

# ELD is Here – How to Stay in Compliance and Keep Your Scores Low

May 2018

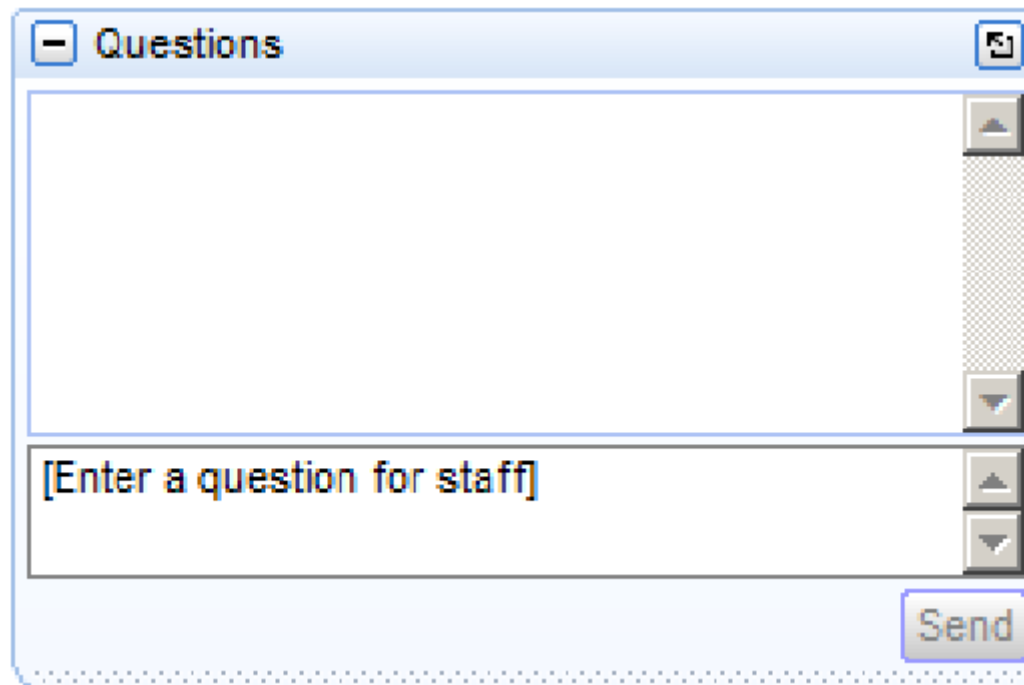
**Justin Cunningham & Scott Dunwiddie**  
Cline Wood, a Marsh & McLennan Agency LLC company

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CUSTOMIZED  
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# Webinar Technology Reminders

All of your lines have been muted. However there will be a Question & Answer session at the end of the presentation today.

Please enter your questions in the Questions/Chat box and send to the host.



The image shows a screenshot of a web-based interface for submitting questions. It features a window titled "Questions" with a close button on the left and a help icon on the right. The main area is a large, empty text input field. Below this field is a smaller input field containing the placeholder text "[Enter a question for staff]". To the right of the input fields are vertical scrollbars. At the bottom right of the window is a "Send" button.

# About the Presenters

## SCOTT DUNWIDDIE

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Scott oversees Claims, Safety, and Risk Management for Cline Wood. He also partners with our Marketing staff to promote Safety Best Practices through several avenues, including social media, webinars, and articles on industry trends. Overall, Scott has more than 17 years of insurance experience helping clients prevent losses and manage claims. Scott has attained a JD degree, CPCU designation, and maintains claims licenses in several states.

## JUSTIN CUNNINGHAM

SAFETY DIRECTOR | [justinc@clinewood.com](mailto:justinc@clinewood.com) 913-906-8822



Justin is our in-house DOT and Safety resource. Prior to joining Cline Wood, Justin spent 10 years as an auditor for the Department of Transportation. He has worked extensively with CSA since 2008, and has an in-depth knowledge of what constitutes points for violations, peer groupings, safety event groups, and the inner workings of each BASIC. Justin has also attained a Director of Safety Certification (CDS), and serves on several regional trucking/ motor carrier Safety Councils.

