FMCSA Record Retention & Recordkeeping Basics

Introduction

The FMCSRs require motor carriers to maintain many types of documentation. The basic recordkeeping rules are spread throughout the FMCSRs. Part 390 contains some of the general principles concerning how and where records are to be kept, and the penalties for falsifying or altering required records. This presentation will provide an overview of the recordkeeping requirements for motor carriers at the operational level

Where should motor carriers keep their records?

- When a motor carrier has a single business location, records required by the FMCSRs must be kept at that location.
- When a carrier has multiple offices, terminals or other business locations, The carrier has some choice in where to keep most records.
- Certain records could be kept at the principle place of business, a regional office or a driver work reporting location.
- The key, however, is the carrier must be able to produce those records to an FMCSA official within 48 hours of request.
- The FMCSA will typically look for these records to be shared at the address used to register the motor carrier with the DOT/FMCSA.

How should motor carriers store their records?

Certain records must be kept in a particular location, such as in or on the vehicle, where the vehicle is housed or maintained or in a secure location with controlled access. When a particular regulation specifies a particular location for a particular record, always keep the record in that location.

Are the records required to be stored in any specific format?

- Unless a regulation specifically says otherwise, photocopies of required documents are generally acceptable in place of the originals. Photocopies must be just as accessible as the original documents normally would be and must contain all of the required information entered on the originals.

- The FMCSRs allow most records to be kept digitally as long as they contain all of the required elements, including any signatures.

- Electronic or digital records must be produced within the same 48 hour time limit required for physical documents when requested by the FMCSA.

- Some examples of documents that can be created and stored electronically include;

  - Employment applications
  - Driver qualification files;
  - Vehicle and equipment leases;
  - DVIR files; and
  - Hours of service records.

The table below summarizes some of the operational recordkeeping rules.

Dispatch operations should maintain and have access to the following on a daily basis;

Document	Regulation	Retention	Location
Vehicle maintenance files	§396.3	1 year, and for six months after the vehicle leaves carrier control	Where the vehicle is housed or maintained
Driver vehicle inspection reports (DVIR)	§396.11	90 days from date of creation	Where the vehicle is housed or maintained; Principle place of business
Periodic vehicle and equipment inspections	§396.17 §396.19	12 months & continuously 14 months	In or on the vehicle; Where the vehicle is housed or maintained (best practice)
Driver credentials – Driver licenses Medical certifications	§391.31 §391.43	Employment, plus 3 years 3 years	Principle place of business; Dispatch locations (best practice)
Hours of service records	§395.1	6 months from date of creation	Principle place of business; Dispatch locations (best practice)
Roadside inspections	§396.9	12 months from date of inspection	Where the vehicle is housed or maintained (best practice); Principle place of business

Best practices and safety management controls.

Even though not specified in regulations, FMCSA would expect to see the following safety management controls to be developed and adhered to by the motor carrier:

- Training in all major areas of the FMCSRs;
- Policies and procedures on major areas of the FMCSRs;
- Policies and procedures specific to your industry or operation; and
- Systematic monitoring and tracking of all required records.

No mandatory retention periods because they are best practices to show compliance

Best Practices

Best Practices for motor carriers to develop;

- FMCSRs list <u>minimum</u> retention periods;
- Optional records in your files can and will be audited for violations if presented to enforcement; and
- Errors in recordkeeping should never be corrected by anything that could be considered fraudulent.

Conclusion – Why is this important to you and your motor carrier?

What happens if a carrier has recordkeeping violations or fails to store and retain the records properly?

Section 390.35 contains prohibition on fraudulent practices. It says that no motor carrier, its agents, officers, representatives or employees can make or cause someone to make;

- A fraudulent or intentionally false statement or entry on any required application, certificate, report or record; or
- A reproduction of any required application, certificate, report, or record for fraudulent purposes.

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Failing maintain and update documentation required by FMCSA can have serious consequences for non compliant motor carriers, up to and including deactivation of your USDOT number.

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Where should motor carriers keep their records?

- The records described in this section should be stored at the carrier's principle place of business which is the address used to register the motor carrier with the DOT/FMCSA..
- Motor carriers must be able to produce those records to an FMCSA official within 48 hours of request.
- **Security:**
  - Only certain FMCSA documents require secured location and controlled access
  - Employers have obligations and liabilities to protect personal identifiable information on employees and applicants under other agencies

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The following pages will summarize some of the recordkeeping rules.

Sections 391.51 & 391.53 Driver Qualification:

Document	Regulation	Retention
Driver application	§391.21	Employment, plus 3 years
Motor vehicle report (MVR) from hire	§391.23	Employment, plus 3 years
Road test/certificate or photocopy of CDL	§391.31 §391.33	Employment, plus 3 years
Safety Performance History	§391.23	Employment, plus 3 years
Annual MVR & annual review of driving record	§391.25	3 years
Annual list of violations	§391.27	3 years
Medical examiner's Certificate & any exemptions/waivers	§391.43	3 years

! Records with sensitive personal information must always be stored in a secure location. Only employees who need to access the information in order to perform their job duties should have access to them.

