Drivers want to know how the new ruling will protect them from coercion along the supply chain. All parties want to know how the ruling will affect their day-to-day productivity and their bottom-line profits. These questions are valid and important, but it’s important to remember the central concern that has always been at the heart of these discussions: safety -- that of the drivers, as well as that of the citizens with whom they share the road. According to Tom Cuthbertson, VP of Regulatory and Compliance at Omnitracs, “Although there are additional benefits of ELD adoption, safety is the main driver of this regulation. Bottom line is ELDs will improve recording of Hours of Service, and will reduce violations, directly related to improving safety.”

The ultimate intention of the ELD Mandate is to reduce the incidence of driver fatigue-related crashes by facilitating compliance with driver hours of service (HOS) rules. Research results show that truck drivers using ELDs had significantly lower total and preventable crash rates than drivers in trucks not equipped with an electronic hours of service recorder. Analysis quoted by the FMCSA shows the new ELD Mandate, which will apply to an estimated 3 million vehicles and 3.4 million drivers, will help prevent approximately 20 fatalities and 430 injuries each year, for an annual safety benefit of $394.8 million.

1 11.7% reduction in total crash rate and 5.1% reduction in preventable crash rate (from the DOT/FMCSA research findings presented in “Evaluating the Potential Safety Benefits of Electronic Hours-of-Service Recorders Final Report”).

How Will This Mandate Be Better Than Past Attempts?

Many fleets wonder why it has taken so long to rule on the mandate – and why they should feel confident that the ruling anticipated for September 2015 will be more solid and successful than the EOBR 395.16 regulation issued in 2010. The answer is simple: the DOT wants to get it right this time and there are key factors that will make this ruling stronger:

- It’s supported by leading fleets and trucking associations: Leading industry groups, like the American Trucking Association and the Trucking Alliance see the safety benefits of the rule and are advocating for implementation.

- It’s building on past rules: This ruling wasn’t built from scratch – it started with lessons learned from rule 395.16 and addresses the issue of driver harassment, addresses the requirements for supporting documents and provides more thorough technical specifications.

- It’s congressionally mandated: With MAP-21 – the major funding bill for highways – the FMCSA was directed by Congress to write a rule mandating the use of electronic logging devices. Congress outlined a timeframe, technical and performance specifications, and a certification process that the FMCSA must create.

- The benefits outweigh the costs: By reviewing the fleets that need it the most and focusing on the right benefits, the FMCSA can justify the economic impact.
Will the ELD Mandate Apply to Me?

Compliance with the ELD Mandate is unrelated fleet size. Big fleets, small fleets and individual owner/operators will all be required to adhere to the new regulations if they meet certain criteria. As a general rule, this includes any driver that is required to maintain Records of Duty status while driving a commercial motor vehicle for interstate commerce that fits any of these descriptions:

- Weighs 10,001 pounds or more
- Has a gross vehicle weight rating or gross combination weight rating of 10,001 pounds or more
- Is designed or used to transport 16 or more passengers (including the driver) not for compensation
- Is designed or used to transport 9 or more passengers (including the driver) for compensation
- Is transporting hazardous materials in a quantity requiring placard

Many larger fleets have already adopted ELDs that meet 395.15 standards and will be allowed to use those devices until four years after the publishing of a final ELD rule, meaning they will not be required to upgrade their systems until, most likely, the end of 2019.

Are there any Exemptions?

While revising the ELD Mandate, the FMCSA considered the options for all carriers subject to HOS requirements. Taking into consideration the economic impact of the new compliance standards, the agency won’t require mandatory ELDs it for situations where the estimated cost burden could significantly outweigh the potential benefits. These exemptions, where safety increases and paperwork reductions were minimal, include the following, where drivers will be allowed to continue using paper HOS logs:

- Driver-salesperson where total driving time does not exceed 50% of total daily duty hours.
- Short-Haul Operations – CDL drivers that operate within a 100 air-mile radius of the normal work reporting location or Non-CDL drivers operating within a 150 air-mile radius of their home depot

Even with exemptions, drivers will still need to keep time sheets that show start and end times. Many safety conscience carriers already utilize full RODS, with an AOBRD, for these cases to provide uniform safety rules across the fleet while gaining insight into detailed operations – leading to more control and protection where it’s needed.
ELD Safety and Cost Benefits Available to Everyone, Now

Although the FMCSA has outlined certain exemptions, those who are not required to implement ELDs are still able to realize the same benefits as those who are mandated to adopt. And the benefits, in terms of both safety and cost savings, are significant enough that some carriers may decide to move forward with implementation even before it’s required.

