

(c) *Change of duty status.* When a driver indicates a change of duty status under §395.24(b), the ELD records the data elements in paragraphs (b)(1) through (8) of this section.

(d) *Intermediate recording.* (1) When a commercial motor vehicle is in motion and there has not been a duty status change or another intermediate recording in the previous 1 hour, the ELD automatically records an intermediate recording that includes the data elements in paragraphs (b)(1) through (8) of this section.

(2) If the intermediate recording is created during a period when the driver indicates authorized personal use of a commercial motor vehicle, the data elements in paragraphs (b)(4) and (5) of this section (engine hours and vehicle miles) will be left blank and paragraph (b)(3) of this section (location) will be recorded with a single decimal point resolution (approximately within a 10-mile radius).

(e) *Change in special driving category.* If a driver indicates a change in status under §395.28(a)(2), the ELD records the data elements in paragraphs (b)(1) through (8) of this section.

(f) *Certification of the driver's daily record.* The ELD provides a function for recording the driver's certification of the driver's records for every 24-hour period. When a driver certifies or recertifies the driver's records for a given 24-hour period under §395.30(b)(2), the ELD records the date, time and driver identification data elements in paragraphs (b)(1), (2), and (6) of this section.

(g) *Log in/log out.* When an authorized user logs into or out of an ELD, the ELD records the data elements in paragraphs (b)(1) and (2) and (b)(4) through (8) of this section.

(h) *Engine power up/shut down.* When a commercial motor vehicle's engine is powered up or powered down, the ELD records the data elements in paragraphs (b)(1) through (8) of this section.

(i) *Authorized personal use.* If the record is created during a period when the driver has indicated authorized personal use of a commercial motor vehicle, the data element in paragraph (b)(3) of this section is logged with a single decimal point resolution (approximately within a 10-mile radius).

(j) *Malfunction and data diagnostic event.* When an ELD detects or clears a malfunction or data diagnostic event, the ELD records the data elements in paragraphs (b)(1) and (2) and (b)(4) through (8) of this section.

§ 395.28 Special driving categories; other driving statuses.

(a) *Special driving categories—(1) Motor carrier options.* A motor carrier may configure an ELD to authorize a driver to indicate that the driver is operating a commercial motor vehicle under any of the following special driving categories:

- (i) Authorized personal use; and
- (ii) Yard moves.

(2) *Driver's responsibilities.* A driver operating a commercial motor vehicle under one of the authorized categories listed in paragraph (a)(1) of this section:

(i) Must select on the ELD the applicable special driving category before the start of the status and deselect when the indicated status ends; and

(ii) When prompted by the ELD, annotate the driver's ELD record describing the driver's activity.

(b) *Drivers exempt from ELD use.* A motor carrier may configure an ELD to designate a driver as exempt from ELD use.

(c) *Other driving statuses.* A driver operating a commercial motor vehicle under any exception under §390.3(f) of this subchapter or §395.1 who is not covered under paragraph (a) or (b) of this section must annotate the driver's ELD record to explain the applicable exemption.

§ 395.30 ELD record submissions, edits, annotations, and data retention.

(a) *Accurate record keeping.* A driver and the motor carrier must ensure that the driver's ELD records are accurate.

(b) *Review of records and certification by driver.* (1) A driver must review the driver's ELD records, edit and correct inaccurate records, enter any missing information, and certify the accuracy of the information.

(2) Using the certification function of the ELD, the driver must certify the driver's records by affirmatively selecting "Agree" immediately following

§ 395.32

a statement that reads, "I hereby certify that my data entries and my record of duty status for this 24-hour period are true and correct." The driver must certify the record immediately after the final required entry has been made or corrected for the 24-hour period.

(3) The driver must submit the driver's certified ELD records to the motor carrier in accordance with § 395.8(a)(2).

(4) If any edits are necessary after the driver submits the records to the motor carrier, the driver must recertify the record after the edits are made.

(c) *Edits, entries, and annotations.* (1) Subject to the edit limitations of an ELD, a driver may edit, enter missing information, and annotate ELD recorded events. When edits, additions, or annotations are necessary, a driver must use the ELD and respond to the ELD's prompts.

(2) The driver or support personnel must annotate each change or addition to a record.

(3) In the case of team drivers, if there were a mistake resulting in the wrong driver being assigned driving-time hours by the ELD, and if the team drivers were both indicated in each other's records for that period as co-drivers, driving time may be edited and reassigned between the team drivers following the procedure supported by the ELD.

(d) *Motor carrier-proposed edits.* (1) On review of a driver's submitted records, the motor carrier may request edits to a driver's records of duty status to ensure accuracy. A driver must confirm or reject any proposed change, implement the appropriate edits on the driver's record of duty status, and recertify and resubmit the records in order for any motor carrier-proposed changes to take effect.

(2) A motor carrier may not request edits to the driver's electronic records before the records have been submitted by the driver.

(3) Edits requested by any system or by any person other than the driver must require the driver's electronic confirmation or rejection.

(e) *Coercion prohibited.* A motor carrier may not coerce a driver to make a

49 CFR Ch. III (10-1-18 Edition)

false certification of the driver's data entries or record of duty status.

(f) *Motor carrier data retention requirements.* A motor carrier must not alter or erase, or permit or require alteration or erasure of, the original information collected concerning the driver's hours of service, the source data streams used to provide that information, or information contained in any ELD that uses the original information and HOS source data.

§ 395.32 Non-authenticated driver logs.

(a) *Tracking non-authenticated operation.* The ELD must associate the non-authenticated operation of a commercial motor vehicle with a single account labeled "Unidentified Driver" as soon as the vehicle is in motion, if no driver has logged into the ELD.

(b) *Driver.* When a driver logs into an ELD, the driver must review any unassigned driving time when prompted by the ELD and must:

(1) Assume any records that belong to the driver under the driver's account; or

(2) Indicate that the records are not attributable to the driver.

(c) *Motor carrier.* (1) A motor carrier must ensure that records of unidentified driving are reviewed and must:

(i) Annotate the record, explaining why the time is unassigned; or

(ii) Assign the record to the appropriate driver to correctly reflect the driver's hours of service.

(2) A motor carrier must retain unidentified driving records for each ELD for a minimum of 6 months from the date of receipt.

(3) During a safety inspection, audit or investigation by an authorized safety official, a motor carrier must make available unidentified driving records from the ELD corresponding to the time period for which ELD records are required.

§ 395.34 ELD malfunctions and data diagnostic events.

(a) *Recordkeeping during ELD malfunctions.* In case of an ELD malfunction, a driver must do the following:

(1) Note the malfunction of the ELD and provide written notice of the malfunction to the motor carrier within 24 hours;