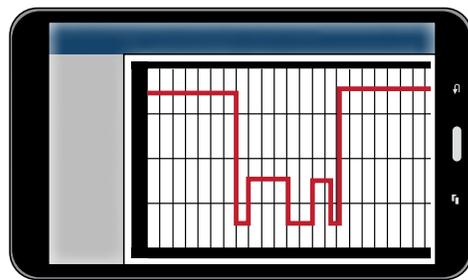


Roadside Inspections with ELDs:

# Preparing Your Drivers for the ELog Mandate



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## Roadside Inspections with ELDs:

# Preparing Your Drivers for the ELog Mandate

By December 18, 2017, most drivers currently filling out paper logs will be using either an automatic on-board recording device (AOBRD) or an electronic logging device (ELD). As you make the move to an electronic device, it is essential that your drivers understand how to effectively communicate with enforcement during an inspection, how to show the correct documentation, and how to display, print, and/or transfer the required logs. It is just as critical that drivers know the steps to stay compliant when an ELD or AOBRD malfunctions. Your dispatch personnel should also be knowledgeable about how roadside inspections will be different with ELDs and AOBRDs versus paper logs.

The better prepared the drivers and the support personnel are, the quicker and less stressful these events will be. To help prepare you and your team for roadside inspections with ELDs and AOBRDs, this whitepaper will highlight the following:

- Key requirements for roadside inspections with ELDs
- Inspection-related differences between AOBRDs and ELDs
- Nine steps for less stressful roadside inspections with ELDs
- The benefit of electronic DVIRs

## Key requirements for roadside inspections with ELDs

A study of carriers using electronic logs, completed by the Virginia Tech Transportation Institute, found a 53% reduction in the rate of driving-related hours-of-service violations (such as missing logs and logs not current), a nearly 12% reduction in overall crash rates, and a 5% reduction in preventable crash rates. These results indicate that electronic logs can have a positive impact on Compliance, Safety, and Accountability (CSA) scores and consequently improve a driver's experience with roadside inspections.

### ■ ELDs can positively impact inspections.

A roadside inspection with an ELD should be quicker and less stressful if your team is aware of these key requirements:

1. **ELD procedural and user documents** in the truck must be where the driver can locate them (electronic documents are acceptable) and must include the following:
  - ELD user's manual,
  - Data transfer instruction sheet,
  - ELD malfunction instruction sheet and recordkeeping requirements, and
  - Minimum of eight days' log sheets.

- **Supporting documents**, such as bills of lading, must be provided upon request, so drivers should have them available and organized.
  - **Drivers who are required to use an ELD** must log into the ELD with his/her proper identification data. Drivers must also manually input or verify the power unit number, trailer number(s), and shipping document number (if applicable), and enter the location when GPS cannot determine the location.
  - **A portable ELD display must be mounted in a fixed position** where the driver can view the ELD display from the normal driving position — it should not be in the driver’s pocket or on the floor.
2. **Electronic logs must be certified** as true and correct by the driver immediately after the final required entry has been made (or corrected) for the 24-hour period.
    - Submission of the logs to the carrier can take up to 13 days, but just as the paper logs must be signed after the final entry is made, the ELD record for the day must have the driver’s certification.
    - Uncertified logs for several days may indicate that logs are being left open for “flexibility.”
    - A pattern of frequent editing of the electronic log may also be a flag to an inspector.
    - All edits or additions must be annotated with the reason for the edit or addition. Also, logs must be recertified if edits are performed by the driver or proposed edits from the carrier are accepted by the driver.



Supporting documents must be provided upon request.

3. **Unidentified driving events** must be reviewed by the driver upon logging into the ELD and either accepted as his/her events or indicated as not attributable to him/her.
  - The carrier must either reassign each unassigned event not accepted by the driver to the appropriate driver, or annotate the record explaining why the event is unassigned.
  - Unassigned events for the current day and the prior seven days are subject to review during an inspection.

If the driver “forgets” to log in, the ELD must warn the driver that the truck is moving without a driver being logged in. Drivers not logging into the ELD or logging out of the ELD to “deal with” a low-hours situation cannot be tolerated. This should be clearly stated in your ELD policy.
4. **Driver annotations** (i.e., details added to the Remarks field) are needed when using an exception such as the “adverse driving conditions” exception or when a 14-hour limit violation occurs due to an excessive delay and being forced to leave a customer.
  - ELDs are to the minute and “flexibility” isn’t available. Patterns of exceeding limits can indicate poor planning, even for frequent “nominal” violations of less than 15 minutes.

**Remember, ELDs are to the minute!**

5. **Drivers must transfer, print, or display hours-of-service data** without the assistance of the inspecting officer. Every ELD, as a backup, must display or print the required hours-

of-service records without the officer entering the cab of the truck. Every ELD must also be capable of transferring data through either:

- Telematic transfer via both options of wireless web AND wireless email; or
- Local transfer via both methods of Bluetooth® AND USB 2.0 or greater. The USB “thumb” drive will be given to the driver by the officer.