The FMCSA weighed a variety of criteria prior to making a decision around the mandate, and found multiple benefits of ELDs. While not an exhaustive list, the following are a few key benefits that any fleet can realize through ELD implementation:

- Create a Culture of Safety. There is value in moving beyond “just enough” compliance. E-Logs give safety managers the tools they need to understand all areas of compliance. Safety managers and dispatchers can work together on loads that are within HOS requirements. Drivers can be alerted when low drive or on-duty time is near.
- Gain Visibility and Efficiency. Accurately account for all aspects of the business, including on-duty and drive time. Fleet managers can see where time may be leaking from current processes.
- Manage Technology Implementation. By moving forward sooner rather than later, fleets can roll out the technology at a pace suitable for their organization, not according to a time frame established by the government. A well-paced implementation can also help alleviate resistance to change within the organization.
- Start Building ROI. Immediately, ELDs will reduce paperwork, minimize crash risk, improve productivity, increase driver communication, reduce fuel costs, and provide justification for detention time charges.

Keep in mind, if fleets are using an AOBRD today, they are already enjoying these benefits, and their AOBRD can be used until 2019 as proposed in the SNPRM.

ESTIMATED SAVINGS AND EFFICIENCY IMPROVEMENTS

- Reduce paperwork burden on drivers and fleet managers: up to 15 minutes/day/driver
- Save on paperwork costs: $705/driver/year
- Minimize exposure to HOS violations; fines can range from $250 to $11,000
- Annual safety benefit:
  - $185 per long-haul ELD
  - $125 per short-haul ELD
Technical Specifications and Goals

Although the final specifications are still in development, the FMCSA has a distinct set of goals outlined for issues they want to address with the technical specifications. Some of the key goals focus on, interoperability, cost reduction, technology evolution, and compliance, and driver harassment and privacy.

TAMPER RESISTANT
ELDs that meet the mandate’s specifications will need to be “tamper resistant” to prevent unauthorized alterations of hardware, software and stored data.

TRANSMITTING DATA TO ENFORCEMENT
Data from ELDs needs to be easily transmitted to authorized enforcement officials at a motor carrier’s facility or a roadside review. The new mandate outlines a number of different options for transmitting data, while still protecting a driver’s privacy. Options include wireless data transfer via Web services, Bluetooth and email, as well as USB 2.0, QR codes, TransferJet and compliant printouts as an option.

DATA ELEMENTS
The mandate goes into great depth on what data must be collected by the ELD, as well as the format for the information to ensure the raw data is accessible in user-friendly, easily-interpreted formats.

INTEROPERABILITY AND INTEGRATION
Interoperability was suggest in the SNPRM preamble but, not in the regulation. This refers to the ability for an ELD to share information with other ELD systems and providers. The FMCSA is proposing a standardized data output format, which would help facilitate interoperability.

DEVICE CERTIFICATION
To ensure that all of the technical specifications are met, the FMCSA will require that ELDs be certified by their providers. All approved vendors (upwards of 20) will also be listed on a future FMCSA website. As part of the certification process, vendors will need to provide documentation of products and specific components, step-by-step in instructions, and proof of data transfer.

TECHNOLOGY EVOLUTION
The specifications that the FMCSA implemented around standards are designed to be specific enough to help lower costs, but open enough to allow for technology innovations that will support the changing needs of motor carriers and drivers.

DRIVER HARASSMENT AND PRIVACY
Concerns about driver harassment are central to the new ELD specifications. Not only do the technical specs address statutory requirements pertaining to prevention of driver harassment, but they also take driver privacy into account.

To provide drivers with the data they need to protect themselves in terms of safety and compliance, the FMCSA’s specifications require that they have access to their HOS records upon request. Their records must be made available for the entire 6 months that the motor carrier is required to maintain their records.

In addition, the FMCSA identified other requirements to address driver harassment. A few items (but not limited to) addressing this topic:

- A device must have a “mute” button so a driver is not interrupted during off-duty or sleep berth statuses.
- GPS clarity must be set at a 10-mile radius while a vehicle is being used for personal conveyance, allowing less precise tracking when a truck is being used on personal time.
- The driver must be able to edit non-drive segments of their log.
- Drivers must have approval of edits by the carrier.
- The Driver must review and reconcile any unassigned vehicles moves not the carrier.
The Future of the ELD Mandate

The FMCSA is incorporating feedback from listening sessions, public comments and research reports and findings should be included within the final rule. This ruling, like all significant DOT rules, is a multi-step process that requires completion of one step before the next can occur and the DOT has been slowly and systematically working through each step in order to make sure that the revised ELD mandate will address the issues with EOBR 395.16 and lay the groundwork for successful implementation and, ultimately, safer industry practices and fewer lives lost or damaged by preventable accidents.

What Still Needs to Take Place?

