

Authority (KABATA), 550 West 7th Avenue, Suite 1850, Anchorage, Alaska 99501; office hours 8 a.m. to 5 p.m. (AST), phone (907) 269-6698; e-mail [andrew.niemic@alaska.gov](mailto:andrew.niemic@alaska.gov).

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the FHWA has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing approvals for the following highway project in the State of Alaska: Project Number ACSTP-0001(277)/56047; Project Location: The KAC Project (Northern Access-Erickson Alternative with the Southern Alignment). The project is planned to be constructed in two phases. Phase 1 construction is a two lane facility with a minimum 8,200-foot bridge length which begins at the intersection of Point MacKenzie Road and Burma Road in the Mat-Su, and follows Point MacKenzie Road southward approximately 9.5 miles to the Port MacKenzie District boundary. It then diverges east on a new alignment and loops north of Lake Lorraine before making a broad turn southward to the western bluff of Knik Arm. The crossing of the Knik Arm follows the Southern Alignment to east side, south along the bluffs, then follows the boundaries of Elmendorf Air Force Base and the Port of Anchorage. The initial connection to downtown Anchorage will go under Government Hill using the Erickson Street alternative with a cut and cover tunnel and connections to A and C Streets. When traffic warrants Phase 2 will be constructed, which includes widening the roadway to four lanes and constructing a connection across Ship Creek to Ingra and Gambell Streets.

The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Impact Statement (FEIS)/ Final Section 4(f) Evaluation for the project, approved on December 22, 2007, in the FHWA Record of Decision (ROD) issued on December 15, 2010, and in other documents in the FHWA or KABATA project files. The FEIS, ROD, and other project records are available by contacting the FHWA or KABATA at the addresses provided above. The FHWA FEIS and ROD can be viewed and downloaded from the project Web site at <http://www.knikarmbridge.com> or viewed at the addresses provided above.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. General: National Environmental Policy Act (NEPA) [42 U.S.C. 4321-4351]; Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128].

2. Air: Clean Air Act [42 U.S.C. 7401-7671(q)].

3. Land: Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

4. Wildlife: Endangered Species Act [16 U.S.C. 1531-1544 and Section 1536]; Marine Mammal Protection Act [16 U.S.C. 1361]; Fish and Wildlife Coordination Act [16 U.S.C. 661-667(d)]; Migratory Bird Treaty Act [16 U.S.C. 703-712].

5. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) et seq.]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)-470(ii)]; Archeological and Historic Preservation Act [16 U.S.C. 469-469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001-3013].

6. Social and Economic: Civil Rights Act of 1964 [42 U.S.C. 2000(d)-2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201-4209].

7. Wetlands and Water Resources: Clean Water Act (Section 404, Section 401, Section 319) [33 U.S.C. 1251-1377]; Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601-4604]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)-300(j)(6)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401-406]; Wild and Scenic Rivers Act [16 U.S.C. 1271-1287]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; Wetlands Mitigation [23 U.S.C. 103(b)(6)(M) and 133(b)(11)]; Flood Disaster Protection Act, 42 U.S.C. 4001-4128.

8. Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

**Authority:** 23 U.S.C. 139(l)(1).

Issued on: December 16, 2010.

**Sandra Garcia-Aline,**

*Assistant Division Administrator, Juneau, Alaska.*

[FR Doc. 2010-33085 Filed 1-3-11; 8:45 am]

**BILLING CODE 4910-RY-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### Regulatory Guidance Concerning Electronic Signatures and Documents

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of regulatory guidance.

**SUMMARY:** FMCSA issues regulatory guidance concerning the use of electronic signatures and documents to comply with FMCSA regulations. This guidance provides the motor carrier industry, Federal, State, and local motor carrier enforcement officials, and other interested parties with uniform information regarding FMCSA's acceptance of electronic signature on documents required by the Federal Motor Carrier Safety Regulations. All prior Agency interpretations and regulatory guidance, including memoranda and letters, may no longer be relied upon to the extent they are inconsistent with this guidance.

**DATES:** *Effective Date:* This regulatory guidance is effective January 4, 2011.

**FOR FURTHER INFORMATION CONTACT:** Genevieve D. Sapir, Office of the Chief Counsel, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590-0001, (202) 366-7056; e-mail: [Genevieve.Sapir@dot.gov](mailto:Genevieve.Sapir@dot.gov).