Once the data is transferred, the electronic record of duty status (eRODS) software will flag the logs for potential limits’ violations, including possible falsification and tampering events. The officer will also use their investigative techniques as always.

6. Data inconsistencies indicated by an ELD diagnostic event require the driver to follow the carrier’s and ELD provider’s recommendations for resolving the data inconsistency. This must take place as soon as practical after the diagnostic event occurs so it can be resolved before an inspection.
7. Malfunctions of the ELD must be reported by the driver in writing (electronic or paper) to the carrier within 24 hours. If prior days’ hours are not available for display on the ELD, drivers must reconstruct the prior seven days’ logs or the office can send the logs and reconstruct the current day’s log. These records must be available on demand, not created or sent after the driver is being inspected. Once the ELD is repaired, as an alternative to carrying paper copies of prior days’ logs, drivers can also enter in the ELD the hours of service incurred during the malfunction period so the electronic records are accurate. *A reliable ELD vendor should be selected as the ELD **must** be fixed or replaced within eight days.*

## Inspection-related differences between AOBDRs and ELDs

Even if you have AOBDRs in the vehicle, you must help drivers understand where ELD requirements are different from AOBDRs to avoid misunderstandings that could generate citations during roadside inspections.

### Know the differences between AOBDRs and ELDs.

This sounds basic, but your drivers must know if they have an ELD or an AOBDR. Critical differences for drivers are as follows:

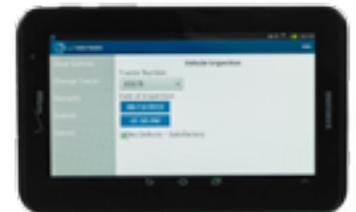
Compliance Item	AOBRD	ELD
Device documentation and logs in the truck	<ul style="list-style-type: none"> <li>• Instruction sheet for accessing data</li> <li>• Blank paper logs for the entire trip</li> <li>• List of location codes, if necessary</li> </ul>	<p>ELD user manual</p> <p>Instruction sheets for transferring log data and dealing with malfunctions</p> <p>Blank paper logs for at least 8 days</p>
Device malfunction	No prescribed time limit on fixing the device.	Repair or replace within 8 days unless an extension is granted by the FMCSA.
Graph grid display	Not required – just time and sequence of duty status changes.	Header information and graph grid of duty status changes required either on a display or a printout.

Hours of Service (HOS) driver advisory messages	No driver advisory messages required.	“Unassigned driving time/miles” warning must be provided at login and the driver must either accept if it is his/hers or reject for the carrier to reassign or annotate with details. Also, if a driver does not log into the ELD, a reminder to log in must be provided upon vehicle movement.
Device “default” duty status	No default duty status required.	On-duty not driving status, when CMV has not been in motion for 5 consecutive minutes and driver has not responded to an ELD prompt for 1 minute. No other non-driver initiated change allowed.
Communication of hours to enforcement	Only required to show enforcement the display of required hours or a printout. Printouts are not required but may be requested from carrier within 48 hours.	Two options: 1. Telematics – Wireless email and wireless web 2. Local Transfer – USB 2.0 and Bluetooth® Must also display or print graph grid.
Mounting of portable electronic hours recording device display	Not addressed.	Must be mounted where the driver can view from the normal driving position.
Personal Use time	If Personal Use is authorized by the carrier, drivers typically are directed to log out of the device and the back-office personnel annotate the record with details.	If Personal Use and Yard Move time are authorized by the carrier as an option in the ELD, the driver must pre-select the option before he/she starts driving in either mode.

## How can eDVIRS improve roadside inspection results?

Electronic Daily Vehicle Inspection Reports (eDVIRS) and electronic pre-trip inspection forms can align with CSA requirements, streamline the process of identifying and repairing defects, and reduce undesirable roadside inspections through:

1. Electronically verifying who is using the Pretrip Checklist and the eDVIR and increasing the quality of information,
2. Using the reported defects as a “to do list” for the shop to resolve in a timely manner and tying the documentation of the repair back to the defect or violation item,
3. Using failure data to investigate solutions for repeat failures, and
4. More clear accountability of drivers and maintenance for defects found in an inspection.



eDVIRS can reduce poor roadside inspections.

When the shop consistently repairs, in a timely manner, defects reported by drivers, they instill trust. Equally important is for the shop to provide feedback to operations for coaching drivers on items that could have been caught during pre-trips and post-trips.

# Nine steps for less stressful roadside inspections with ELDs

Electronic logs have been in use for several years, so don't expect "soft enforcement" on hours-of-service violations, as limits' regulations have not changed. However, there are many models of ELDs and AOBRDs in use with drivers possessing varying levels of knowledge of their system. There is potential for malfunctions or knowledge deficits, so this may be where you see some "soft enforcement." As part of your preparation of drivers and operations personnel, here are nine action steps that can ease the stress of roadside inspections:

1. Train thoroughly on how to transfer hours' data via both options within the local or telematic method (whichever method is used by your ELD). Officers will not want to handle cell phones or tablets to avoid any perception of impropriety. Your ELD must be driver friendly or these will be very stressful events. Note: AOBRDs do not need to transfer data, only display data.
2. Train thoroughly on how to print or display hours data. If the data transfer doesn't work or is extremely slow, the driver must know how to print data or get the ELD in "inspection mode" to display the hours of the current day and prior seven days. The display must be capable of review without the officer entering the cab to avoid a violation.
3. Train and verify the drivers' understanding of identifying and correcting basic malfunctions and resolving data inconsistencies. Drivers must have readily available the ELD manual, malfunction and data transfer procedure instructions, and 8 days of blank logs. If you have upgraded from an AOBRD to an ELD recently, verify that the documentation is for the ELD, not the AOBRD.