Because this a significant rule, the FMCSA must include a review by the Office of the Secretary and the Office of Management and Budget. Once the rule is cleared from OMB, the FMCSA can issue a final rule.

As of March 31, 2015 the schedule for these events is:

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In addition to these regulatory steps, the FMCSA must issue a final rule for the Prohibition of Coercion as mandated by MAP-21. This will help ensure drivers are not coerced throughout the entire supply chain, including by electronic logging devices. The NPRM identify financial civil penalties and possible punitive damages should a labor case be filed.

What Action Will I Need to Take After the Final Ruling?

The Final Rule will have an effective date (often 30 days after the publishing of the rule), as well as a compliance date which, due to specifications from MAP-21, 2 years after the effective date. If the language in the SNPRM holds up for timing, fleets will need an ELD by late 2017, or use an AOBRD until 2019, at which time they will need to use a device that meets the standards in the ELD rule.

After the ruling, fleets will need to fully understand how the mandate affects their operations. “Solutions providers understand there are a lot of details to sift through. We are working closely with the regulatory organization to get a clear picture of how this mandate is going to affect all parties involved in the industry so we can effectively guide fleets through this future period of transition and implementation,” says Cuthbertson.”

What to Look for in an ELD Provider

Once the final mandate is issued, again, most likely in September 2015, device manufactures will need to incorporate technical and performance standards found in the final rule and certify devices to meet these newly published standards.

This mandate will apply to approximately 3 million trucks; according to the FMCSA, today there are only 500,000 trucks on the road equipped with an ELD device. Here are some selection criteria to help you make the best choice for your fleet:

- Availability of 395.15, AOBRD, solutions that can be used until 2019.
- Technical staff that can understand the regulation specifics.
- Familiarity the ELD regulatory process.
- Participation in the FMCSA comment period.
- Involvement with the Motor Carrier Safety Advisory Committee.
- Financial resources able to make continual updates to the product to meet HOS updates that will impact ELD recording of hours.

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The DOT Rule Making Process

The DOT follows a rule making process – notably with a Notice of Proposed Rule Making (NPRM). This follows the rule making process where the agency issues a notice of a proposed rule. From this notice, the FMCSA (or other DOT regulatory bodies) opens the rule up for public comments, which it then analyzes and incorporates into a final rule.

An NPRM will be issued in the Federal Register, and all supporting documentations, comments, and text can be found within a docket made for the rule. In this case of the ELD mandate, the FMCSA issued a Supplemental Notice of Proposed Rule Making (SNPRM). An SNPRM is issued with the DOT wants public comments on a new or modified proposal. In light of the NPRM for EOBRs, the FMCSA wants to get this rule making right.

So what’s been done for this Supplemental Notice of Proposed Rule Making?

The SNPRM has been through an aggressive vetting process already.

A notice of proposed rule making, and final rule were established with the 395.16 standard. With Federal Courts vacating that rule, the rule making process was stopped.

In response, based on the congressional mandate from MAP-21, the FMCSA announced the Supplemental Notice of Proposed Rule Making (SNPRM) in March 2014. Since the issuing of the SNPRM:

- A comment period was held, eliciting over 2,000 comments in the Federal Registry
- The comment period was extended to make sure all voices had a fair chance to review and comment on the SNPRM
- The FMCSA closed the comment period and is currently in the process of reviewing the comments
- Issued a number of reports on ELDs, including “Evaluating the Potential Safety Benefits of Electronic Hours-of-Service Recorders: Electronic Logging Devices and Hours of Service Supporting Documents” which found ELDs having a positive impact on HOS compliance, leading to safer operations
- Issued a Regulatory Impact Analysis (RIA) detailing costs vs. benefits for the ELD rule, finding options that have positive economic impact
- Started the regulatory process for the Prohibition of Coercion where the final rule is scheduled to be given to the Office of the Secretary in late Spring, 2015 and finished by September 10, 2015. The Prohibition of Coercion rule must come out before or with the ELD mandate.

About Omnitracs, LLC

Omnitracs is the global pioneer of innovative and comprehensive fleet management solutions transforming the transportation industry through technology and insight. Omnitracs’ more than twenty five years of leadership and experience uniquely positions it to serve the industry’s needs for seamlessly integrated compliance, safety, productivity, route planning and delivery, analytics, and transportation management system solutions. Omnitracs’ more than 1000 employees deliver software-as-a-service based solutions that help more than 40,000 private and for-hire fleet customers manage over 1,500,000 mobile assets in more than 70 countries. Omnitracs’ portfolio encompasses Omnitracs Latin America and the solutions formerly known as Roadnet Technologies, XRS Corp, Sylectus, and Omnitracs Analytics. Omnitracs is a member of the Vista Equity Partners group of companies.

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