#### SUPPLEMENTARY INFORMATION:

##### Legal Basis

The Motor Carrier Safety Act of 1984 (Pub. L. 98-554, Title II, 98 Stat. 2832, October 30, 1984) (the 1984 Act) provides authority to the Secretary of Transportation to regulate certain commercial drivers, motor carriers, and vehicle equipment. Section 211 of the 1984 Act also grants the Secretary broad power to "prescribe recordkeeping and reporting requirements" and to "perform other acts the Secretary considers appropriate" in carrying out motor carrier safety statutes and regulations (49 U.S.C. 31133(a)(8) and (10)). The Administrator of FMCSA has been delegated authority under 49 CFR 1.73(g) to carry out the functions vested in the Secretary by 49 U.S.C. chapter 311, subchapters I and III, relating to

commercial motor vehicle programs and safety regulation.

Two Federal statutes govern the Agency's implementation of electronic document and signature requirements. The Government Paperwork Elimination Act (GPEA) (Title XVII (Sec. 1701–1710) of Public Law 105–277, 112 Stat. 2681–749, 44 U.S.C. 3504 note) was signed into law on October 21, 1998, to improve customer service and governmental efficiency through the use of information technology. The Electronic Signatures in Global and National Commerce Act (E-SIGN) (Pub. L. 106–229, 114 Stat. 464, 15 U.S.C. 7001–7031) was signed into law on June 30, 2000. E-SIGN was designed to promote the use of electronic contract formation, signatures and recordkeeping in private commerce by establishing legal equivalence between traditional paper-based methods and electronic methods.

The GPEA defines an electronic signature as a method of signing an electronic communication that: (a) Identifies and authenticates a particular person as the source of the electronic communication; and (b) indicates such person's approval of the information contained in the electronic communication (Section 1710(1)). It also requires Federal agencies to provide individuals or entities the options of: (a) Submitting information or transacting with the agency electronically; and (b) using electronic records retention when practicable. The GPEA states that electronic records and their related electronic signatures shall not be denied legal effect, validity or enforceability merely because they are in electronic form. It also encourages agencies to use electronic signature alternatives (Sections 1704, 1707).

For any transaction in or affecting interstate or foreign commerce, E-SIGN supersedes all pre-existing requirements that paper records be kept so long as: (a) Such records are generated in commercial, consumer and business transactions between private parties; and (b) those parties consent to using electronic methods. Specifically, the statute establishes the legal equivalence for the following types of documents, whether in traditional paper or electronic form: (a) Contracts, (b) signatures, and (c) other legally-required documents (15 U.S.C. 7001(a)(1)).

#### **Purpose and Effect of This Guidance**

FMCSA received a number of requests from motor carriers and other interested parties asking permission to use electronic signatures in lieu of handwritten signatures on paper. This document provides regulatory guidance

concerning the use of electronic signatures and documents to comply with FMCSA regulations. All prior Agency interpretations and regulatory guidance, as well as memoranda and letters, may no longer be relied upon as authoritative to the extent they are inconsistent with this guidance.

For purposes of complying with any provision in Chapter III of Subtitle B of Title 49, Code of Federal Regulations (49 CFR parts 300–399) that requires a document to be created, signed, certified or retained by any person or entity, that person or entity may, but is not required to, use electronic methods. Any electronic document or signature is considered the legal equivalent of a paper document or signature if it is the functional equivalent with respect to integrity, accuracy and accessibility. The substance of the document must otherwise comply with applicable Federal laws and Agency rules.

Anyone may use electronic methods so long as the electronic documents or signatures accurately reflect the information in the record and remain accessible in a form that can be accurately viewed and/or reproduced according to Agency rules. Electronic documents will not be considered the legal equivalent of traditional paper documents if they are not capable of being retained and accurately reproduced for reference by any individual or entity entitled to access by law for the period of time required by the Agency's recordkeeping requirements. For example, if an entity is required to produce documents on demand, those documents may be stored electronically, so long as that entity can produce them in accordance with the Agency's substantive requirements (e.g., immediately and without risk of losing or altering data).

Today's guidance establishes parity between paper and electronic records and signatures, greatly expanding interested parties' ability to use electronic methods. FMCSA previously interpreted 49 CFR 390.31 to permit the electronic storage of records so long as they could be produced within two working days of a request (62 FR 16370). FMCSA rescinds that interpretation and motor carriers should no longer rely on that guidance. As stated above, all records, whether electronic or paper, must be produced within the time frame established by Agency regulations. This means that if Agency rules require that a document be produced to the Agency within 48 hours, you must be able to provide the Agency with an accurate copy of your electronic record within 48 hours. Similarly, if Agency rules require that a document be produced upon

demand, you must be able to provide the Agency with an accurate copy of your electronic record upon demand.

