

## Aviation Group Client Update

Date: April 30, 2012  
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### FMCSA AMENDMENT TO AGENCY RULES OF PRACTICE

Last week the Federal Motor Carrier Safety Administration (FMCSA) published a [final rule](#) amending the agency's rules of practice. The final rule is a result of FMCSA's notice of proposed rulemaking published on December 13, 2011. The final rule amends regulations in 49 CFR part 386 pertaining to administrative practices and procedures and civil penalties.

The final rule amends the FMCSA's rules of practice for motor carrier, intermodal equipment provider, broker, freight forwarder, and hazardous materials proceedings. Further, the final rule clarifies that paying the full proposed civil penalty in an enforcement action does not allow the respondent(s) to unilaterally avoid an admission of liability for the violations charged.

In addition, the final rule establishes procedures for issuing out-of-service orders if FMCSA determines that a motor carrier, intermodal equipment provider, broker, or freight forwarder is a reincarnation of another entity with a history of failing to comply with statutory or regulatory requirements. This procedure will provide for an administrative review before the out-of-service order takes effect.

The final rule also establishes a process for consolidating records for reincarnated companies with their predecessor entities. FMCSA's final rule becomes effective on **May 29, 2012**.

If you have any questions regarding the FMCSA final rule, please do not hesitate to contact our office.

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McBreen & Kopko's Aviation Group represents air carriers, fixed base operators (FBOs), airport managers, aviation service providers, and business aircraft owners and operators on a wide range of aviation issues including regulatory matters, commercial transactions, aircraft finance matters, and bankruptcy and creditors' rights.