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FMCSA issues final EOBR rule

The Federal Motor Carrier Safety Administration (FMCSA) has issued its long-awaited new rule that will require interstate commercial truck and bus companies with serious patterns of hours-of-service violations to install electronic on-board recorders (EOBRs) in all their vehicles. The agency says the new rule will require nearly 5,700 interstate carriers to install and use EOBRs within the rule's first year of implementation.

"We are committed to cracking down on carriers and drivers who put people on our roads and highways at risk," said U.S. DOT Secretary Ray LaHood. "This rule gives us another tool to enforce hours-of-service restrictions on drivers who attempt to get around the rules."

The rule appeared in the *Federal Register* on Monday, April 5, 2010, and takes effect on June 4, 2010, but affected motor carriers will have until June 4, 2012, to comply. The delay will help ensure that EOBR manufacturers have sufficient time to meet the rule's performance standards and to manufacture products to meet industry demand, the FMCSA says.

On-board recording devices meeting FMCSA's current requirements and installed in vehicles manufactured before June 4, 2012, may continue to be used for the remainder of the service life of those CMVs.

EOBRs are devices attached to commercial vehicles that automatically record the number of hours drivers spend operating the vehicle. Driving hours are regulated by federal rules, which are designed to prevent commercial vehicle-related crashes and fatalities by prescribing on-duty and rest periods for drivers.

10 percent

Under the EOBR final rule, if the FMCSA determines — based on records reviewed during a compliance review — that a motor carrier has a 10 percent or greater violation rate for any hours-of-service regulation listed in the new Appendix C to Part 385, the agency will require the carrier to install and use EOBRs for a minimum of two years. Appendix C lists 24 hours-of-service violations, including violations of the driving limits, on-duty limits, and logging requirements.

In 2007, the FMCA had proposed that the EOBR mandate should only take effect after a 10-percent non-compliance rate was found during *two* compliance reviews. By reducing that number to one, the FMCSA says a significantly greater number of motor carriers will be required to install, use, and maintain EOBRs than was proposed, but the broader mandate will better balance the costs and benefits of the rule.

If a carrier becomes subject to an EOBR mandate, it would apply to all the carrier's

commercial motor vehicles regardless of their date of manufacture. The only exception would be for carriers that have already equipped their vehicles with automatic on-board recording devices (AOBRDs) meeting the FMCSA's current requirements under 49 CFR §395.15 prior to the finding, and that demonstrate to FMCSA that their drivers understand how to use the devices.

The rule also provides new technical performance standards for EOBRs installed in commercial motor vehicles, including requirements for recording the date, time, and location of a driver's duty status.

Carriers that voluntarily adopt EOBRs will receive relief from some of FMCSA's requirements, including:

- The need to keep supporting documents related to driving time, such as toll receipts, which are used to check the accuracy of driver logbooks; and
- Certain compliance review procedures related to random sampling of drivers' records of duty status after the initial sampling.

The new rule does not mean the FMCSA's work on EOBR regulation is done, however.

"In addition to requiring EOBRs for carriers that have already demonstrated a pattern of hours-of-service violations, we will initiate a rulemaking later this year that considers an EOBR mandate for a broader population of commercial motor carriers," said FMCSA Administrator Anne S. Ferro.

According to the FMCSA, that broader population includes passenger carriers, hazardous materials transporters, and new motor carriers seeking authority to conduct interstate operations.

The new rule affects 49 CFR Parts 350, 385, 395, and 396.

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