

## TRANSPORTATION LAW ALERT

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### It's Final: The Electronic Logging Device Rule Is Here

Yesterday, December 10, 2015, the Federal Motor Carrier Safety Administration (FMCSA) announced the adoption of a Final Rule requiring motor carriers to use electronic logging devices (ELDs) in commercial motor vehicles. There are four main elements of the Final Rule: (1) Requiring new technical specifications for ELDs; (2) Mandating ELDs for drivers currently using hours-of-service logs; (3) Clarifying supporting document requirements so that motor carriers and drivers can comply efficiently with hours-of-service regulations; and (4) Adopting both procedural and technical provisions aimed at ensuring that ELDs are not used to harass drivers of commercial motor vehicles.

The rule applies to most motor carriers and drivers who are currently required to prepare and retain paper logs to comply with hours-of-service regulations under Part 395 of the Federal Motor Carrier Safety Regulations. There are only limited exceptions to the ELD mandate. For instance, drivers who operate using the timecard exception are not required to keep logs and so are not required to use ELDs. The following drivers are excepted from installing and using ELDs and may continue to use "paper" logs:

- Drivers who use paper logs for not more than 8 days during any 30-day period.
- Drivers who conduct driveaway-towaway operations, where the vehicle being driven is the commodity being delivered.
- Drivers of vehicles manufactured before model year 2000.

49 C.F.R. § 395.8(a)(1)(iii).

These exceptions are limited to the ELD requirement only. They are still bound by the logging requirements in Part 395 and must prepare paper logs when required unless they voluntarily elect to use an ELD.

The rule directs a motor carrier operating commercial motor vehicles to install and require each of its drivers to use an ELD to record the driver's duty status no later than two years after the official publication date of the Final Rule. Since publication is expected very soon, possibly today, the deadline for compliance will likely be a date in mid-December 2017. Drivers and motor carriers currently using Automatic Onboard Recorders that are compliant with Part 395.15 are allowed to continue using those devices for an additional two years after that date. The use of smartphones and other wireless devices as ELDs is permitted, so long as the devices satisfy technical specifications, are certified, and are listed on an FMCSA website.

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