# Today's Presentation Topics

- In The News and Statistics
- Electronic Logging Devices
- Agricultural Exemptions
- Crash Preventability Demonstration Program
- Questions & Answers
- Resources

# In The News and Statistics



## FMCSA Now Recording **ELD** Violations in SMS

Heavy Duty Trucking - Apr 18, 2018

... further stating that such violations are “not being applied retroactively; violations recorded prior to April 1, 2018 will not be counted in SMS.” FMCSA also stated that motor carriers that have received ELD-related violations will begin to see them reflected in their Hours of Service **Compliance** BASIC in early ...

Federal data show more than 12% of trucks operating without an ELD ...

The Trucker - Apr 18, 2018



## Other shoe has dropped regarding ELDs and CSA violations

The Trucker - Apr 18, 2018

“Motor carriers that have received ELD-related violations [after April 1] will start to see them reflected in their HOS **Compliance** BASIC in early May 2018 when the next monthly SMS results are released,” says the agency. Go to <https://csa.fmcsa.dot.gov/WhatsNew> to see FMCSA's information. Under the SMS ...



## ELD Technology Issues Continue to Plague Small-Business Truckers

Trucks.com - Apr 17, 2018

Technology problems with electronic logging devices continue to plague small-business truckers trying to comply with a new federal regulation to use the equipment to digitally track their driving hours. Strict **enforcement** of the ELD rule kicked in April 1 following a three-and-a-half-month grace period.

Source: Google search 5/7/18

# Electronic Logging Devices

- The ELD mandate went into effect December 2017, however, the DOT / FMCSA had been observing a “soft enforcement “period since December.
- Since December, the ELD violations written up do not have any CSA points attached to them and none of the drivers/vehicles are being placed out of service.
- Company’s who are using or have used what the FMCSA calls “automatic onboard recording devices” prior to the ELD mandate will have two additional years (**December 17, 2019**) to install the ELD Machines.
- As of **April 1, 2018** full enforcement of the ELD rule will take place. This will include assigning CSA points and issuing out-of-service citations to drivers.

# Electronic Logging Devices

## **Who must comply with the electronic logging device (ELD) rule?**

- The ELD applies to most motor carriers and drivers who are currently required to maintain records of duty status (RODS) per Part 395, 49 CFR 395.8(a). The rule applies to commercial buses as well as trucks, and to Canada- and Mexico-domiciled drivers.

## **The ELD rule allows limited exceptions to the ELD mandate, including:**

- Drivers who operate under the short-haul exceptions may continue using timecards; they are not required to keep RODS and will not be required to use ELDs.
- Drivers who use paper RODS for not more than 8 days out of every 30-day period.
- Drivers who conduct drive-away-tow-away operations, in which the vehicle being driven is the commodity being delivered.
- Drivers of vehicles manufactured before 2000.

# Electronic Logging Devices

## As of April 1, Changes that could place a driver out-of-service:

- Companies using an uncertified ELD device not registered with the FMCSA.
- Here is the FMCSA link to check your device: <https://csa.fmcsa.dot.gov/ELD/List>
- Drivers that are unable to produce and/or transfer data electronically from an ELD to a law enforcement officer, or supply the required information by printing it out.
- Supporting Documents are still required to be produced as well with the Log information during a roadside inspection.
- When a driver is required to have an ELD machine and the vehicle they are driving is not equipped with one **or they are not equipped with an AOB R Device. The AOB R Devices are legal until December 17, 2019.**



# Electronic Logging Devices

- **What electronic logging device (ELD) user documentation must be onboard a driver's commercial motor vehicle?**
- A driver using an ELD must have an ELD information packet onboard the commercial motor vehicle (CMV) containing the following items:
  - 1. A user's manual for the driver describing how to operate the ELD;
  - 2. An instruction sheet describing the data transfer mechanisms supported by the ELD and step-by-step instructions to produce and transfer the driver's hours-of-service records to an authorized safety official;
  - 3. An instruction sheet for the driver describing ELD malfunction reporting requirements and recordkeeping procedures during ELD malfunctions; and
  - 4. A supply of blank driver's records of duty status (RODS) graph-grids sufficient to record the driver's duty status and other related information for a minimum of 8 days.
- The user's manual, instruction sheet, and malfunction instruction sheet can be in electronic form. This is in accordance with the federal register titled "Regulatory Guidance Concerning Electronic Signatures and Documents".

