

December 2019

Risk Management Bulletin FMCSA Regulatory Update

The Federal Motor Carrier Safety Administration will be implementing two significant changes in December and January that will impact the rules of the road for motor carriers. Merry Christmas and Happy New Year from the FMCSA!

Starting December 16, 2019, all carriers and drivers subject to the Electronic Logging Device (ELD) must migrate from hours of service paper logs to ELDs. The ELD rule applies to motor carriers and drivers who are currently required to keep records of duty service under the hours-of-service regulations. Drivers who keep paper logs no more than 8 days during any 30-day period are exempt from the ELD requirement and have the option to continue using paper logs. Motor carriers should use this exception with caution, since a driver would not be in compliance anytime they were to exceed the 8 day exception. For more details on the ELD rules and approved vendors see the following web site: <https://www.fmcsa.dot.gov/hours-service/elds/electronic-logging-devices>.

The second change effective January 6, 2020 involves the drug and alcohol clearinghouse. This clearinghouse is maintained by the FMCSA providing employers access to existing or potential driver information related to their Commercial Driver's License (CDL) and records of drug and alcohol violations (including positive test results or test refusals). The database also provides information related to return-to-duty and follow-up testing requirements. The immediate impact of the standard applies to the pre-employment process.

Technically a driver does not have to register for the clearinghouse, however employers looking to hire new drivers are required check the data base, so a prospective driver would not be eligible for hire until they are registered providing the hiring company the opportunity to request their records. This would also apply any time an employer needs to conduct a query of an existing driver. There are also defined responsibilities to keep the database up to date. Employers who have actual knowledge that a driver has used alcohol or controlled substances must report such violations to the Clearinghouse (or have their servicing agent report the violation) and medical review officers (MROs) are obligated to report positive tests within two days.



The following web site provides information and answers questions related to the clearinghouse: <https://clearinghouse.fmcsa.dot.gov/> If your organization operates vehicles or hires drivers subject to the FMCSA rules, it would be a good idea to review these new statutes to ensure compliance. In today's legal climate, staying on top of these rules is imperative. A serious incident involving a driver out of compliance will almost certainly be used by a plaintiff attorney looking to obtain the next "nuclear verdict" for their client.

If you have questions about your fleet exposures or other risk management issue, please feel free to call or drop me a note.

Have a happy and prosperous 2020!

For more information about FMCSA and other solutions from Marsh Wortham, contact your local representative or:

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