



December 15, 2017

Happy Holidays!



America Outdoors Association Bulletin

AOA Submits Comments on NPS Entrance Fee Increases

Comments are due on December 22, 2017 on the proposed NPS Entrance fees.

[AOA submitted comments on December 15th which can be found on the AOA website.](#) (Click here to reach those comments).

If you are interested in this issue, please submit comments using the links above on or before December 22, 2017. You may use the AOA comments to help guide your comments, but you should customize your comments by describing how your operation will be impacted.

NPS proposed raising entrance fees in 17 large Parks during peak season to \$370 per 7 to 15 passenger van for a seven-day pass, regardless of the number of passengers on board. AOA recommends a per day, per person charge instead of requiring all visitors to buy a 7-day pass.

[To download the NPS proposal go to NPS Entrance Fee proposal.](#)

AOA Meeting with Interior Officials on Fee and DOL Issues

America Outdoors Association representatives are meeting with Department Interior officials on the crush of fee increases for Commercial Use Authorizations and entrance fees, which, when coupled with the higher minimum wage requirements to comply with E.O. 13658, threaten the viability of many outfitter operations in the back country of National Parks. The higher minimum wage for federal contractors is obviously a problem for all outfitters in the back country on federally-managed lands. AOA has a three-pronged strategy to deal with this threat to the industry.

Update on the Electronic Logging Device Issue and Hours of Service for 9 to 15 Passenger Vans

Because many states adopt federal standards for regulation of intrastate commerce, this issue could impact many outfitters. However, there are some exemptions that you can find described below.

Does the Electronic Logging Device Rule Apply to Your Shuttle Drivers? This article describes the Electronic Logging Device (ELD) regulation which goes into effect for most interstate commercial motor vehicles on December 19, 2017. Many outfitters will fall under the short-haul exemption, however, they will still be required to keep hours of service logs if they cross state lines and operate under Federal Motor Carrier Safety Administration operating authority. A summary of those regulations and recordkeeping requirements follows

the ELD summary.

Use of Electronic Logging Devices.— The Secretary of Transportation published final regulations on December 16, 2015 requiring a commercial motor vehicle (CMV) involved in interstate commerce and operated by a driver subject to the hours of service and the record of duty status requirements under part 395 of title 49, Code of Federal Regulations, be equipped with an electronic logging device to improve compliance by an operator of a vehicle with hours of service regulations prescribed by the Secretary"

Most outfitters running shuttles across state lines within an 100 air-mile radius will be exempt from the ELD mandate but will be required to keep paper 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.

For a good summary and links to briefings <https://www.fmcsa.dot.gov/hours-service/elds/eld-checklist-carriers>

For list of certified ELD providers go to <https://3pdp.fmcsa.dot.gov/ELD/ELDLList.aspx>

For a good industry overview go to <http://www.eroad.com/assets/Uploads/USA/Presentations/AAMVA-User-Perspectives-on-ELD-Compliance-May-2016.pdf>

The FMCSA estimates the annual cost for ELD compliance at \$495 per vehicle with a range of \$165 to \$832 but these are for trucks in service year around. The cost depends on the number of vehicles, monitoring and reporting services you subscribe to.

The short-haul exemption many outfitters fall under . . .
..

e) Short-haul operations—(1) 100 air-mile radius driver. A driver is exempt from the requirements of §§395.8 (Driver's record of duty status) and 395.11 (Supporting documents requirements) if (i) The driver operates within a 100 air-mile radius of the normal work reporting location.

A 100 air-mile exemption generally exempts a driver who: (1) operates within a 100 air-mile radius of the normal work reporting location; (2) returns to the work reporting location and is released from work within 12 hours; (3) has at least 8 hours off duty separating each 12 hours on duty for passenger-carrying CMV drivers, and at least 10 hours off duty separating each 12 hours on duty for property-carrying CMV drivers; and (f) drives no more than 10 hours of a 12-hour shift for passenger-carrying CMV drivers and 11 hours of a 12-hour shift for property-carrying CMV drivers. There is also a 150 air-mile exemption for non-CDL property-carrying CMVs, with its own set of qualifying criteria.

