

REQUIREMENTS FOR SAFETY PERFORMANCE HISTORY OF COMMERCIAL MOTOR VEHICLE DRIVERS

In a final rule published March 30, 2004, the Federal Motor Carrier Safety Administration (FMCSA) revised and expanded the requirements for obtaining and retaining accident and drug and alcohol testing information on Commercial Motor Vehicle (CMV) drivers. Motor Carriers and other FMCSA regulated employers must be compliant with the rule changes to Federal Motor Carrier Safety Regulations (FMCSR) Parts 390 and 391 effective October 29, 2004

This rule change affects employers in their hiring of new drivers, as well as in their providing information on current and former drivers to other employers. The rule changes reinforce existing FMCSRs requiring investigations and inquiries to be performed. Companies are now required to provide more specific performance and safety information on their drivers to prospective employers.

The requirement is for prospective employers to obtain accident and drug and alcohol testing history from all DOT-regulated employers for whom the driver-applicant worked within the previous three years. The request must include a release form signed by the driver-applicant regarding his/her drug and alcohol testing information. When this information is requested, an employer must provide it to the requesting Company within 30 days.

Companies hiring CMV drivers must request the following information from an applicant's previous employers:

1. Driver identification and employment verification information
2. Accident (as defined in FMCSR Section 390.5) information on the driver
3. Violations of the FMCSR Part 382 Drug/Alcohol regulations
4. Information on the driver's participation in or failure to complete a rehabilitation program prescribed by a Substance Abuse Professional (SAP).

Employers are required to maintain accident data for 3 years after the date of the accident. The accident data must include: 1) date of accident; 2) Accident location; 3) Driver name; 4) Number of injuries; 5) number of fatalities; 6) Hazardous materials release, (other than fuel tank spills from the CMV). Employers may also release information on minor accidents retained pursuant to the employer's internal policies.

Employers are required to maintain drug and alcohol testing violation and SAP information for 5 years after the date of the violation. Safety performance histories received from previous employers for a driver who is hired must be retained far as long as the driver is employed by the Company and for three years thereafter. Companies must maintain documentation of all inquiries received as well as copies of the information released to other employers.

Employers must include on their employment applications or other written document notice to driver-applicants of their rights regarding the investigative information that will be obtained. These rights include the right to: 1) review the information provided; 2) have information corrected and resubmitted; 3) attach a rebuttal statement to alleged erroneous information. The driver applicant must exercise these rights within 30 days of employment or denial of employment.

It is important to note that the FMCSA allows employers to charge reasonable administrative fees for compiling, preparing and providing requested accident and drug and alcohol testing information. However, employers cannot withhold providing the requested information (within the 30 day required timeframe) pending payment of the fee by the prospective employer. The rule also allows for third party agents to request and/or provide the safety performance investigation information on behalf of employers.

**FOR FURTHER INFORMATION PLEASE CONTACT FIRSTLAB'S BUSINESS DEVELOPMENT
DEPARTMENT AT 800-732-3784 OR MKT@FIRSTLAB.COM**