

United States Senate

April 20, 2017

Mrs. Daphne Jefferson
Deputy Administrator
Federal Motor Carrier Safety Administration
U.S. Department of Transportation
1200 New Jersey Ave SE
Washington, D.C. 20590

Dear Mrs. Jefferson:

I am writing to seek clarification on the Federal Motor Carrier Safety Administration's (FMCSA) Electronic Logging Device (ELD) rule with an implementation deadline of December 18, 2017. The Moving Ahead for Progress in the 21st Century Act (MAP-21) identified a number of requirements for the installation of ELDs on trucks. As the deadline draws closer, it has come to my attention from both Montana and national stakeholders that significant concerns and uncertainty remain. Additional guidance from FMCSA is needed before implementation.

Below are several questions I have heard from stakeholders impacted by the ELD mandate. I believe the Department must thoroughly address each of these concerns to assure equipment manufacturers and suppliers, the trucking industry, drivers, and law enforcement agencies that the requirements outlined in MAP-21, as well as sufficient guidance documents, will be in place by the compliance deadline.

- Will guidance documents ensure that the ELD rule meets all performance and design standards outlined in MAP-21? This includes, but is not limited to, data access, data transfer for vehicle operators between motor vehicles, and establishing a standard security level for an electronic logging device and related components to be tamper resistant by using a methodology endorsed by a nationally recognized standards organization.
- Currently, manufacturers developing ELDs self-certify their devices. Small motor carriers likely do not have information technology (IT) staffs and may not understand all of the technical requirements of the rule. Motor carriers rely on this certification to ensure the device is in full compliance. If an ELD provider has self-certified their product, will motor carriers be held liable for using an ELD that is later determined to be non-compliant?
- Will FMCSA or the manufacturer be responsible for notifying motor carriers ELDs are non-compliant?
- Will FMCSA begin certifying ELDs?

- Under the rule, a driver has eight days from “notification” to replace a non-compliant device. However, ELD vendors are not currently required to notify a driver if a device has been found to be non-compliant. How will FMCSA address this discontinuity, especially for drivers who are on the road for extended periods of time, longer than eight days?
- What should a motor carrier do if a vendor cannot make a non-compliant device compliant in a timely manner and at a reasonable cost?
- Will guidance documents address what motor carriers should do to ensure their vehicles are not placed out of service for non-compliance, if they contract with an ELD vendor before the compliance deadline and the vendor fails to meet the commitment?
- Will guidance documents ensure that the ELD rule will allow law enforcement to access the data contained in ELDs during a roadside inspection?
- Will guidance documents ensure that the ELD rule has appropriate measures to preserve the privacy of any personal data contained in an electronic logging device?
- Will guidance documents ensure that ELDs will accurately track commercial drivers’ hours of service for those drivers who may operate multiple vehicles and record off duty status requirements?
- Will guidance documents ensure that the data output file standards used to determine if an ELD is in compliance with the rule have been adequately field tested?
- Will guidance documents clarify the “grandfather” provision for the transfer of an automatic onboard recording device (AOBRD) after December 18, 2017?
- Will any additional guidance or accommodations be made for those hauling live or perishable commodities, such as livestock?

As you know, the ELD mandate will have a major impact on our nation’s transportation system, affecting a wide variety of industries engaged in and relying upon trucking. American trucking businesses of all sizes must be compliant in a matter of months, but many of their serious and reasonable concerns about the impending deadline have not been fully addressed by federal regulators, leading to uncertainty among all stakeholders. The Department must ensure implementation is unproblematic, the regulated community has sufficient clarity to comply, and there are no negative unintended consequences.

Sincerely,



STEVE DAINES
United States Senator