## Personal use policies must be clearly understood.

4. Train drivers on the proper use of the "Personal Use" and "Yard Move" options. "Personal Use" is not to be used to reposition a truck after running out of hours. Duty status locations won't match, causing enforcement to scrutinize these moves. Have a clear policy on when this option can be used, audit ELD records for abuse, and take appropriate action. "Personal Use" is covered only in DOT Interpretation number 26 in §395.8 and allows moves from the terminal to home and back to the terminal, and from enroute lodging to personal destinations only when unladen. The "Yard Move" option can only be used on property that cannot be deemed a highway. Private property can be a "highway" (see §390.5) unless it is gated or signed prohibiting public access.
5. Verify that drivers are appropriately operating under an intrastate exception, based on the nature of the freight. A pertinent interpretation states that "Interstate commerce is determined by the essential character of the movement, manifested by the shipper's fixed and persistent intent at the time of shipment, and is ascertained from all of the facts and circumstances surrounding the transportation. When the intent of the transportation being performed is interstate in nature, even when the route is within the boundaries of a single State, the driver and CMV are subject to the FMCSRs." This can

pertain to shipments to a port or shipments that come into a warehouse from a different state on one bill-of-lading document, and then is sent out to the customer on a different bill of lading. Be certain that the intrastate exception can be used.

6. Drivers and operations personnel should understand the ELD-related violations that can result in an Out-of-Service Order. Some examples are:
  - a. Using an ELD that is not on the registry, a device that an officer believes is non-compliant, or not using an ELD or AOB RD at all when required. An officer will report a potentially non-compliant device to the FMCSA for possible decertification.
  - b. Drivers unable to produce, display, or transfer the required hours, which includes after a malfunction, not having reconstructed logs of the current day, and not having printed copies of the prior seven days' logs.
  - c. Carrier hasn't repaired or replaced the ELD within 8 days of a malfunction and doesn't have an extension from the FMCSA.
  - d. Creating a false log. Drivers that have not appropriately logged into a device may be cited for intentional falsification. Other common ways to falsify logs are logging out and driving when out of hours or not logging into the ELD to avoid starting their clock.
7. Train drivers on the use of the "logging 8 days or less in 30 days" exception to ELDs, and monitor carefully. The exception in §395.8(a)(1)(iii)(A)(1) allows a driver to be exempt from ELDs if they log eight or fewer times in any 30-day period. An unexpected sick call-off can cause a driver who has logged eight days in the past 30 days to be substituted the following day on a run that exceeds the 100 air-mile radius and for which the driver will need an ELD. If the driver is found not logging on an ELD, it will lead to an out-of-service order and citation.
8. Refresher training on hours-of-service regulations is essential to address any misinformation or assumptions.
9. Coach your drivers to remain calm, be patient, and don't argue with the officer on any points. Coach drivers to ask the officer to show them or tell them the exact nature of the violation. If necessary, drivers should take pictures that help explain the issue. It doesn't matter who is right — the driver won't fare well by arguing.

## Conclusion

In summary, proper preparation of your dispatch and driving personnel is imperative to reduce stress levels and the potential for violations during roadside inspections with ELDs and AOB RDs. They must have a clear understanding of your company policies, procedures, and expectations related to roadside inspections. Encourage patience, since enforcement officers are also learning.

The hours-of-service/ELD-related citations received after implementation should be used as coaching opportunities to get drivers and dispatch personnel on the right track early on. Retrain associates if needed until the hours-of-service regulations and the operation of the ELD, especially during roadside inspections, is well understood.

Your team will perform much better, have more patience, and be more calm when they know what is expected of them and feel they have been set up to win.



## About the Author

Mark G. Schedler, J. J. Keller & Associates, Inc.

Mark joined J. J. Keller in June 2016, with 25 years of transportation experience in operations, customer service, planning, logistics, and finance. His primary areas of expertise include transportation operations and safety, driver retention, driver pay best practices, hours of service, ELD requirements, and reasonable suspicion training. In addition to developing and updating content for proprietary products and whitepapers, Mark also helps customers with their regulatory issues and presents to live audiences on transportation-related subjects.

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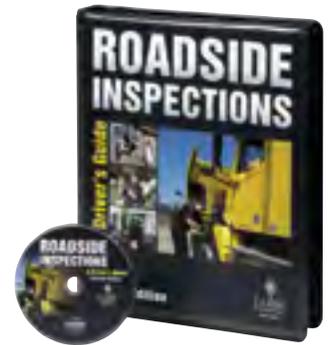
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