



## Driver Background Investigations

*What inquiries are required to be completed, by the FMCSA regulations, for a driver who has applied to drive a commercial motor vehicle (>10,000lbs MGWR) for a motor carrier?*

**Answer:** CFR 391.23 addresses the inquiries and investigations that are to be completed by a motor carrier into a new driver's past. Not only are past employment inquiries and investigations required by the FMCSA they are instrumental in providing liability protection.

### 1. MVR

The regulations require that an inquiry be made into the driver's driving record to the appropriate state agency for the preceding three years to the date of application. In essence, a Motor Vehicle Record is required for each driver applicant including three years of driving history and must be obtained within 30 days of the date of the driver's employment.

### 2. Past Employment Investigations

The regulations outline that an investigation of the driver's safety performance history be made to all Department of Transportation regulated employers who employed the driver in the preceding three years to the date of application. This investigation may consist of personal interviews, letters, fax, e-mails, telephone interviews or a third party. A written record must be made of the investigation and the results and placed in the driver qualification file for each past employer who was regulated. The investigation must include general driver identification and employment verification information and all DOT recordable accidents that have occurred during the last three years to date of application.

### 3. Drug and Alcohol Inquiry

After obtaining a signed release from the driver applicant the employer is required to make an inquiry to all previous DOT regulated carriers in the three years preceding the date of application whether the driver has violated the alcohol and or controlled substance prohibitions under CFR 382 or title 40. The inquiry will specifically request the following:

1. Did the driver applicant have an alcohol test with a result of 0.04 or higher?
2. Did the driver applicant have a positive drug test?
3. Did the driver applicant refuse to be tested?
4. Did the driver applicant have any other violations of the DOT agency drug and alcohol testing regulations?

### 4. Driver Applicant Drug and Alcohol Inquiry

As the employer, you must also ask the employee whether he or she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the employee applied for, but did not obtain, safety-sensitive transportation work covered by DOT agency drug and alcohol testing rules during the past two years. If the employee admits that he or

she had a positive test or a refusal to test, you must not use the employee to perform safety-sensitive functions for you, until and unless the employee documents successful completion of the return-to-duty process (see paragraphs (b)(5) and (e) of this section).



**A Driver has the right to review information provided by previous employers.**

1. The right to have errors in the information corrected by the previous employer and for that previous employer to re-send the corrected information to the prospective employer.
2. The right to have a rebuttal statement attached to the alleged erroneous information, if the previous employer and the driver cannot agree on the accuracy of the information. Refer to CFR 391.23 for additional information on the driver's right to review and dispute the information and the time limits involved.