Note that, if a driver operates outside the short-haul exemption more than 8 days of any 30-day period, ELD use would be required. As stated in the preamble in the final

rule: "For those motor carriers whose drivers engage in local operations, ELD use would be required only if a driver operates outside the timecard provisions of part 395 for more than 8 days of any 30-day period. The requirement would be applicable to the specific driver rather than the fleet." Stated again, "FMCSA continues to grant relief in the form of an exception in § 395.1(e) to those drivers operating in 'short-haul' operations. Drivers who infrequently need to keep RODS (i.e., no more than 8 days in any 30-day period), may continue relying on paper RODS."

Other ELD exemptions include:

- 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 are not required to use ELDs.

Phase in for ELDs

Phase 1: Awareness and Transition Phase: The two-year period following publication of the ELD rule February 16, 2016 to December 18, 2017.

During this time, carriers and drivers subject to the rule should prepare to comply, and may voluntarily use ELDs.

Carriers and drivers subject to the rule can use any of the following for records of duty status (RODS):

- Paper logs
- Logging software
- AOBDRS (Automatic On Board Recording Devices)
- ELDs that are registered and listed on the FMCSA website

Phase 2: Phased-In Compliance Phase: The two-year period from the Compliance Date to the Full Compliance Phase (four years following ELD rule publication) December 18, 2017 to December 16, 2019.

Carriers and drivers subject to the rule can use:

- AOBDRS that were installed prior to December 18, 2017.
- Certified, registered ELDs following rule publication December 16, 2015.

Phase 3: Full Compliance Phase: After December 16, 2019 all drivers and carriers subject to the rule must use certified, registered ELDs that comply with requirements of the ELD regulations.

For FAQ's on the ELD rule go to <https://www.fmcsa.dot.gov/hours-service/elds/faqs>

What are the current Hours of Service rules?

The hours-of-service rules for drivers of passenger-carrying commercial motor vehicles (CMVs) are different from the rules for property-carrying CMVs. Note that Non-business Private Motor Carriers of Passengers are not subject to the record keeping requirements of this part, such as maintaining a logbook or record of duty status.

Maximum Driving Time for Passenger – Carrying Vehicles – § 395.5

No motor carrier of passengers shall permit or require any passenger-carrying CMV driver to drive:

- More than 10 hours following 8 consecutive hours off duty, or
- For any period after having been on duty 15 hours following 8 consecutive hours off duty.
- No motor carrier of passengers shall permit or require any passenger-carrying CMV driver to drive, regardless of number of motor carriers using the driver's services, for any period after the driver has been on duty:
- 60 hours in any 7 consecutive days if the carrier does not operate CMVs every day of the week; or
- 70 hours in any 8 consecutive days if the carrier operates CMVs every day of the week.

Off-Duty Time

"Off-duty time" is not specifically defined in the regulations. In effect, it is any time that is not "driving time," "on-duty time," or "sleeper berth" as defined in § 395.2.

The following guidelines must be met before a driver is considered off duty:

1. During a trip, the driver must be relieved of all duty and responsibility for the care and custody of the bus or passenger-carrying CMV, its accessories, and any passengers, baggage, and freight that it may be transporting.
2. During a trip, the driver must be at liberty to pursue activities of his/her own choosing and to leave the premises where the bus or passenger-carrying CMV is parked.
3. The driver must not be performing any work in the capacity, employ, or service of a bus company or motor carrier.
4. The driver must not be performing any compensated work for a person or company that is not a motor carrier.

5. On-Duty Time – § 395.2

On-duty time means all time from the time a driver begins work or is required to be in readiness for work until the time the driver is relieved from work and all responsibilities for performing work. Performing other compensated work for a person who is not a motor carrier is also on-duty time. The complete definition of on-duty time can be found in § 395.2.

Travel Time – § 395.1(j)

When a driver at the direction of a motor carrier is traveling, but not driving any vehicle or assuming any other responsibility to the carrier (“cushioning”), such time shall be counted as on-duty time unless the driver is afforded at least 8 consecutive hours off duty when arriving at destination, in which case he/she shall be considered off duty for the entire period.

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