

## DRIVER'S RIGHTS INFORMATION

### What Information Employers Will Review

Let's start by briefly reviewing the requirements employers need to meet when hiring a new driver, this will help you get a better understanding of your rights during the hiring process. An employer who is regulated by the Federal Motor Carrier Safety Administration (FMCSA) is required to investigate, at a minimum, the information defined in this booklet for each driver they hire. Employers, by regulation, must obtain specific information about a driver from all previous employers who employed the driver within the previous three years.

Employers will use the information they receive for hiring decisions only and only those involved in the hiring process will have access to the information. Employers are required to keep the information that they receive on file and will do so in a confidential manner, so that a driver's personal information is not accessible to unauthorized individuals. Now that you have a better understanding of what goes on behind-the-scenes we will define the information employers will request, receive and review when deciding to hire you.

When you apply for a job with a FMCSA-regulated employer, the prospective employer (meaning the employer who is considering hiring you) will provide you with information explaining your rights during the hiring process. The employer will then request that you sign a written authorization so that the employer can perform the required investigations into your background. The employer will contact your previous employers to verify that you were employed by those employers as well as to verify the basic employment information you provide on your application. The employer will also request Safety Performance History information about you.

### Safety Performance History Investigation

A Safety Performance History investigation includes a check of your accident records and drug and alcohol testing records for the previous three years from all FMCSA-regulated employers who you worked for. If you did not have an accident or any alcohol or drug-related conduct to report during the previous three years, your previous employer will verify this. In the event that you were not subject to the drug and alcohol testing regulations during your previous employment, this will be verified as well. We'll now review the Safety Performance History information in more detail.

### Accident Records

An accident is defined by the Federal Motor Carrier Safety Regulations (FMCSRs) as:

*"An occurrence involving a commercial motor vehicle operating on a highway in interstate or intrastate commerce which results in a -*

1. *Fatality;*

2. *Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or*
3. *One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle(s) to be transported away from the scene by a tow truck or other motor vehicle.”*

If you were involved in an accident during the previous three years the prospective employer will request, receive and review the following information from the employer who employed you at the time of the accident:

1. Accident records that include the following data elements for each:
  - a. Date of the accident;
  - b. City or town, or most near, where the accident occurred and the state where the accident occurred;
  - c. Driver name;
  - d. Number of injuries;
  - e. Number of fatalities; and
  - f. Whether hazardous materials, other than fuel spilled from the fuel tanks of the motor vehicles involved in the accident were released
2. Accident information the previous employer may wish to provide that is retained pursuant to regulations of 49 CFR Part 390.15(b)(2), or pursuant to the employer's internal policies for retaining more detailed minor accident information. Such information may include copies of accident reports required by State or other governmental entities or insurers

#### Drug and Alcohol Records

If you were subject to the drug and alcohol testing regulations within the previous three years, the prospective employer will request, receive and review the following information from your FMCSA-regulated employers during that time:

1. Whether, within the previous three years, you violated the drug and alcohol prohibitions under 49 CFR Part 40 or 382;
2. Whether the you failed to undertake or complete a rehabilitation program prescribed by a Substance Abuse Professional (SAP) pursuant to 49 CFR Part 40 or 382. If your previous employer does not know this information (e.g. you were terminated prior to completing the program), the prospective motor carrier must obtain, directly from you, documentation of your successful completion of the SAP's referral;
3. If you have successfully completed a SAP's rehabilitation referral, and remained in the employment of the employer at the time, the prospective employer must request information on whether you had the following testing violations subsequent to completion of the SAP's rehabilitation referral:
  - a. An alcohol test with a result of 0.04 or higher alcohol concentration;
  - b. A verified positive drug test;

- c. A refusal to be tested (including either a verified adulterated or substituted drug test result)

### Your Right To Review Information

The regulations permit you to review the information provided by your previous FMCSA-regulated employers. To do this, you must submit a written request to the prospective employer who received your Safety Performance History information. You can make a request at any time, including when applying for employment, or as late as thirty (30) days after being hired or being notified of denial of employment.