# Agricultural Exemptions to Electronic Logging Devices

- 49 CFR 395.1(k) provides exceptions from the HOS rules, during planting and harvesting periods as determined by the State, for the transportation of agricultural commodities (including livestock, bees and other commodities) within a 150-air mile radius from the source of the commodities. The same provision applies to the delivery of supplies and equipment for agricultural use from a wholesale or retail distribution point.
- The HOS regulations do not apply to the transportation of agricultural commodities operating completely within the 150-air mile radius by for hire or private carriers. Therefore, work and driving hours are not limited and the driver is also not required to use an Electronic Logging Device (ELD). In an operation where drivers share vehicle(s) equipped with ELDs, a driver that is always exempt can use an “Exempt Driver” account.
- Once a driver operates beyond the 150-air mile radius, the HOS regulations apply. Therefore, starting at the time and location where the transporter goes past the 150-air mile radius, the driver must maintain logs using an ELD, unless the driver or the vehicle meets one of the limited ELD exemptions. The driver must work and drive within the limitations of the HOS rules when operating beyond the 150-air mile radius. Time spent working within the 150 air-mile radius does not count toward the driver’s daily and weekly limits.

# Agricultural Exemptions to Electronic Logging Devices

- When operating within the 150 air-mile radius the driver should not log into the ELD. Upon exiting that radius, the driver should then log into the ELD, and annotate that any unassigned miles accumulated prior to that point were exempt miles.
- Drivers transporting agricultural commodities are not required to use an ELD if the vehicle was manufactured before the model year 2000, provided they prepare paper logs, or if they do not operate outside of the 150 air-mile radius for more than 8 days during any 30-day period, provided they prepare paper logs on the days when they are not exempt from the HOS rules.
- Covered farm vehicles, as defined in 49 CFR 390.5, are exempted from the HOS regulations per 49 CFR 395.1(s). Carriers operating under this exemption are also not required to have an ELD. This only applies to private transportation of agricultural commodities, including livestock by the owner or operator of a farm or ranch, or their family members or employees.

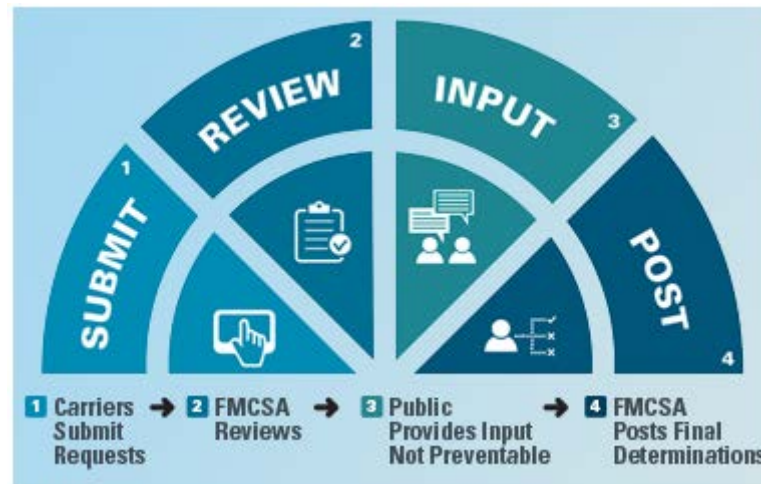
# Recording HOS when Transporting an Agricultural Commodity

When a driver operates a vehicle under an agriculture exemption outside of the designated air-mile radius of the farm or ranch with respect to which the vehicle is being operated and the driver does not qualify for a limited ELD exemption, the driver may use one of the following two options to record their HOS on an ELD:

