



SUMMARY OF REVISED SUPPORTING DOCUMENTS GUIDANCE

June 7, 2010



Background

In 1994, Congress mandated that DOT issue a regulation on supporting documents within 12 months to “specify the number, type and frequency of supporting documents that must be retained by a motor carrier” at a “reasonable cost.” Since that time, DOT has twice issued notices of proposed rulemaking on the issue (1998 and 2004) but neither resulted in a final rule.

In April 1997, FMCSA issued guidance on the retention of supporting documents which included a long “laundry list” of items that carriers must maintain. More recently, FMCSA abandoned its long-standing internal policy of seeking electronic records in hours-of-service compliance cases only as a last resort. Motor carriers are now frequently expected to produce such records during compliance reviews (audits).

In 2009, ATA filed suit against FMCSA for failing to meet the aforementioned Congressional mandate. During subsequent discussions with the agency, ATA agreed to hold further legal steps in abeyance pending an agreement by FMCSA to release a revised guidance on supporting documents.

In April 2010, FMCSA issued a final rule mandating electronic logging devices for non-compliant carriers. The rule also provided modest incentives for carriers to voluntarily adopt the use of such devices. One incentive was that these carriers would no longer be required to retain supporting documents to verify “driving time,” but a specific list of these documents or a definition of what constitutes such documents was not provided. The rule also reiterated the agency’s intent to propose a future mandate for a much broader portion of the carrier population. The proposed rule is also expected to set more specific requirements for carrier oversight of hours of service and address requirements for supporting document retention.

Revised Guidance

On June 7, 2010, FMCSA issued a revised guidance on supporting documents. The guidance removed several items from the list of documents that must be retained generally. They are:

- Driver Call-In Records
- IRP Receipts
- IFTA Receipts
- Trip Permits
- Cash Advance Receipts
- Driver Fax Reports

The guidance also set forth a list of documents that need not be retained if the motor carrier uses a qualifying electronic communication/tracking system. To qualify for this relief, the system must be integrally synchronized with the vehicle, be capable of tracking vehicle positioning at least once per hour, and be able to provide a position history report including: vehicle identification, date, time, proximity location (reference points), and latitude/longitude. *(Note: these requirements mirror the requirements for e-logging devices set forth in the recent mandate for non-compliant carriers).* Carriers who take advantage of this supporting documents relief are precluded in enforcement proceedings from challenging the accuracy of their own electronic mobile communication/tracking records.

Also of interest is that the revised guidance states that if a carrier uses an electronic communication tracking system, it must use those records to audit logs— even if the system does not meet the conditions to exempt the carrier from the longer list of supporting documents. In addition, any electronic record of a vehicle performance trend

(e.g., MPG, RPM) or of a vehicle safety event (e.g., hard-braking) which is captured through on-board sensors and which includes time, date and/or location, must be maintained.

Carriers using electronic communication tracking systems of any sort are not required to retain reports generated by these systems in any particular format. However, the most usable/readable format that is otherwise generated in the course of business must be retained.

The guidance also stresses that the list of documents that must be retained is an example of those that should be used to verify logs. A carrier is still liable for false logs if the carrier had other means (documents) that it could have used to detect the violations, even if the documents are not in the list provided.

The chart below shows the list of supporting documents that are now required and those documents that need not be retained when using qualifying electronic communication and tracking devices.

Supporting Documents Required to Be Retained*	Not Required If Carrier Has A Qualifying Electronic Tracking/Communication System
Bills Of Lading	
Carrier Pros	x
Freight Bills	
Dispatch Records	
Gate Record Receipts	x
Weight/Scale Tickets	x
Fuel Receipts	
Fuel Billing Statements	
Toll Receipts	x
Toll Billing Statements	
Port Of Entry Receipts	x
Delivery Receipts	x
Lumper Receipts	
Interchange And Inspection Reports	
Lessor Settlement Sheets	
Over/Short And Damage Reports	x
Agricultural Inspection Reports	x
Driver/Vehicle Examination Reports ¹	x
Crash Reports	
Telephone Billing Statements	x
Credit Card Receipts	x
On-Board Computer Reports	
Border Crossing Reports	x
Custom Declarations	x
Traffic Citations	x
Overweight/Size Reports & Citations	x

* For carriers using paper logs and non-qualifying electronic communication/tracking systems

¹ Carriers must still retain driver vehicle inspection reports for three months as required by 396.11 and roadside inspection reports for 12 months as required by 396.9.