The prospective employer will provide this information to you within five (5) business days of receiving your written request. If the prospective employer has not yet received the requested information from your previous employer(s), then the five-business day deadline will begin when the prospective employer receives your Safety Performance History information.

If you do not arrange to pick up or receive the requested information within thirty (30) days of the prospective employer making them available, the prospective motor carrier may consider you to have waived your request to review the information.

The prospective employer cannot change the information received. If you have issue with any of the information sent to the prospective employer you must address it with your previous employer who sent the information.

### Your Right To Request Corrections

If you believe the information provided by a previous employer contains incorrect information, you can request that your previous employer makes corrections to the information. To do this, you must send a written request for corrections to the previous employer who provided the information.

Effective October 30, 2004, your previous employer will respond to your request by doing one of two things within 15 days:

1. Make the correction -

If your previous employer agrees that the information they provided contains errors, they will correct the errors and forward the information to your prospective employer.

If your previous employer corrects the information as you requested and forwards the information to the prospective employer, the previous employer will also retain the corrected information as part of your Safety Performance History folder. Your previous employer will

provide the corrected information to subsequent prospective employers when requests for this information are received.

2. Notify you that no correction will be made -

If your previous employer does not agree that the information they provided contains errors, they will notify you of this. The notification will indicate that your previous employer does not agree to correct the data.

### Your Right To Rebut Information

You have the right to rebut, meaning outright contest, the information provided by a previous employer. If you wish to rebut information provided by a previous employer you must send a written rebuttal to the previous employer with instructions to include the rebuttal with your Safety Performance History information. By doing this, you will have a record on file that you contest the information. Whenever your Safety Performance History information is requested, the previous employer will be required to include your rebuttal with the information they provide. Here's a closer look at what responsibilities your previous employer would have should they receive a rebuttal from you.

Effective October 30, 2004, within five (5) business days of receiving your rebuttal, your previous employer must:

1. Forward a copy of the rebuttal to your prospective motor carrier employer; and
2. Append the rebuttal to your Safety Performance History information, to be included as part of the response for any subsequent investigating prospective employers for the duration of the three-year data retention requirement.

You may submit a rebuttal initially without a request for corrections, or subsequent to a request for corrections.

### Contacting FMCSA

You can report failures of previous employers to correct information or to include your rebuttal as part of the Safety Performance History information to the Federal Motor Carrier Safety Administration (FMCSA). The procedures for filing a complaint with FMCSA are specified in Part 386.12 of the Federal Motor Carrier Safety Regulations. You may also access FMCSA's information line at 1-800-832-5660 for assistance.

# RECEIPT OF DRIVER'S RIGHTS



PURPLE/FORM NO.  
**SPH**  
**1**

Have each driver-applicant sign this form before you accept his/her employment application.

Employers who are regulated by the Federal Motor Carrier Safety Administration (FMCSA) must expressly notify an applicant, who has been employed by a Department of Transportation-regulated employer during the preceding three years, that the applicant has certain rights regarding the investigative information that will be provided by his/her previous employer(s). After providing the driver-applicant with a written copy of these rights, use this form to obtain his/her signature and retain the top copy of this 2-part form. Give the bottom copy to the applicant. By regulation you must inform the driver of his/her rights **before** accepting the driver's application for employment.

## DRIVER REVIEW AND RECEIPT

- I acknowledge that \_\_\_\_\_ has provided me with written instructions regarding my rights as defined in **Part 391.23(i)-(j)** of the Federal Motor Carrier Safety Regulations. I have reviewed these materials which include information on the following:
- Right to Review Information** – I have the right to review the information provided by my previous DOT-regulated employer(s).
  - Right to Request Corrections** – I have the right to request corrections to information that my previous DOT-regulated employer(s) provides, which I believe contains errors.
  - Right to Rebut Information** – I have the right to rebut the information provided by my previous DOT-regulated employer(s).