- **Option 1:** A driver can operate within the 150-air mile radius without logging into the ELD and log into the ELD once they have reached the 150-air mile radius limit. The drive time that takes place within the 150-air mile radius will be identified on the ELD as “unidentified driving” time. The driver will reject the unidentified driving on the ELD and the motor carrier must make an annotation to the ELD data explaining that the “unidentified driving” is driving time that occurred while operating under an agriculture HOS exemption.
- **Option 2:** The driver can log into the ELD upon coming on duty and identify the time operating within the 150-air mile radius by making an annotation on the ELD stating that the vehicle was operating under an agriculture HOS exemption.

# Crash Preventability Demonstration Program

On August 1, 2017, the FMCSA began accepting Requests for Data Review (RDRs) into its Crash Preventability Demonstration Program through [DataQs](#). Crashes eligible for the Crash Preventability Demonstration Program must have occurred on or after June 1, 2017. The Crash Preventability Demonstration Program is expected to last a minimum of 24 months.



# Crash Preventability Demonstration Program

The following crash types are eligible for participation in the program:

- When the commercial motor vehicle (CMV) was struck by a motorist driving under the influence (or related offense);
- When the CMV was struck by a motorist driving the wrong direction;
- When the CMV was struck in the rear;
- When the CMV was struck while legally stopped or parked, including when the vehicle was unattended;
- When the CMV was struck by an individual committing or attempting to commit suicide by stepping or driving in front of the CMV;
- When the CMV sustained disabling damage after striking an animal in the roadway;
- When the crash was a result of an infrastructure failure, falling trees, rocks, or other debris; or
- When the CMV was struck by cargo or equipment from another vehicle.

# Crash Preventability Determinations

FMCSA will review Requests for Data Reviews (RDRs) submitted into the Crash Preventability Demonstration Program in the order received. If FMCSA reviews a crash and determines it to be not preventable, the Agency will post a notification of the preliminary determination on [DataQs](#) for 30 days. During this time, anyone with documentation or data to refute the preliminary determination may go to [DataQs](#) and submit documentation that should be considered before a final determination is made.

FMCSA's [Safety Measurement System \(SMS\)](#) will display the final determinations of reviewed crashes.

- **Not Preventable:** The crash will appear on the public display of [SMS](#) with a notation that reads "FMCSA reviewed this crash and determined that it was not preventable."
  - The Crash Indicator BASIC on the motor carrier and enforcement views of [SMS](#) will display calculations with and without the not preventable crashes.
- **Preventable:** The crash will appear on the public display of [SMS](#) with a notation that reads "FMCSA reviewed this crash and determined that it was preventable."
- **Undecided:** If the documentation provided with the RDR does not allow for a conclusive determination, the crash will appear on the public display of [SMS](#) with a notation that reads "FMCSA reviewed this crash and could not make a preventability determination based on the evidence provided."

# Questions & Answers





# Resources

The screenshot shows the Cline Wood website homepage. The logo is in the top left, and the navigation menu includes HOME, TRUCKING, AGRIBUSINESS, UNIVERSITY, CLIENT SERVICES, ABOUT US, and CONTACT. A red arrow points to the 'UNIVERSITY' link. A large banner on the right side of the page features the following text:

**UPCOMING WEBINAR:**  
**Wednesday June 13th @ 12:00 CST**  
**TOPIC: "Safety and the Company Culture Requirement"**

**FEATURED SPEAKER:**  
**Dan Baker, Nationally known speaker, teacher and consultant to the trucking industry**

**Click Here to Sign Up**

## Trucking Insurance Commercial Agribusiness

At Cline Wood, we have been dedicated to serving the commercial agribusiness and trucking industries since 1984. We serve clients nationwide and are committed to providing professional and

## News & Events

- ◆ April 24, 2018 - News: Frequently Reported Technical Issues with Electronic Logging Devices
- ◆ April 19, 2018 - News: Developing an Effective Hazardous Materials Training Program
- ◆ April 17, 2018 - News: Four Critical Skills for Running a Successful Agribusiness

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