



## **Canadian Trucking Alliance CTA**



### ***CTA Comments***

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## **Regulations Amending the Commercial Vehicle Drivers Hours of Service Regulations (Electronic Logging Devices and Other Amendments)**

**Submitted:**

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**Attention:**

Andrew Spoerri, Senior Research Analyst, Motor  
Vehicle Safety Directorate, Department of Transport,  
330 Sparks Street, 9th Floor, Ottawa, Ontario K1A 0N5  
(email: [andrew.spoerri@tc.gc.ca](mailto:andrew.spoerri@tc.gc.ca))

**Canadian Trucking Alliance**

555 Dixon Road, Toronto, ON M9W 1H8

Tel: 416-249-7401 – email: [govtaffairs@cantruck.ca](mailto:govtaffairs@cantruck.ca)

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## **CTA General Comments on ELDs**

- CTA applauds federal Transport Minister Marc Garneau and the department for showing leadership in introducing language in Gazette I which mandates the use of electronic logging devices (ELDs) in the trucking industry.
- ELDs will ensure optimum compliance with the hours of service regulation, reducing commercial vehicle collisions related to fatigue and cognitive driver distraction. At a time when every province is looking to reduce fatalities and collisions related to commercial fatigue and distracted driving, we believe every transportation minister should be sharing Minister Garneau's commitment to see this important legislation take effect as soon as possible.

## **Basics of the Proposed Rule**

- Federally regulated carriers (vehicles 4500kgs + logbook).
- ELDs not required for drivers who operate within the 160km radius of home terminal.
- ELDs will not be required for drivers and carriers that operate under federal hours of service permits (paper logbooks will still be required).
- ELDs will not be required for rental vehicles, if the rental period is less than 30 days.
- Yard miles (same as FMCSA).
- Supporting document requirements (same as FMCSA).
- Multiple options for roadside inspection of ELD records.
- Time limited grandfathering for existing Electronic Recording Devices (ERDs).

**CTA Comment:** *CTA supports the scope and approach taken by Transport Canada as outlined above.*

## **Additional CTA Comments**

- In addition to the basics of the proposed rule which CTA supports, the alliance has identified **10 specific areas** that require further attention from Transport Canada or where CTA has added some additional commentary. These include:

1. Appropriate, responsible and reasonable transition timeframes for ELD regulation in Canada.
2. The handling of rented and leased vehicles.
3. The need for a reduction in the number of required supporting documents.
4. Model year of tractor to which ELDs are applicable.
5. Appropriate time for drivers/carriers to show compliance to enforcement community.
6. Out-of-service orders for failure to have an ELD.
7. Eliminating the presence of two odometer readings (dashboard & ELD).
8. Timeframes for ELD functionality once truck engine is started (engine power status).
9. The identification of carriers through a national safety code registration number (NSC#).
10. Guidance on ELD device certification.

**Note:** Our comments are categorized as CG I (applying to Canada Gazette I) and as TS (applying to the CCMTA technical standard) and also include Notes/Rationale on some issues.

### Transition Timeframes (CG I)

Drivers, carriers and shippers will require sufficient time to effectively transition over to mandated ELDs. CTA had originally requested a two-year phase-in to allow for the transition based on the knowledge it takes approximately 12-18 months to successfully transition. We have since been advised the transition period is closer to 12 months. With the delay in issuing CG I, and the gap between carriers required to be in compliance to operate in the US and later, carriers domestically in Canada, the transition timeframe needs to be as short as possible. CTA amended its position on December 14, 2017 to reflect a shorted timeframe and would like to see the ELD regulation fully enforced by no later than Q4-2019. To achieve this, we would like to see the Gazette II published by June 2018.

**CG I Status:** Transport Canada has indicated their proposed transition timeframe will be two years from the time the final rule (formally called Canada Gazette II) notice is issued.

**CTA Comment:** As per the CTA position take in December, CTA would like to see the ELD mandate implemented by Transport Canada and all provinces for both inter and intra provincial carriers as soon as possible with a Gazette II published by June 2018 and compliance required by no later than end of Q4 2019.



## **Transition Timeframes (CG I) *continued...***

**Additional CTA Comments:** *To meet CTA's recommended implementation date, CTA recently asked the Council of Ministers Responsible for Transportation and Road Safety to consider the following recommendations:*

- As soon as possible, declare your support for an intra-provincial ELD mandate mirroring the proposed federal regulation. A clear public message of the expectations and timeframes needs to be sent to all carriers that would be subject to an ELD mandate.
- Prioritize and accelerate the introduction of provincial regulations/legislation that adopts by reference the federal mandate (including any sectoral exemptions that exist within the federal standard).
- Commence educational awareness and enforcement of the ELD mandate as soon as possible to ensure hard enforcement can begin in Q4 2019.
- Focus hours-of-service enforcement efforts as soon as possible on those carrier segments that will continue to rely on paper logbooks during the period up to the passage of the provincial regulations/legislation.