\_\_\_\_\_  
Driver's Full Name

\_\_\_\_\_  
Driver's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Supervisor/Authorized Motor Carrier Representative Signature

\_\_\_\_\_  
Date

**Top Copy - Employer    Bottom Copy - Applicant**

**SPH 1 - RECEIPT OF DRIVER'S RIGHTS**

Retain for 3 years after the driver leaves your employment

# APPLICATION FOR EMPLOYMENT



Have all driver-applicants complete this form before driving a commercial motor vehicle.

In compliance with Federal and State equal opportunity employment laws, qualified applicants are considered for all positions without regard to race, religion, color, gender, national origin, age, marital status, or non-job related disability. Please complete both sides of this application thoroughly. Attach additional sheets if more room is required for details.

**To be completed by Employer:**

Motor Carrier:
Address:

**To be completed by Applicant:**

Applicant's Name:	Date of Application:
Current Address:	Social Security No.:
	Date of Birth:
Length of time at this address:	Telephone No.:

PREVIOUS ADDRESSES FOR LAST THREE YEARS (MOST RECENT FIRST)				
Street	City	State/Zip	How long	Additional Information Attached
				<input type="checkbox"/>

LIST ALL UNEXPIRED LICENSES AND/OR PERMITS			
State	Number	Expiration Date	Additional Information Attached
			<input type="checkbox"/>

LIST THE NATURE AND EXTENT OF YOUR EXPERIENCE OPERATING DIFFERENT TYPES OF MOTOR VEHICLES (E.G. BUSES, TRUCKS & TRAILERS)		
Type	Experience in Years and / or Miles Driven	Additional Information Attached
		<input type="checkbox"/>

LIST ALL MOTOR VEHICLE ACCIDENTS IN WHICH YOU WERE INVOLVED DURING THE LAST THREE YEARS				
DATE	CITY/STATE	NATURE OF ACCIDENT	FATALITIES	INJURIES

Check here to certify that you have had no accidents in the last three years

LIST ALL VIOLATIONS (OTHER THAN PARKING) FOR WHICH YOU WERE CONVICTED OR FORFEITED BOND / COLLATERAL DURING THE LAST THREE YEARS			
DATE	CITY/STATE	CHARGE	PENALTY

Check here to certify that no convictions or bond forfeitures have occurred

**DQF 1 - APPLICATION FOR EMPLOYMENT**

Retain for 3 years after ceasing duties



# SAFETY PERFORMANCE HISTORY INVESTIGATION



Use one form to investigate applicant's Safety Performance History (SPH) for each employer within the previous three years.

**TO BE COMPLETED BY APPLICANT:**

As the applicant, my signature authorizes you, as my previous employer, to release the requested information to Foley Services, Inc., the service vendor used by my prospective employer, \_\_\_\_\_.

Applicant's Name: \_\_\_\_\_ Social Security Number: \_\_\_\_\_ Client Code: \_\_\_\_\_

Applicant's Signature: \_\_\_\_\_ Previous Employer: \_\_\_\_\_

**TO BE COMPLETED BY PREVIOUS EMPLOYER:**

FMCSA regulations require this SPH investigation. Please complete the requested information, using additional paper if necessary. If you have no information to report, please indicate so in the appropriate section. Fax completed information to: (860) 368-2529.

**Verification of Employment**

Applicant was employed with this company from: \_\_\_/\_\_\_/\_\_\_ to: \_\_\_/\_\_\_/\_\_\_  
 Position: \_\_\_\_\_ Position required a Commercial Drivers License?  Yes  No

**Accident Information**

No accident information to report (as defined by Part 390.5)  
 \_\_\_/\_\_\_/\_\_\_      City or Town (most near) and State      Number of fatalities      Number of Injuries

Release of hazardous materials?  Yes  No (Not including fuel spilled from the fuel tanks of vehicles involved in the accident)  
 Additional information about the accident: \_\_\_\_\_

*Attach additional sheets if necessary and additional accident information as required pursuant to your internal policies.*

**Prohibited Drug and Alcohol Testing Information**

Individual was not in a safety-sensitive position subject to the Part 40 regulations while in our employment  
 No prohibited drug and/or alcohol conduct to report

If the driver engaged in prohibited drug and/or alcohol conduct, **as defined by Part 40 and/or Part 382 only**, during the previous three years, answer the questions below.

