

§ 395.32

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 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

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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;

(2) Reconstruct the record of duty status for the current 24-hour period and the previous 7 consecutive days, and record the records of duty status on graph-grid paper logs that comply with § 395.8, unless the driver already possesses the records or the records are retrievable from the ELD; and

(3) Continue to manually prepare a record of duty status in accordance with § 395.8 until the ELD is serviced and brought back into compliance with this subpart.

(b) *Inspections during malfunctions.* When a driver is inspected for hours of service compliance during an ELD malfunction, the driver must provide the authorized safety official the driver's records of duty status manually kept