## **Rented & Leased Vehicles (CG I)**

An ELD mandate can present potential challenges for fleets using rented and leased vehicles. Operationally, there are many reasons that carriers will rely on rented and leased vehicles and it is not reasonable to expect that rental or lease providers will have a vehicle available with an ELD that matches the carrier's hours of service management system. However, these operational needs must be accommodated in a manner that does not result in provisions or exemptions that allow fleets/drivers to avoid hours of service compliance in rented or leased vehicles.



**CG I Status:** *Transport Canada will not require trucks with leases or rentals of 30 days or less to be required to use ELDs.*

**CTA Comment:** *CTA supports Transport Canada's position on this issue. However, if it is found that fleets/drivers are using the 30-day exemption to avoid ELDs all together and continue to use paper logbooks for their entire operations (e.g. repeated issuance of 29-day rental/lease agreements), then CTA would request Transport Canada revisit this issue. In the interim, CTA requests that Transport Canada flag this issue for the provincial and territorial enforcement officials to monitor closely.*

## Rented & Leased Vehicles (CG I)



ELD's by their nature should reduce the need for additional supporting documents to determine hours of service compliance. Going forward the focus can be on allowing the technology to reduce the burden of maintaining unnecessary documentation.

**CG I Status:** Transport Canada has proposed that the supporting documents provisions mirror those required in the US.

**CTA Comment:** CTA supports Transport Canada's direction on this issue.

**Notes:** This would require carriers to maintain no more than 8 supporting documents for each 24 hour period related to: bills of lading, dispatch records, expense receipts, electronic mobile communications records and pay roll records. Where there are less than 8 records per day, any records generated would require driver name, location and date.

## Model Year of Tractor Required to use ELDs (CG I & TS)

CTA believes that the Canadian ELD mandate should apply to trucks with a model year of 1995 and newer.



**CG I & TS Status:** Transport Canada has indicated that trucks with a model year of 2000 and newer will be required to use ELDs. This mirrors the rules established in the U.S.

**CTA Comment:** CTA requests Transport Canada to amend the proposed rule requiring the 1995 model year and newer trucks to use ELDs.

**Notes/Rationale:** By excluding model years 1995 to 1999, CTA believes the number of vehicles excluded in Canada would be approximately 60,000. When the speed limiter regulations were introduced in Quebec and Ontario, the 1995 date was chosen specifically b/c of the wide spread use of electronic control modules in engines (ECM), which is the same interface used by an ELD to connect with engine. While CTA's proposed approach could put the federal regulation out of sync with the FMCSAs approach, another option would be to maintain the 2000-model year and have the provinces monitor potential abuses of the model year.



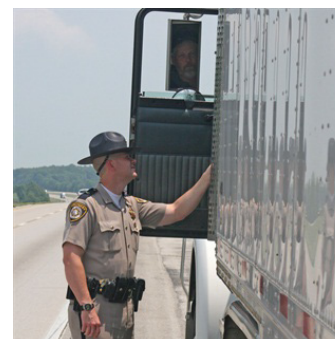
## Appropriate Time to Show Compliance (CG I)

The current hours of service regulations require a driver using an electronic recording device as needing to “immediately” provide an officer the hours of service information contained within an electronic recording device. During the pre-consultation period CTA requested the term “immediately” be removed.

**CG I Status:** *Transport Canada has not amended the language in the proposed rule.*

**CTA Comments:** *CTA requests the term “immediately” be removed. CTA will work with Transport Canada and the enforcement community to determine a suitable replacement term during the 60 day CG I comment period.*

**Notes/Rationale:** *The reference to “immediate” causes difficulty during a roadside inspection when the information is not provided without hesitation, but is still produced within a reasonable amount of time. Officers have and will continue to use the term immediately to issue violations and in more severe cases 72 hour out of service orders. This can cost carriers thousands of dollars per occurrence and if more time is provided it can be completely avoided. When officers refuse to allow drivers / carriers who are making a concerted effort to retrieve the HOS information from the ELD, such a punitive approach goes against the spirit of the regulation and against forming partnerships between the industry and enforcement.*



## Failure to Have an ELD - Out of Service Orders (CG I)



Out-of-service (OOS) orders can be applied if certain violations of the regulations are discovered by enforcement officers. For instance, if a driver is found to be operating in excess of daily driving limits, a 10-hour OOS order can be applied. Similarly, if a driver is deemed to have entered false information in their daily logs or is found to be in possession of more than one logbook, a 72-hour OOS can be applied. A 72-hour OOS can also be applied if a driver does not produce a logbook for inspection.