This guidance applies to documents required by FMCSA regulations to be generated and maintained or exchanged by private parties, regardless of whether the Agency subsequently requires them to be produced or displayed at the request of an FMCSA official or other parties entitled to access. This guidance does not apply to documents that individuals or entities are required to file directly with the Agency. The Agency, however, has already established electronic filing methods for certain documents. Interested parties can find out about available filing methods by consulting specific program information on FMCSA's Web site (<http://www.fmcsa.dot.gov>).

#### **Regulatory Guidance**

##### **Part 390—Federal Motor Carrier Safety Regulations; General**

*Sections Interpreted: Section 390.31, Copies of records or documents*

Rescind existing Questions 1 and 2 (62 FR 16370), retain existing Questions 3 and 4 (<http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrruletext.aspx?reg=390.31&guidance=Y>), and add new Questions 1 and 2 and 5 through 13 as follows:

*Question 1:* May motor carriers use electronic methods to store records or documents to satisfy a document retention requirement in Chapter III of Subtitle B of Title 49, Code of Federal Regulations (49 CFR parts 300–399)?

*Guidance:* Yes. Anyone may, but is not required to, use electronic methods to create and store records or documents to satisfy document retention requirements in Chapter III of Subtitle B of Title 49, Code of Federal Regulations (49 parts CFR 300–399). This guidance applies only to documents required to be generated and maintained or exchanged by private parties, regardless of whether FMCSA subsequently requires them to be produced or displayed to FMCSA staff or other parties entitled to access. This guidance does not apply to documents filed directly with FMCSA. The Agency, however, has already established electronic filing methods for certain documents. Interested parties can find out about available filing methods by consulting specific program information on FMCSA's Web site (<http://www.fmcsa.dot.gov>).

*Question 2:* How much time does a motor carrier have to produce records if the motor carrier maintains all records in an electronic format?

*Guidance:* A motor carrier must produce records within the time frame FMCSA's regulations require, regardless of whether the motor carrier maintains its records in an electronic or paper format. For example, if Agency rules require that a document be produced upon demand, you must be able to provide the Agency with an accurate copy of your electronic record upon demand. Similarly, if you are a motor carrier with multiple offices and are allowed 48 hours to produce a document in accordance with 49 CFR 390.29, you must be able to provide the Agency with an accurate copy of your electronic record within 48 hours.

*Question 3:* Using record scanning technology, these requirements can be fulfilled. Is my understanding of § 390.31(c) correct that once qualifying documents have been suitably scanned, original paper documents may be destroyed?

*Guidance:* Yes, scanned records, which include a verifiable signature, would fulfill the requirements of § 390.31 and the original paper documents may be destroyed as stated in § 390.31(c).

*Question 4:* If my understanding of § 390.31 and its associated interpretations is correct, will this negate the necessity to maintain the original road test document as required by § 391.31(g)(1)?

*Guidance:* Yes, as long as the road test document has been properly scanned.

*Question 5:* What is an electronic signature?

*Guidance:* An electronic signature is a method of signing an electronic communication that: (1) Identifies and authenticates a particular person as the source of the electronic communication; and (2) indicates such person's approval of the information contained in the electronic communication. An electronic signature may be made using any available technology that otherwise satisfies FMCSA's requirements.

*Question 6:* What is an electronic "captured image" signature and does it qualify as an electronic signature?

*Guidance:* An electronic "captured image" signature is a scripted name or legal mark that, while conventionally created on paper, may also be created using electronic devices. For example, many supermarkets and package delivery services use electronic captured image technology when they permit customers to sign their names in script using a stylus on an electronic pad. This qualifies as an electronic signature, so long as the signature and its related document are electronically bound and can be reproduced together.

*Question 7:* May anyone use electronic signatures to satisfy a requirement in Chapter III of Subtitle B of Title 49, Code of Federal Regulations (49 CFR parts 300–399) that a party sign or certify a document?

