



Changes to Restrict Drive Time Editing

DeLorenzo, Joseph (FMCSA) <[REDACTED]>

Fri, Feb 5, 2021 at 5:22 AM

To: Sean McGee <[REDACTED]>

Cc: "Mahorney, Bill (FMCSA)" <[REDACTED]>, Alais Griffin <[REDACTED]>, Robert Gonzalez <[REDACTED]>, Caitlyn Chacon <[REDACTED]>, Michael Innocenzi <[REDACTED]>

Please see below.

Joe DeLorenzo, Acting Associate Administrator

Office of Enforcement

Federal Motor Carrier Safety Administration

1200 New Jersey Avenue, SE | Washington, DC 20590

P: [REDACTED]

[REDACTED]



U.S. Department of Transportation
Federal Motor Carrier Safety Administration

From: Sean McGee <[REDACTED]>

Sent: Monday, February 1, 2021 3:55 PM

To: DeLorenzo, Joseph (FMCSA) <[REDACTED]>

Cc: Mahorney, Bill (FMCSA) <[REDACTED]>; Alais Griffin <[REDACTED]>; Robert Gonzalez

<[REDACTED]>; Caitlyn Chacon <[REDACTED]>; Michael Innocenzi

<[REDACTED]>

Subject: Changes to Restrict Drive Time Editing

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Joe,

As you know, at FMCSA's direction, Samsara recently rolled out updates to our ELDs to restrict carrier edits to automatically recorded drive time. In light of questions we are receiving from our customers, we would appreciate your

confirmation that FMCSA instructed Samsara to make these changes, that FMCSA required these changes so Samsara and its customers would be compliant with the agency's interpretation of the ELD mandate's requirements, and that any ELD that allows edits to automatically recorded drive time (outside of limited exceptions set forth below) is not in compliance with the regulations. More specifically, can you please confirm the following points:

FMCSA directed Samsara to restrict the ability for carriers to edit automatically recorded drive time to comply with FMCSA's interpretation of Section 4.3.2.8.2(b). Except for the exceptions in Sections 4.3.2.8.2(b)(1) (assignment of unidentified driver records) and (2) (correction of errors with team drivers), automatically recorded drive time may not be shortened or edited by a carrier. This restriction on editing automatically recorded drive time includes reassigning automatically recorded drive time as Personal Conveyance or Yard Move. Pursuant to FMCSA's interpretation, such edits are prohibited. Should a driver make a mistake, FMCSA permits a carrier to address such an error by annotating with a remark. FMCSA enforcement will take such remarks into consideration when reviewing records containing errors.

Confirmed. The regulatory language specifically requires an ELD Manufacturer (Vendor) to not allow automatically recorded driving time to be shortened or the ELD username associated with an ELD record to be edited or reassigned. The ELD Final Rule only allows Automatically Recorded Driving events (recorded by the ELD) to be edited under the following two circumstances: Assignment of Unidentified Driver records and Correction of errors with team drivers. In each of these situations, the driver should annotate the record, which will then be reviewed by enforcement personnel.

FMCSA's interpretation of Section 4.3.2.8.2(b) applies to all ELDs. Any ELD manufacturer that permits edits beyond what is expressly allowed in the rule -- including reclassification of automatically recorded drive time to Personal Conveyance or Yard Move -- is in violation of the ELD regulations and may face removal of listed certification pursuant to Section 5.4.

Confirmed. The reassignment of automatically recorded drive time to Personal Conveyance or Yard Move is not allowed. In accordance with 49 CFR §395.28 "Special driving categories; other driving statuses," a driver operating a CMV under Personal Conveyance or Yard Move must select the applicable special driving category before the start of the status. Again, federal regulations applicable to an electronic logging device do not allow automatically recorded driving events to be edited. This includes errors made by drivers in the event he/she fails to properly select the correct duty status before the ELD detects vehicle motion or the driver fails to log out of the ELD before another driver operates the CMV (except for respectively indicated co-drivers (team drivers). If an ELD device is not configured for Yard Moves or Personal Conveyance, the driver must annotate the status in order to ensure that their hours of service are reflected correctly.

If an ELD Manufacturer (Vendor) allows automatically recorded driving events to be shortened, edited or reassigned, the vendor will be subject to the 5.4 "Removal of Listed Certification," as such devices are considered non-compliant with the ELD Final Rule Technical Specifications.

Carriers and drivers that edit automatically recorded drive time in violation of FMCSA's ELD edit limitations risk being in violation of ELD and hours of service regulations.

Confirmed. A motor carrier or driver found to have edited automatically recorded drive time will be subject to Part 395.8(e) (1) – False Reports of Records of Duty Status (RODS). Motor carriers and drivers cited for False RODS will be subject to the CVSA Out-of-Service Criteria (OOSC), adverse safety ratings (Conditional or Unsatisfactory), and civil penalties/fines.