



Owner-Operator Independent Drivers Association

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FMCSA Notice of Proposed Rulemaking on Broker Transparency

[Docket ID No. FMCSA-2023-0257](#)

Comments Due January 21st, 2025

For decades, small-business truckers have expressed frustration that regulations (371.3) designed to provide transparency are routinely ignored or evaded by brokers and never enforced by FMCSA. In May 2020, OOIDA submitted a Petition for Rulemaking to improve broker transparency on two fronts:

- Require brokers to automatically provide an electronic copy of each transaction record within 48 hours after the contractual service has been completed.
- Explicitly prohibit brokers from including any provision in their contracts that requires a carrier to waive their rights to access the transaction records as required by 371.3.

FMCSA has now published a Notice of Proposed Rulemaking (NPRM) that would address broker transparency after more than four years of truckers speaking up through public comments, meeting with lawmakers, and showing up at FMCSA listening sessions supporting the push for transparency. The proposal is a necessary first step to improving transparency. These are critical changes that can benefit owner-operators and are a starting point for future necessary reforms.

The NPRM makes four key changes:

1. Requires brokers to keep their records in an electronic format.
2. Requires brokers to provide an electronic copy of records within 48 hours after a carrier requests them.
3. Modernizes the required contents of the records to better achieve broker transparency. Records must contain all charges and payments connected to the shipment, including a description, amount, and date. The record would also be required to include any claims connected to the shipment.
4. Affirms that brokers have a regulatory obligation to provide transaction records. This stronger language should compel brokers to comply with transparency and help prevent them from concealing their records.

What's Good

- The NPRM consistently says that the current system is unfair to carriers and creates advantages for brokers. This leads to market inefficiencies, decreased capacity, and decreased competition, which happens when carriers lack material information about the transaction.

- Requiring records in an electronic format will make it easier for motor carriers to review broker records on request. This will eliminate the loophole brokers use to conceal information by making only physical records available at their principal place of business.
- The NPRM continues the call to action from President Trump and truckers back in 2020. President Trump said truckers are being “price gouged,” referring to complaints that brokers may be tampering with the price transactions they set up between truck drivers and shippers.

What Needs Improvement

- FMCSA does not explicitly prohibit brokers from using contractual waivers to evade transparency rights. FMCSA must strengthen the rulemaking by closing all loopholes that let brokers waive transparency rights.
- The NPRM does not propose stricter penalties than are currently approved by regulations.
- FMCSA does not sufficiently address how they will achieve better enforcement and compliance under these provisions.

What You Can Do Now

This is an opportunity to stand up and demand the fairness you deserve. The public comment period is open through January 21, 2025 (Docket # FMCSA-2023-0257). We must ensure that broker transparency remains a priority for the Trump administration and the new Congress that will take office soon. [We can accomplish that by submitting comments and feedback to FMCSA through FightingForTruckers.com.](https://fightingfortruckers.com)

When submitting comments, here are some questions to consider –

- Would more broker transparency help your business?
- Is it fair that brokers can willingly evade regulations without enforcement?
- Have you experienced brokers’ denying your rights to view transaction information?
- Have you been blacklisted by brokers for requesting information? Would the proposal encourage or discourage blacklisting practices?
- What impact would these changes have on freight rates?
- Do you believe that the 48-hour timeframe proposed for 371.3(c) would create a substantial burden for brokers?
- If this proposal effectively reduced instances of illegal brokering, would more bad brokers exit the market?
- Should carriers requesting records under 371.3(c) be required to submit their request in writing?
- Should parties requesting records under 371.3(c) be required to submit their request electronically? Would requiring a specific format for submitted requests impose a cost on the parties or otherwise deter requests for transparency?
- Would the proposal that records be provided electronically make broker transparency more likely, as compared to not specifying a method of provided the records? Should the Agency be more specific in requiring a particular format for records? What method and/or format is preferable?

[Submit your comments to FMCSA and join the fight for fairness today!](https://fightingfortruckers.com)