*Guidance:* Yes. Anyone may, but is not required to, use electronic signatures to satisfy the requirements of Chapter III of Subtitle B of Title 49, Code of Federal Regulations (49 CFR parts 300–399) that he or she sign or certify a document. This guidance applies only to documents requiring signatures that are generated and maintained or exchanged by private parties, regardless of whether the Agency subsequently requires them to be produced or displayed to FMCSA staff or other parties entitled to access. This guidance does not apply to documents filed directly with the Agency. The Agency, however, has already established electronic filing methods for certain documents. Interested parties can find out about available filing methods by consulting specific program information on FMCSA's Web site (<http://www.fmcsa.dot.gov>).

*Question 8:* Are motor carriers and other interested parties required to use electronic methods?

*Guidance:* No. Interested entities may choose whether or not to use electronic methods or traditional paper methods. Where there are two parties to a transaction, both parties must agree to conduct business using electronic methods.

*Question 9:* Will a document generated using any available electronic method satisfy the requirements of Chapter III of Subtitle B of Title 49, Code of Federal Regulations?

*Guidance:* No. An electronic document must fulfill the same function as a paper document. Documents generated using electronic methods may be used only if they accurately reflect the information in the record and remain accessible in a form that can be accurately reproduced for later reference. Documents generated using electronic methods will not be considered the legal equivalent of traditional paper documents if they are not capable of being retained and accurately reproduced for reference by any party entitled to access.

For example, if FMCSA rules require that a document be produced upon demand, you must be able to provide the Agency with an accurate copy of your electronic record upon demand. Similarly, if you are a motor carrier with multiple offices and are allowed 48 hours to produce a document in accordance with 49 CFR 390.29, you

must be able to provide the Agency with an accurate copy of your electronic record within 48 hours. It would not be sufficient to display the information on your computer terminal in your place of business. You must produce a copy that the Agency can refer to at a later date. Similarly, it would not be sufficient to provide a document with incomplete information or without a signature (whether electronic or handwritten), if required. Your electronic storage system must be capable of transferring a complete, accurate copy of the document to the Agency. Unless the agent requesting the information specifies otherwise, you should be prepared to produce paper copies of the electronically-stored records or documents within the applicable time frame. This means that if you are required to produce documents on demand, those documents may be stored electronically, so long as you can produce them in accordance with the Agency's substantive requirements (e.g., immediately and without risk of losing or altering data). For an electronic document to be the legal equivalent of a paper document, it must be the functional equivalent with respect to integrity, accuracy and accessibility.

*Question 10:* If FMCSA or another agency entitled to access documents requests that I produce a copy of a document or signature, may I produce an electronic copy?

*Guidance:* Yes, however, you must be able to reproduce or transmit the document so the Agency can refer to it at a later date. The acceptable method of transmission may vary, depending on compatibility with the information systems and how the Agency or other entity entitled to access plans to use the document. Under some circumstances, electronic transfer may be acceptable. In other cases, you may be required to print paper copies of the electronically-stored records or documents. You should be prepared to produce paper copies within the time frame specified in the applicable regulations, unless the particular investigator specifically advises you that he or she is capable of accepting electronically transferred copies.

*Question 11:* May I use electronic methods to generate, sign, maintain and/or exchange any record the FMCSA regulations require without requesting an exemption or obtaining prior permission?

*Guidance:* You may use electronic methods to generate, sign, maintain and/or exchange any document that is generated and maintained or exchanged by private parties, regardless of whether FMCSA subsequently requires them to

be produced or displayed to Agency staff or other parties entitled to access. You do not need to request an exemption or obtain prior permission so long as the electronic record meets all of the regulation's substantive requirements and remains accessible in a form that can be accurately reproduced for later reference. (This does not apply to documents filed directly with the Agency. See Question No. 6.) Examples of documents generated, maintained or exchanged by private parties include, but are not limited to: Employment applications, driver histories and other qualification records, leases formed under 49 CFR part 376, driver-vehicle inspection reports, and records of duty status. These are only examples of documents about which FMCSA received specific questions and is not an exhaustive list of the types of documents that can be generated, signed, maintained or exchanged electronically.

*Question 12:* May I convert a paper document to an electronic document by typing the substantive information on the paper document into an electronic format such as a database?

*Guidance:* By typing the substantive information from a paper document into an electronic format such as a database, you are creating a new electronic record, not creating an electronic copy of the original. While you may generate and maintain such documents for your own use, they do not take the place of the original documents. To preserve an accurate copy of the original paper document, you must use scanning or other "image capture" technology. See Questions 3 and 4 for additional guidance.