During the previous three years did the driver:  
 Have an alcohol test result with an alcohol concentration of 0.04 or higher?  Yes  No  
 Have a verified positive drug test result?  Yes  No  
 Refuse to be tested (this includes receiving a verified adulterated or substituted drug test result)?  Yes  No  
 Have a violation of any of the other drug and/or alcohol testing prohibitions?  Yes  No

If **yes** to any of the above, did the driver:  
 Comply with the recommendations prescribed by a Substance Abuse Professional (SAP) pursuant to Part 40, while in your employment?  Yes  No  
 Successfully complete the return to duty program while in your employment?  Yes  No

*Attach additional documentation, if available, to verify the individual's successful completion of the return to duty process.*

**Previous Employer Contact Information**

Part 391.23 requires a previous employer who is regulated by the Dept. of Transportation to provide a specific contact name when responding to a Safety Performance History Inquiry. The driver may choose to contact you regarding the information you provide.

Previous Employer Contact Name	Title
Telephone	Fax
Mailing Address	
Signature of Company Official releasing this information	Date Released

SPH 2/3/R - SAFETY PERFORMANCE HISTORY INVESTIGATION

Retain for 3 years after the driver leaves your employment





## ***A Summary of Your Rights Under the Fair Credit Reporting Act***

The federal Fair Credit Reporting Act (FCRA) promotes the accuracy, fairness, and privacy of information in the files of consumer reporting agencies. There are many types of consumer reporting agencies, including credit bureaus and specialty agencies (such as agencies that sell information about check writing histories, medical records, and rental history records). Here is a summary of your major rights under the FCRA. **For more information, including information about additional rights, go to [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore) or write to: Consumer Financial Protection Bureau, 1700 G Street N.W., Washington, DC 20552.**

- **You must be told if information in your file has been used against you.** Anyone who uses a credit report or another type of consumer report to deny your application for credit, insurance, or employment – or to take another adverse action against you – must tell you, and must give you the name, address, and phone number of the agency that provided the information.
- **You have the right to know what is in your file.** You may request and obtain all the information about you in the files of a consumer-reporting agency (your “file disclosure”). You will be required to provide proper identification, which may include your Social Security number. In many cases, the disclosure will be free. You are entitled to a free file disclosure if:
  - a person has taken adverse action against you because of information in your credit report;
  - you are the victim of identity theft and place a fraud alert in your file;
  - your file contains inaccurate information as a result of fraud;
  - you are on public assistance;
  - you are unemployed but expect to apply for employment within 60 days.In addition, all consumers will be entitled to one free disclosure every 12 months upon request from each nationwide credit bureau and from nationwide specialty consumer reporting agencies. See [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore) for additional information.
- **You have the right to ask for a credit score.** Credit scores are numerical summaries of your credit-worthiness based on information from credit bureaus. You may request a credit score from consumer reporting agencies that create scores or distribute scores used in residential real property loans, but you will have to pay for it. In some mortgage transactions, you will receive credit score information for free from the mortgage lender.
- **You have the right to dispute incomplete or inaccurate information.** If you identify information in your file that is incomplete or inaccurate, and report it to the consumer-reporting agency, the agency must investigate unless your dispute is frivolous. See [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore) for an explanation of dispute procedures.
- **Consumer reporting agencies must correct or delete inaccurate, incomplete, or unverifiable information.** Inaccurate, incomplete or unverifiable information must be removed or corrected, usually within 30 days. However, a consumer reporting agency may continue to report information it has verified as accurate.
- **Consumer reporting agencies may not report outdated negative information.** In most cases, a consumer-reporting agency may not report negative information that is more than seven years old, or bankruptcies that are more than 10 years old.
- **Access to your file is limited.** A consumer-reporting agency may provide information about you only to people with a valid need -- usually to consider an application with a creditor, insurer, employer, landlord, or other business. The FCRA specifies those with a valid need for access.
- **You must give your consent for reports to be provided to employers.** A consumer-reporting agency may not give out information about you to your employer, or a potential employer, without your written consent given to the employer. Written consent generally is not required in the trucking industry. For more information, go to [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore).

