



## Owner-Operator Independent Drivers Association

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Ms. Daphne Jefferson  
Deputy Administrator  
Federal Motor Carrier Safety Administration  
1200 New Jersey Avenue SE  
Washington, DC 20590

Deputy Administrator Jefferson:

Over the last several months, the Owner-Operator Independent Drivers Association (OOIDA), along with stakeholders from a wide variety of industries, has expressed serious concerns about the December 18, 2017, implementation of the Federal Motor Carrier Safety Administration's (FMCSA) electronic logging device (ELD) mandate. As I am sure you are aware, these rational concerns have resonated in Congress, resulting in the recent introduction of multiple bills that would enable a necessary and responsible delay in implementation. These legislative developments would provide your agency the additional time needed to avoid a failed rollout. One such measure, H.R. 3282, would delay implementation for 2 years to coincide with the AOBRD deadline. This would create a single deadline for the entire trucking industry – a concept favored by law enforcement during the rulemaking process. We encourage you to work with elected officials to secure a delay in implementation of the mandate through legislation like H.R. 3282.

Last week, the American Trucking Associations (ATA) sent you a frantic letter expressing their unbridled support for the ELD mandate and their opposition to any delay of its enforcement. Despite being the self-proclaimed 'most authoritative voice in the trucking industry', ATA by no means represents the hundreds-of-thousands of crucial owner-operators and independent drivers working within our industry. Whether through arrogance or ignorance, the letter also illustrates ATA's lack of basic understanding of why small-business truckers - and those echoing our calls for a delay - have such strong concerns with the ELD mandate.

ATA's overwrought letter includes an unfortunate accusation that those who oppose the mandate or support a delay are doing so in an effort to "cheat on their hours of service." Beyond being both wildly inappropriate and dishonest, we find this notion puzzling, as several of ATA's state chapters have voiced concerns that mirror our own. Furthermore, UPS - one of ATA's largest and most influential members - is currently seeking a regulatory exemption from requirements included in the ELD final rule. Based on ATA's erratic rhetoric, some may interpret UPS's efforts as a sign the company intends to willfully violate hours of service standards. However, we believe UPS's exemption request is yet another indication the mandate and its

implementation are riddled with critical deficiencies – unforeseen by even the rulemaking’s most ardent supporters.

As the champion of one of the most costly, burdensome and controversial trucking regulations in history, it comes as no surprise ATA has turned a blind eye to the clear problems associated with December’s scheduled rollout. ATA disingenuously promotes ELDs as safety devices, despite the fact several large carriers who have been using the technology for years continue exhibiting some of the worst safety records in the industry. This head-in-the-sand posture has made it abundantly clear their support for the mandate and opposition to a delay is based not on a concern for public safety, but a concern for public relations. Rather than supporting efforts to provide your agency adequate time to ensure the rule is implemented in a secure and enforceable manner, ATA favors stringent adherence to the restrictive requirements and arbitrary deadline they helped create.

In recent months, supporters of the rulemaking have consistently ignored or discounted the numerous technical concerns raised by OOIDA and other members of the regulated community – many of which remain unresolved. However, we find it difficult for large carriers to brush aside a recent report by the Government Accountability Office (GAO) that calls into question FMCSA’s capability to handle the IT demands of regulations like the ELD mandate. In a report issued earlier this month, GAO explains, “FMCSA does not have the processes in place for ensuring that systems currently in use are meeting agency needs or for overseeing its IT portfolio....Until the agency addresses shortcomings in strategic planning, IT governance, and oversight, its progress in modernizing its systems will likely be limited and the agency will be unable to ensure that the systems are working effectively.” If FMCSA has been unable to ensure its current systems are working effectively, how will the agency be capable of properly handling a newly implemented regulation that requires the transfer of massive amounts of data in less than 6 months?

Make no mistake, OOIDA remains adamantly opposed to the mandate and favors its repeal. Despite our opposition, we acknowledge the implementation of an unworkable and unenforceable regulation that would undoubtedly harm our members must be avoided. Again, recent legislative efforts to facilitate a delay in implementation offer your agency additional time to fully address the ongoing challenges surrounding the mandate. We encourage you to work with elected officials to ensure adequate time for a responsible rollout.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd Spencer". The signature is fluid and cursive, with a long, sweeping underline.

Todd Spencer  
Executive Vice President  
Owner-Operator Independent Drivers Association