

Aviation Group Client Update

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FMCSA RESCINDS PRIOR FINAL RULE REGARDING EOBR

Earlier this week, the Federal Motor Carrier Safety Administration (FMCSA) prescribed a [final rule](#) in the Federal Register that rescinds the FMCSA's prior rule entitled "Electronic On-Board Recorders for Hours-of-Service Compliance," as amended, in response to a decision by the United States Court of Appeals for the Seventh Circuit that vacated the April 2010 final rule.

On April 5, 2010, FMCSA published its final rule on "Electronic On-Board Recorders for Hours-of-Service Compliance" (EOBR) which became effective on June 4, 2010. The EOBR rule resulted in the following: (1) prescribed new performance standards for EOBRs installed in commercial motor vehicles (CMV) manufactured on or after June 4, 2012; (2) provided for the issuance of remedial directives to carriers that demonstrated noncompliance with Hours of Service rules; (3) altered FMCSA's safety fitness standard to take into account issuance of a remedial directive when determining a carrier's fitness; and (4) modified supporting document requirements and compliance review procedures for those carriers that voluntarily chose to use EOBRs. The final rule was amended by a September 13, 2010 technical amendment.

In June of 2010 the Owner-Operator Independent Drivers Association sued FMCSA in federal court. The court ruled that FMCSA's failure to address the issue of harassment as part of the rulemaking rendered the rulemaking arbitrary and capricious. On October 7, 2011, FMCSA announced in the Federal Register that it would not appeal the court's decision.

FMCSA's final rule takes necessary steps to remove text from the Code of Federal Regulations (CFR) added by the April 2010 rule and reinstates prior regulatory language.

This final rule became effective on **May 14, 2012**. If you have any questions regarding FMCSA's final rule please contact our office.

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