

TRANSPORT CANADA

COMMERCIAL VEHICLE DRIVERS HOURS OF SERVICE REGULATIONS

Notice requesting comments on amending the Commercial Vehicle Drivers Hours of Service Regulations to mandate the use of Electronic Logging Devices (ELDs).

Summary

Transport Canada is proposing to amend the federal Commercial Vehicle Drivers Hours of Service Regulations (Regulations) to require the use of ELDs by federally-regulated motor carriers and commercial vehicle drivers to electronically track Hours of Service (HOS) and demonstrate compliance with the Regulations. Currently, the Regulations require commercial drivers to maintain paper log books, but allow for the use of electronic media to capture the required information. The data logged is subject to examination by provincial and territorial enforcement personnel, who are empowered to assess compliance with the Regulations and issue fines and/or lay charges under either provincial or federal regulations (depending on whether the carrier's operations qualify them as being provincially or federally regulated).

This regulatory amendment would apply to those federally-regulated bus and truck carriers and drivers who are required to maintain a logbook. The department intends to issue a publication in the Canada Gazette Part I early in 2017, followed by a 60-day comment period. Canada Gazette Part II would be issued earliest spring 2017 with a compliance date either one or two-years hence. The department is seeking comments on this proposal.

The compliance date would apply to the mandatory use of ELDs which meet new technical specifications currently being finalized by a working group under the auspices of the Canadian Council of Motor Transport Administrators (CCMTA). These technical specifications are consistent with the functional requirements in the U.S. final rule on ELDs published December 2015. The draft ELD technical standard was distributed by CCMTA to industry stakeholders and ELD suppliers on July 12, 2016 for a two-month consultation period. Carriers using current ELD technology, and not meeting these new specifications, would have additional time to comply beyond the Canadian compliance date.

In the spirit of harmonizing regulatory requirements for motor carriers, it is desirable for the department to align compliance dates with those of the U.S. to the extent possible. The proposed compliance date in the U.S. rule is December 2017 for ELDs meeting the new technical specifications and December 2019 for existing units (Automatic On-board Recording Devices).

Introduction

An ELD is a device integrated with a commercial vehicle's on-board electronic systems and is used to monitor and track driver compliance with existing HOS regulations. It can increase the accuracy of tracking driving hours, (in an attempt to ensure that allowable driving hours are not exceeded), and reduce the administrative burden and driver time associated with filling out paper logbooks.

Commercial vehicle safety in Canada is a responsibility shared between the federal and provincial/territorial governments. The federal government is responsible for limited operational matters for commercial bus and truck motor vehicles under the Motor Vehicle Transport Act. The HOS regulations are both federal (interprovincial and extra-provincial) and provincial (intra-provincial). The provinces and territories are responsible for the enforcement of safety on Canada's roads and highways, including the enforcement of the federal HOS regulations and driver licensing.

The United States Department of Transportation issued a final rule in their Federal Register on December 16, 2015 mandating the use of ELDs with a compliance date of December 18, 2017 for all drivers currently required to maintain a log book.

<https://www.gpo.gov/fdsys/pkg/FR-2015-12-16/pdf/2015-31336.pdf>,

The U.S. estimated an annual net benefit of more than \$1 billion, 26 lives saved and 562 injuries prevented. Canadian motor carriers will need to comply with U.S. rules while operating in the U.S.

Transport Canada completed a cost-benefit analysis on this regulatory proposal in July 2015 which demonstrated roughly a two-to-one benefit to cost ratio. The cost-benefit analysis has been updated to include an alternate cost-benefit scenario now that the timing of the U.S. rule is known. The original iteration of the document captured all federally-regulated vehicles in its analysis. The updated document will include a second scenario which will exclude the U.S.-bound Canadian vehicles and attribute them to the U.S. regulatory proposal. This scenario is still expected to demonstrate positive results. The revised CBA report will be shared with jurisdictions and stakeholders.

A draft technical ELD standard was initially developed in 2013 by a CCMTA working group and was subsequently held in abeyance pending issuance of the final U.S. rule. The standard includes technical specifications with respect to specific driver inputs, vehicle movements, changes to a driver's duty status date, time, location, as well as other parameters to be recorded by the ELD. As the final U.S. rule has now been issued, a new CCMTA working group was struck and a workplan developed to update the Canadian ELD technical standard and address ELD usage in Canada. The current focus of the CCMTA work is to update the standard for consistency with the functional

requirements in the U.S. final rule. Once the ELD standard is finalized and approved, it is expected to become a new National Safety Code (NSC) standard.

The department, in parallel to the work currently underway with the provinces and territories through the CCMTA, is proposing to issue a federal ELD regulatory amendment which would impact the motor carriers and drivers under its jurisdiction. The department supports a mandatory ELD requirement that is: operationally feasible for industry, aligned to the fullest extent possible with the U.S. final rule, ideally developed in concert with the provinces and territories and implemented consistently across all Canadian jurisdictions.

The purpose of this document is to seek preliminary comments prior to the issuance of Canada Gazette I on the regulatory proposal to require the use of ELDs.

Questions

The department is seeking comments from interested stakeholders. Specifically, comments on the following issues would be of assistance:

1. What advantages or disadvantages would arise if the Regulations were amended to require, as opposed to allow, the use of ELDs for federally-regulated truck and bus carriers and their drivers required to maintain a logbook?
2. Is a one or two-year compliance period following publication of the regulatory amendments in Canada Gazette Part II appropriate?
3. Is a “grandfathering” provision reasonable whereby existing ELD technology would be permitted for an additional two year period beyond the compliance date?
4. While Transport Canada’s regulatory proposal, including the technical requirements, should be know in advance of the U.S. compliance date, what key considerations should be taken into account in selecting a Canadian compliance date (date by which carriers and drivers need to be in full compliance with federal regulatory requirements) and what would be advantages and disadvantages of these considerations?
5. The U.S. final rule includes a number of exemptions for types of vehicles or persons from the regulations (e.g. pre-2000 Model Year CMVs). What type of exemptions, if any, should be considered in the department’s regulatory amendment?

6. What advantages or disadvantages would arise if ELD regulatory requirements were not applied uniformly to carriers and drivers under both federal and provincial/territorial jurisdiction?

Comments

Interested parties are requested to submit their comments on this proposal in writing before September 16, 2016. Submissions should be supported by data wherever possible and they should, as a minimum, address the questions raised above.

It is important that your submission be provided to the attention of the person noted below before the date noted. Submissions not sent directly to the person noted may not be considered as part of this regulatory consultation. Please note that responses will not be sent to your submission. Please indicate in your submission if you do not wish to be identified or if you do not wish to have your comments published in any potential regulatory proposal prepared for publication in the Canada Gazette, which may arise from this Notice.

Comments must also identify those parts of the representations that should not be disclosed pursuant to the Access to Information Act and, in particular, pursuant to sections 19 and 20 of the Act, the reason why those parts should not be disclosed and the period during which those parts should remain undisclosed.

Comments, questions, and requests for additional information regarding this Notice must be directed to Andrew Spoenri, Senior Advisor, Motor Vehicle Safety Directorate, ASFBM, Transport Canada, 330 Sparks Street, 9th Floor, Ottawa, Ontario K1A 0N5, andrew.spoerri@tc.gc.ca (email).