The following pages will summarize some of the recordkeeping rules.

Accident Recordkeeping or DOT Accident Registers (390.15)

The FMCSRs requires motor carriers to maintain an accident register listing a few required pieces of information for each “accident” for a period of three years after the accident occurs.

- Date of the accident;
- City & state where the accident occurred;
- Driver’s name;
- Number of injuries;
- Number of fatalities; and
- Whether hazardous materials were released.

Motor carriers typically choose to include additional information specific to their operations on their accident register as an industry ‘best practice.

ACCIDENT REGISTER

FROM _____, 20____ TO _____, 20____

Date & Hour of Accident		Location of Accident			No. of Deaths	No. of Non-Fatal Injuries	H/M	Driver’s Name	Copy of State or Insurance Report
Date	Hour	Street Address	City	State					

Example DOT accident register

! If carriers choose to include driver details such as driver license numbers in their register, only employees who need to access the information in order to perform their job duties should have access to them.

The following pages will summarize some of the recordkeeping rules.

Record retention: §40.333/§382.401 (Drug and Alcohol)

Document	Retention
•Negative or cancelled test CCFs/MRO results (except return-to-duty and follow-up)	1 yr from document date
•Positive tests CCFs/MRO results •Records of refusals to test •Return-to-duty and follow-up CCFs/MRO results (positive or negative) •SAP reports	5 yrs from document date
Documentation on previous DOT pre-employment tests (§40.25(j))	•Violation noted – 5yrs •No violation – 3 yrs
Signed receipt for policy & educational materials	Employment, plus 2 yrs

! Records with sensitive medical and/or personal information must always be stored in a secure location. Only employees who need to access the information in order to perform their job duties should have access to them.

The following pages will summarize some of the recordkeeping rules.

Record retention: §40.333/§382.401 (Drug and Alcohol)

Document	Retention
DOT Drug & Alcohol Policy	**Duration of time enforced, and 5 years after it has been replaced/revised**
Driver roster for random pull	**2 years**
Names selected for random drug and/or alcohol tests	**2 years**
Tracking of who was tested	**2 years**
Semi-annual lab summaries	**5 years**
MIS/calendar year summary	**2 years**
Service provider contracts	**5 years**

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Liability & Identifying Risk Indicators

What is transportation risk management?

The transportation industry is among the most risk-prone of all industries, requiring transportation companies to implement functional risk management strategies. Using the right methods and tools, motor carriers can mitigate much of their risk and be in a better position to respond to situations when they arise.

According to the Federal Highway Administration, “Risk management is a process of analytical and management activities that focus on identifying and responding to the inherent uncertainties of managing a complex organization and its assets.”

The risks transportation companies face vary by industry but typically include;

- fleet integrity and safety;
- driver safety and retention; and
- compliance issues.

Some of these risks are directly impacted by outside influences, particularly weather events, regulatory changes and even market demands can increase risk from outside your organization.

Who benefits from a well developed transportation risk management program?

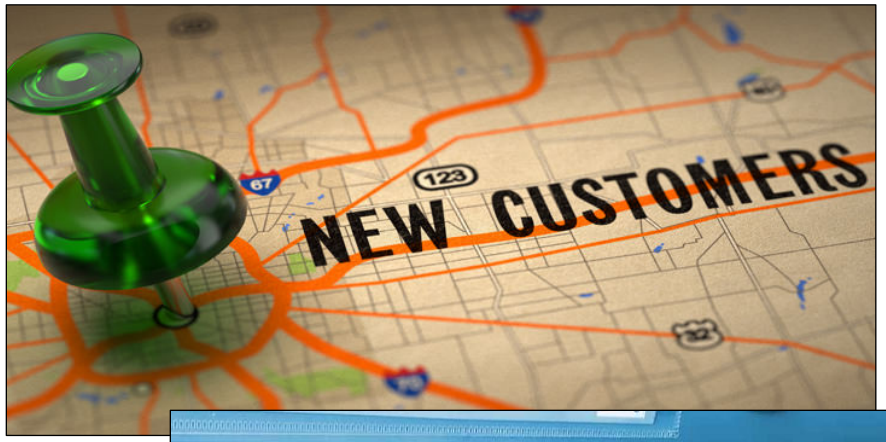
With so much on the line, every transportation company should develop a transportation risk management program that guides their policies and operations. A well developed program will not only mitigate risks, but it can serve as a powerful sales tool that attracts clients who want to know their operational needs are in the best hands.

What risk transportation risk management expectations are your clients considering?

- Many potential clients are now asking carriers what policies they have in place to reduce the risks that have the potential to impact their operations. Without a concrete, clear risk management program in place, clients may go elsewhere. They have too much at stake to take chances.