*Question 13:* Is an electronic signature valid if a person only has access to an excerpt or summary at the time he or she signs a document?

*Guidance:* No. If you only provide an excerpt or summary at the time someone signs a document you may not subsequently attach his or her electronic signature to the complete document.

Issued on: December 29, 2010.

**Anne S. Ferro,**  
*Administrator.*

[FR Doc. 2010-33238 Filed 1-3-11; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Tier 1 Environmental Impact Statement for the Los Angeles to San Luis Obispo (LOSSAN North) Rail Corridor Improvements Studies: Los Angeles, Ventura, Santa Barbara, San Luis Obispo counties, California

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** FRA is issuing this notice to advise the public that FRA with the California Department of Transportation (Caltrans) will jointly prepare a Tier-1 environmental impact statement (EIS) and a program environmental impact report (EIR) for rail corridor improvements to the Los Angeles to San Luis Obispo (LOSSAN North) rail corridor (LOSSAN North Program). FRA is also issuing this notice to solicit public and agency input into the development of the scope of the EIR/EIS and to advise the public that outreach activities conducted by Caltrans and its representatives will be considered in the preparation of the EIR/EIS. The objective of the Tier-1 EIR/EIS is to evaluate alternatives and present thorough environmental analysis to help make corridor level decisions regarding the level of intercity passenger rail service provided in the corridor, including variations in train frequency, trip time, and on-time performance.

**DATES:** Locations, dates, and start and end times for public meetings involving the EIS are listed in the **SUPPLEMENTARY INFORMATION** section of this notice.

**FOR FURTHER INFORMATION CONTACT:** For further information regarding the Tier-1 environmental review, please contact: Ms. Lea Simpson, Manager, California Department of Transportation, Division of Rail, MS 74, PO Box 942874, Sacramento, CA 94274-0001, (telephone 916-654-7184) or Ms. Melissa Elefante DuMond, Environmental Protection Specialist, Office of Railroad Policy and Development, Federal Railroad Administration, 1200 New Jersey Avenue, SE. (Mail Stop 20), Washington, DC 20590, (telephone 202-493-6366).

#### SUPPLEMENTARY INFORMATION:

##### Purpose and Need

FRA and Caltrans have determined that improvements to the existing LOSSAN North rail corridor are necessary to meet the expected growth in population and resulting increases in

intercity travel demand between Los Angeles and San Luis Obispo. As a result of this growth in travel demand, their travel delays from the growing congestion on California's highways and at airports will increase. In terms of passenger volume, the LOSSAN corridor is the second-busiest intercity rail corridor in the nation, after the Northeast Corridor connecting Washington DC, New York, and Boston. However, rail capacity constraints result in rail congestion and travel delays which is compounded by delays related to weather conditions, accidents and other factors which collectively result in unreliable rail service. In addition, in some cases rail infrastructure has not been upgraded or improved in over one hundred years. Goals of the project underlying the environmental review include increasing the cost-effectiveness of State-supported intercity passenger rail systems; increasing the rail capacity on existing routes; reduction in running times to attract additional riders and to provide a more attractive service; and improvement to the safety of State-supported intercity rail service.

##### Rail Services Along Corridor

Amtrak uses the LOSSAN rail corridor for the Pacific Surfliner Service between Los Angeles and San Luis Obispo that is supported by Caltrans. Amtrak's Coast Starlight (service between Los Angeles, the Bay Area, and Portland/Seattle) also operates on the corridor. The Southern California Regional Rail Authority also uses the LOSSAN rail corridor for their Metrolink commuter rail service between Los Angeles and Ventura. Union Pacific operates freight service along the corridor.

##### Environmental Review Process

The EIS/EIR will be developed in accordance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 and the Council on Environmental Quality (CEQ) regulations (40 CFR part 1500 *et seq.*) implementing NEPA; the California Environmental Quality Act (CEQA), Division 13, Public Resources Code; and FRA's Procedures for Considering Environmental Impacts (64 FR 28545; May 26, 1999). The FRA and the Caltrans will use a tiered process, as provided for in 40 CFR 1508.28 and in accordance with FRA Procedures for the completion of the environmental review of the LOSSAN North Program.

"Tiering" is a staged environmental review process often applied to environmental reviews for complex transportation projects. The initial phase (Tier-1 EIS) of this process will