**CG I Status:** *Transport Canada has not explicitly stated in the proposed regulations that failure to have an ELD would result in an out-of-service order.*

**CTA Comments:** *CTA believes this is a clerical oversight and requests Transport Canada amend the proposed regulation to state that drivers who are not in possession of an ELD and are required to be will be subject to the same OOS orders that apply in the proposed regulation to drivers who tamper with or destroy their HOS records.*

**Notes:** In these instances the out-of-service order remains in place until the driver rectifies the situation and is able to demonstrate they are in compliance with the regulations.

### **Odometer Reading (CG I & TS)**

The Odometer reading on a vehicle is a critical data element used in the enforcement of the hours of service regulations. In transitioning to ELDs, both the trucks dashboard and the ELD will display an Odometer reading. To avoid confusion at roadside, a specific reference to one odometer source should be made in the regulations.



**CG I & TS Status:** Specific references to the ELD odometer have not been incorporated into the proposed rule.

**CTA Comment:** CTA requests that specific reference to the odometer reading on the ELD be required.

**Notes/Rationale:** While it's a minor detail, the purpose of correcting this issue is to avoid enforcement officers issuing a violation for different odometer readings from the trucks dashboard and the ELD. The ELD is connected to the ECM and should be considered the accurate recording.

### **Engine Power Status (TS)**

The draft technical standard requires that an ELD be powered and fully functional within one minute of the engine starting and the ELD receiving power.

**TS Status:** The power up timeframe remains at one minute in the proposed technical standard.

**CTA comments:** CTA does not view this time limit as reasonable and has the potential to cause issues during roadside inspections. CTA requests that a more reasonable time be established by Transport Canada and agreed upon with the enforcement community.

**Notes/Rationale:** CTA requested this timeframe be extended to avoid enforcement officers issuing violations immediately after one minute.

### **National Safety Code (NSC) Number (CG I & TS)**

The Motor Vehicle Transportation Act (MVTA) requires all commercial vehicles operating in Canada, regardless of their domicile, to have an NSC registration number so the carrier can be properly identified and monitored. This requirement also applies to US carriers. Other than Ontario and Quebec, Canadian jurisdictions do not adhere to the MVTA requirements.



**CG I & TS Status:** The proposed rule and technical standard were not amended to require an NSC number to be shown.

**CTA Comments:** CTA requests a NSC number be required. CTA believes the NSC number should be a required item to appear on an ELD printout and display and requested during the pre-consultation period that this be addressed in the ELD rule.

**Notes/Rationale:** All carriers and jurisdictions need to abide by the requirements in the MVTA. US carriers at present are not required to register and there is no historical record of the carrier's safety performance outside of Ontario or Quebec. Canadian jurisdictions need to use the ELD proposal to finally address this outstanding issue.

### **ELD Certification (CG I & TS)**

When purchasing technology that is mandated, it is important for drivers and carriers to have some reassurance they have done their due diligence when selecting a technology partner. In the case of the proposed ELD regulations it would be beneficial that a minimum level of guidance be offered to the industry.

**CG I & TS Status:** The proposed rule and technical standard are silent on the certification issue.

**CTA Comments:** CTA requests that Transport Canada and the provinces work to develop guidance for carriers that will assist them in determining if their ELDs are in compliance with the regulation/technical standard.

**Notes/Rationale:** Carriers who are new to the electronic recording device (ERD) or ELD world will want some mechanism in place that will assist them in their due diligence when selecting an ELD. Providing a tool (ELD compliance checklist) for carriers to use in ensuring they are asking the right questions of ELD suppliers will provide a level of consumer protection that the proposed rule and standard is missing at this time.







Questions or clarification?  
Contact Geoffrey Wood  
[geoffrey.wood@cantruck.ca](mailto:geoffrey.wood@cantruck.ca)

**Canadian Trucking Alliance**  
555 Dixon Road, Toronto, ON M9W 1H8  
Tel: 416-249-7401 – email: [govtaffairs@cantruck.ca](mailto:govtaffairs@cantruck.ca)  
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