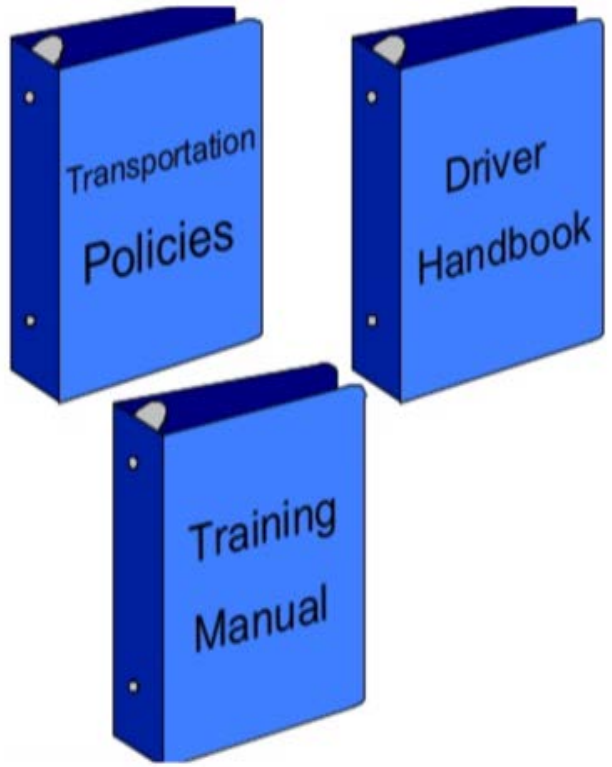
- When a carrier fails to put an effective transportation risk management program into practice, they communicate to potential clients that risk management is not a top priority. This can have a detrimental effect on morale, attracting conscientious drivers, and winning new business.

- Keep in mind that certain larger clients will likely have a risk management program in place as well. They will expect the motor carrier or service provider they choose to have similar programs in place to protect themselves.



How does transportation risk management work?

Transportation risk management may not look the same for every company or industry. There are, however, foundational elements every transportation company should put into place. The Federal Highway Administration offers several helpful recommendations for transportation companies seeking to reduce the risk inherent in their industry:



- Developing executive support for risk management is key;
- Define risk management leadership and organizational responsibilities;
- Formalize risk management concepts into policies that drive good decision making;
- Use risk management to reexamine existing policies, processes and standards;
- Identify risk owners and manage risks at the appropriate level;
- Use risk management to make a strong business case for safe transportation; and
- Use sophisticated, detailed risk analysis tools, but communicate results and needs simply.

What factors should carriers consider for their transportation risk management program?

There are wide-ranging variables in transportation. Weather, natural disasters, crime, protests or riots, infrastructure issues, driver health and safety, wildfires and other issues can directly or indirectly affect a carrier's risk. By anticipating variables ahead of time, carriers are better able to set appropriate expectations by eliminating unforeseen risk.

- Technology now plays a far greater role in modern transportation. Today more carriers are relying on crash mitigation systems, event recording and driver behavior monitoring to data mine their fleet's performance in real time. These advances allow carriers to leverage technology to drive safety.

- Your carrier must know its risks by performing thorough risk assessments on a regular basis. Motor carriers should always be considering what transportation risks could affect their strategic goals and objectives.

- Your program should address all of your carrier's risk threats with leading rather than lagging indicators, in a way that provides usable data to inform decisions across the entire enterprise.

- Only when all of these factors are understood, can a functioning transportation risk management program be designed and implemented.

How are safety considerations part of transportation risk management?

Beyond weather and other variables that can impact a carrier's performance, there are always safety concerns. If a driver, for instance, is not practicing safe driving habits, not only is he at risk, but the company is at risk for causing accidents, injuries and even death. Carriers are liable for every truck that leaves each day. Ensuring drivers are adhering to safety guidelines and the fleet of trucks are in good condition is up to the carrier. These considerations are critical in reducing risks.

- From alcohol to fatigue, cell phones or personal and health issues, drivers must steer clear of a variety of substances and distractions that can impair their ability to drive safely. Carriers must actively manage compliance.

- Even the most well-trained, safety-conscious CMV driver is at risk of engaging in driving behaviors that could lead to a crash on today's crowded, fast moving highways.

- Impaired performance because of fatigue, inattention or daydreaming, or an unexpected internal or external distraction can all lead to a preventable accident in a CMV.

The Benefits of Transportation Risk Management - Conclusion

The purpose of transportation risk management isn't to eliminate risks, but to better inform employees at all levels of an organization who do have the power to eliminate risks. Risks are inherent in every industry and many are completely out of the control of any carrier. Transportation risk management serves as a system to anticipate potential liabilities for one purpose: to help the motor carrier develop effective processes and systems that quickly, effectively and reliably respond to ever changing environments and transportation issues.

The ability to predict is only the beginning. It sheds light on what may happen, when and where, but the goal is to have the right policies and mechanisms in place to properly respond to those predictions before they negatively impact the motor carrier and ultimately the business.

The goal is to have a plan of action in any circumstance whether known, predicted or unknown. Transportation companies must constantly reevaluate their risks. It's not a one time and done endeavor. Those risks travel with each truck across thousands of miles of roads and across borders every day. They fluctuate and can change every mile of the journey.