

**ORIGINAL MEMORANDUM SIGNED BY
BRIAN M. McLAUGHLIN ON MARCH 11, 2003**

ACTION: Enforcement Policy Concerning
Signature Requirements on Driver Vehicle Inspection Reports

Brian M. McLaughlin, Acting Assistant **/Signed/**
Administrator and Chief Safety Officer

MC-PSV

Field Administrators
Division Administrators and State Directors
National Enforcement Team

This is to advise you of the agency's decision to accept electronic driver vehicle inspection reports that are certified by drivers, mechanics or motor carrier officials using electronic signatures, unique passwords, personal identification numbers (PINs), or similar means in lieu of signatures on paper copies of the required reports. We are taking this action to allow motor carriers to immediately use advanced technology to reduce to the greatest extent practicable the costs of complying with the recordkeeping requirements of 49 CFR Part 396.

Background

Section 396.11(a) of the Federal Motor Carrier Safety Regulations (FMCSRs) requires that drivers of commercial motor vehicles prepare a report in writing at the completion of each day's work on each vehicle operated. The report must identify the vehicle and list any defect or deficiency discovered by or reported to the driver that would affect the safety of operation of the vehicle or result in its mechanical breakdown. If no defect or deficiency is discovered by or reported to the driver, the report must indicate this status. In all instances the driver must sign the report (49 CFR 396.11(b)).

Prior to requiring or permitting a driver to operate a vehicle, every motor carrier or its agent must repair any defect or deficiency listed on the driver vehicle inspection report likely to affect the safety of operation of the vehicle (49 CFR 390.11 (c)). Every motor carrier or its agent must certify on the original driver vehicle inspection report which lists any defect or deficiency that the defect or deficiency has been repaired or that repair is unnecessary before the vehicle is operated again (49 CFR 396.11 (c)(1)).

Section 396.13 requires that drivers review the last driver vehicle inspection report prepared in accordance with Section 396.11 and sign the report if defects or deficiencies were noted by the driver who prepared the report, to acknowledge that the driver has reviewed it and that there is certification that the required repairs have been performed (49 CFR 396.13 (c)).

Section 396.11(c)(2) requires that motor carriers maintain the original inspection report, certification of repairs, and certification of the driver's review (required by section 396.13) for 3 months from the date the written report was prepared.

Generally, the requirement that persons "sign" the driver vehicle inspection report is construed to mean that a signature must be provided to attest to the validity of the document. The requirement for signatures has had the unintended effect of prohibiting the use of advanced technology because many electronic or computer-based systems for generating maintenance records or storing the information do not incorporate signatures of the type used on hardcopy records. While there is an obvious need to have motor carriers and their employees certify that specific safety-related tasks have been performed, we do not believe that the certification process should be limited strictly to signatures on paper records.

FMCSA Decision

Electronic means of providing the required signatures or certifications on driver vehicle inspection reports satisfy the intent, if not the letter, of the regulations. Electronic means that satisfy the intent of the rule include systems in which the users must: sign a computer touch screen (i.e., the system records the actual signature electronically); enter a unique PIN or user identification and password to certify entries in the user's name; or use a unique electronic key, swipecard or similar device used to control access to a computer system or data entry device. If the electronic means provide a reasonable level of security or protection of users' identity and authorization to access such systems through the use of electronically stored signatures, passwords, PINs, user identifications and passwords, unique electronic keys, swipecards or other similar methods, and the person making the certification is identified by name on the required records, FMCSA will consider the electronic system as satisfying the signature and certification requirements in sections 396.11 and 396.13 for driver vehicle inspection reports.

In consideration of this decision, I am instructing all FMCSA enforcement personnel to accept electronic signatures on driver vehicle inspection reports provided that the computer-based system used to generate the reports has a reasonable level of security or protection of users' identity and authorization to access such systems, and that each person who must sign or certify a required document is identified by name in the electronic records. Do not cite motor carriers for violations of the signature and certification requirements under Sections 396.11 and 396.13 when an appropriate electronic signature or certification system is being used.

In addition, motor carriers should not be cited for violations of the records and documents requirements under § 390.31, which requires that all records and documents required to be maintained by the FMCSRs must be preserved in their original form for the periods specified, unless the records and documents are suitably photographed and the image is retained for the required retention period. FMCSA's acceptance of electronic signatures on driver vehicle inspection reports means that motor carriers may maintain the documents that have been signed electronically, in a computer system, provided the motor carrier can produce, upon demand, a computer printout of the required data. Documents with electronically stored signatures must be capable of replication in a form that will provide an opportunity for signature verification upon demand.

Communication of FMCSA Policy With State Agencies

Division Administrators are to contact the lead Motor Carrier Safety Assistance Program (MCSAP) agency in their State and advise them of FMCSA's policy concerning electronic signatures and certifications on driver vehicle inspection reports. Please request that the States not penalize motor carriers that use electronic signatures and certifications in lieu of conventional signatures on paper records and forms when their enforcement personnel conduct safety audits of new entrant motor carriers or compliance reviews.

FMCSA Goal To Accept Electronic Signatures in Other Regulations

Although this memorandum concerns only the acceptance of electronic signatures on driver vehicle inspection reports, FMCSA is committed to exploring options for making the transition from signature requirements in other parts of the FMCSRs to electronic signatures and certifications. This goal is consistent with the Government Paperwork Elimination Act (GPEA) and the Electronic Signatures in Global and National Commerce Act (E-SIGN). These statutes require that Federal agencies pursue options for electronic collection, maintenance, and disclosure of information, as well as electronic signatures.

This policy will remain in effect until the agency has an opportunity to complete a more comprehensive review of all signature requirements currently in the FMCSRs. If you have any questions concerning this issue, please contact Larry W. Minor, Chief of the Vehicle and Roadside Operations Division, at 202-366-4001 or via e-mail: larry.minor@fmcsa.dot.gov.