- **You may limit “prescreened” offers of credit and insurance you get based on information in your credit report.** Unsolicited “prescreened” offers for credit and insurance must include a toll-free phone number you can call if you choose to remove your name and address from the lists these offers are based on. You may opt-out with the nationwide credit bureaus at 1-888-567-8688.
- **You may seek damages from violators.** If a consumer reporting agency, or, in some cases, a user of consumer reports or a furnisher of information to a consumer reporting agency violates the FCRA, you may be able to sue in state or federal court.
- **Identity theft victims and active duty military personnel have additional rights.** For more information, visit [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore).

**States may enforce the FCRA, and many states have their own consumer reporting laws. In some cases, you may have more rights under state law. For more information, contact your state or local consumer protection agency or your state Attorney General. For information about your federal rights, contact:**

TYPE OF BUSINESS:	CONTACT:
<p>1.a. Banks, savings associations, and credit unions with total assets of over \$10 billion and their affiliates.</p> <p>b. Such affiliates that are not banks, savings associations, or credit unions also should list, in addition to the CFPB:</p>	<p>a. Consumer Financial Protection Bureau 1700 G Street NW Washington, DC 20006</p> <p>b. Federal Trade Commission: Consumer Response Center – FCRA Washington, DC 20580 (877) 382-4357</p>
<p>2. To the extent not included in item 1 above:</p> <p>a. National banks, federal savings associations, and federal branches and federal agencies of foreign banks</p> <p>b. State member banks, branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act</p> <p>c. Nonmember Insured Banks, Insured State Branches of Foreign Banks, and insured state savings associations</p> <p>d. Federal Credit Unions</p>	<p>a. Office of the Comptroller of the Currency Customer Assistance Group 1301 McKinney Street, Suite 3450 Houston, TX 77010-9050</p> <p>b. Federal Reserve Consumer Help Center P.O. Box 1200 Minneapolis, MN 55480</p> <p>c. FDIC Consumer Response Center 1100 Walnut Street, Box #11 Kansas City, MO 64106</p> <p>d. National Credit Union Administration Office of Consumer Protection (OCP) Division of Consumer Compliance and Outreach (DCCO) 1775 Duke Street Alexandria, VA 22314</p>
<p>3. Air carriers</p>	<p>Asst. General Counsel for Aviation Enforcement &amp; Proceedings Aviation Consumer Protection Division Department of Transportation 1200 New Jersey Avenue, SE Washington, DC 20590</p>
<p>4. Creditors Subject to Surface Transportation Board</p>	<p>Office of Proceedings, Surface Transportation Board Department of Transportation 395 E Street SW Washington, DC 20423</p>
<p>5. Creditors Subject to Packers and Stockyards Act, 1921</p>	<p>Nearest Packers and Stockyards Administration area supervisor</p>
<p>6. Small Business Investment Companies</p>	<p>Associate Deputy Administrator for Capital Access United States Small Business Administration 409Third Street, SW, 8th Floor Washington, DC 20416</p>

7. Brokers and Dealers	Securities and Exchange Commission 100 F St NE Washington, DC 20549
8. Federal Land Banks, Federal Land Bank Associations, Federal Intermediate Credit Banks, and Production Credit Associations	Farm Credit Administration 1501 Farm Credit Drive McLean, VA 22102-5090
9. Retailers, Finance Companies, and All Other Creditors Not Listed Above	FTC Regional Office for region in which the creditor operates or Federal Trade Commission: Consumer Response Center – FCRA Washington, DC 20580 (877) 382-4357